

Township of Lake

Huron County, Michigan
May 21, 2012

This meeting of the Lake Township Board called to order at 7:30 P.M. at the American Legion Hall, Caseville, Michigan. Pledge of allegiance. Roll call. Osborne, Fischer, Smith, Hartsell and McCallum present along with approximately 105 guests.

Meeting Agenda: Agenda approved with the addition of Okemos Attorney William Fahey as a guest speaker, CAFPA Reports for March and April, Road commission cost sheets, resolution for deputy clerk signature on checking account and May 21, 2012 letter from the Interstate Informed Citizens Coalition, Inc., upon **motion by Hartsell, seconded by Osborne. Fischer opposed.** Motion carried.

Smith read the meeting rules prepared specifically for the meeting.

At 7:32 Okemos Attorney Bill Fahey introduced himself and explained that he is representing some Lake Township property owners who are requesting a conditional transfer of properties from Lake Township to Chandler Township under Public Act 425. He indicated the purpose of the request is to allow landowners the opportunity to have wind turbines under Chandler Township's zoning ordinance since the voters in Lake Township did not want to approve Lake Township's proposed wind ordinance. He indicated that he believes voters were misled into thinking that if they voted for the township's ordinance, they were going to get offshore wind and by entering into a 425 with Chandler Township for only those parcels wishing to be transferred, this would assure shoreline residents that property along the shoreline will not be developed for wind energy.

The meeting was opened to the floor for questions directed to Mr. Fahey.

Mark Hoffman, Lake Township resident, asked what type of revenue sharing plan is being proposed and wouldn't Lake Township suffer financial loss? Fahey responded that there would be no loss to Lake Township since Chandler Township has a higher millage rate at 6 mills compared to Lake Township's 2 mills, so there could be three times as much tax revenue being split between the two townships.

Jeanne Henry, Lake Township resident, asked whether any 425 agreements have been used to overturn a vote of the people on that very issue? She indicated that she was not able to find a single 425 that overturned a vote of the people and that Lake Township had a significant voter turnout and she was not voting on wind turbines in the water but right where the 425 area is being proposed. She reminded the Board that they are working for all the residents of Lake Township and this proposal would put turbines 1-1/4 mile from her home.

Fahey responded that a 425 agreement has been used in reaction to a rezoning issue three times where the rezoning did not go through.

Molly Dando, Lake Township resident, asked how Fahey can assure the residents that this would prevent wind turbines from going offshore since these decisions are made at a higher level? She also stated that he mentioned if he were living on the lake he would not want to see turbines, but there are people living on the land that do not want to see turbines either. It is about all of the people, not just some of the people and laws are to protect the majority.

Paul Beck, Lake Township property owner, stated that Lansing is thinking about putting wind turbines in the lakes, including Saginaw Bay and Lake Michigan. He stated the voters turned down the ordinance and this is just another way for certain individuals to line their pockets with more money.

Emma Howard, Lake Township landowner, commented that it is unfair to say money is the reason, stating that it is for clean energy.

Gerry Pobanz, Lake Township resident, commented that it might be green, might be clean, but it is not good for the environment or animals. He indicated he is a birdwatcher and loves to see the animals and does not want to see the wind turbines, they are ugly.

John Nugent, 7th District Huron County Commissioner stated he does not believe wind turbines should be in the lake or within three miles of the shoreline. He stated his experience with a 425 was with the Wal-Mart Store in Bad Axe and that Colfax Township did not have the necessary infrastructure to provide water and sewer or police protection, that it was a lengthy and messy process, but was successful. He stated that a vote of the people was taken and the result was 2/1. He indicated he is concerned about democracy; to have a vote is the foundation of our democracy and he would hate to see the vote overridden by the use of a public act.

Mark from Denmark Township commented on the information Attorney Fahey shared that was provided to voters and claimed may have been twisted, stating that there was plenty of time for voters to get educated with all the information available before the vote.

Sandra Pobanz, Lake Township resident, stated that the information is available and that the references to employment opportunities, money and all these things wind turbines are going to bring, but it is not exactly correct and if people want information they need to do the homework.

Lou Colletta, Lake Township resident, asked Attorney Fahey whether a PA 425 was brought about after a referendum, a vote of the people. He also stated that Fahey only showed a portion of a flyer and did not show that it stated that DTE asked the MPSC for four million dollars for research and development of offshore wind, so any statements to that effect are valid.

Attorney Fahey commented that last year in Cadillac a referendum occurred before and the 425 came after.

T.L. Bushey, Lake Township landowner, stated that the controversy is between landowners in Lake Township and that there has always been this type of controversy in Lake Township, it is nothing new. He stated that landowners have tried in the past to get things done and could not. He showed a map of Lake Township and suggested that the southern three miles of the township is very similar to Chandler Township and that it would have made sense years ago to keep the southern area with Chandler Township. He also stated that the majority of Lake Township residents will not even see the lights from the turbines because the trees will block the view. He stated he wants to see the board approve this.

Eric from Caro, employed in Caseville, spoke in support of windmills.

Cindy Jurek, Lake Township resident, stated that she has a BA in Education with a Minor in Natural Sciences and is most offended by the statement that the voters did not know what they were voting for. She indicated she is also a bird lover and Lake Township is home to Sandhill cranes and eagles which are protected species and they will not be here if turbines are allowed, similar to what happened when FDR could have protected the Ivory billed woodpecker habitat and did not. She stated she is confused why a township board would consider transferring property to another township when we, the people, voted on the matter. She asked how the board can look the people in the face and oppress their votes and that her relatives who died fighting did not give up their life so her vote would mean nothing.

Lorraine Kipfer, Lake Township resident, stated that when people built their houses blocking the lake they didn't ask first if the people wanted that. She stated she doesn't have enough land for a wind turbine but is willing to go along with those that do so they could have more votes. She stated the shoreline people should not be allowed to vote for anything that affects the farmers.

Yvonne Bushey, Lake Township resident, stated she supports the drive for renewable clean energy, that we are being polluted and damaged by the coal industry and that Americans and Michiganders are demanding more electricity and the wind in Lake Township is more productive and wind turbines should be located where the wind is. She stated Verona Township is hosting a substation and every resident in Verona will have free trash pickup for five years due to the revenue from that substation. She claimed there are 727 registered voters, 340 voted. 207 voted no which is 28% and 54% did not vote which means it did not affect them or they did not care.

Scott Krohn, Bad Axe resident, stated it is an obvious opportunity for his children and everything that brings revenue will benefit them directly. He stated we have an opportunity to do something responsibly by not locating them near the water and that he is a third generation farmer and no one cares more than farmers about the environment.

Bob Siver, Lake Township resident, commented that Mrs. Bushey's respect is a one way street. Her and Mr. Fahey are ignoring the vote, 62%, or a minority in Mrs. Bushey's words. He read a prepared statement stating that in a real democracy it wouldn't be necessary to remind the board of its responsibility to represent the interests of all Lake Township citizens, that the election results tell the board that the people want stricter zoning of wind turbines and now some would like to ignore the election results and inflict Chandler Township zoning on their Lake Township neighbors. He stated that if they succeed, they should end the hypocrisy with the pledge of allegiance because they either do not understand the words "to the republic" and "justice for all" or are choosing to ignore them and also to call that portion of Lake Township transferred to Chandler Township DTE Township since it will be DTE and its minions dictating the rules Lake Township residents will have to live by.

Clay Kelterborn, Lake Township resident, stated he filed the letter of intent for a referendum because he wanted the people to have the opportunity to vote. He stated there are more farmers that live in Lake Township that do not want wind turbines than do, and that Lake Township should not be divided between a shoreline vs. farmers' community. He implored the board to uphold the vote of the people. Even if less than ½ turned out to vote, he said that if you look at the statistics most elections never have more than 50%. He indicated the right of self governance is important and we don't need a wedge driven further into the community. He stated that the board needs to respect the vote and mentioned that even the USFWS said Lake Township is not a good place for wind turbines. He stated that Lake Township is unique, it is not a Chandler Township or Verona Township. It has a shoreline and the shoreline people pay a lot of money for the roads and deserve a voice. The farmers don't have the vote, but the people along the shoreline respect the farmers otherwise the township would not have the millages and tax base it has. He asked the board to not ruin the township and stated he believes the board will do the right thing.

Ann Krzeminski, Lake Township resident, stated she voted and maybe she is in a minority but she expects that her vote will count. No matter how one looks at it, those pieces of property in question are still in Lake Township. The people voted 2/1 that they did not want wind turbines and now 3% of the people want to have their property taken out of Lake Township. She asked the board to pay attention to the voice of the people.

Bev Herford, Lake Township resident, stated she would urge the board to enter into discussions on a 425 agreement, that there are three gains, economic development, promoting green energy and a financial gain for all residents. She stated she has property that adjoins a windmill farm in Oliver Township and she cannot see any negative benefit.

Walt Kloc, Lake Township property owner, stated he owns farms in Novesta Township and has no financial benefit from wind turbines but does support the rights of farmers to have a say in what they want to do with their land. He went on to describe his family's history and struggles from leaving Poland to homesteading in Michigan.

Pam Schumacher, Bay County resident, stated she comes here to enjoy the tourism aspects and asks what the board is thinking, that people are not going to come here to see red blinking lights and the trees will not hide the turbines. She also stated that there was already a big lawsuit won by 20 landowners over property values and that even if the township picks up extra millage from Chandler, they are going to devalue farmland and homes, there will be no aerial spraying for crops or gypsy moths and to think about the economic impact to current properties in the surrounding area.

Tony Loewe, Port Austin Township resident, stated that the vote in Lake Township was clear, that 62% of the people said no. This is America. When a huge corporation like DTE can come into an entire county and five of nine Huron County Planning Commissioners are tied in with these developers, board members from Lake Township have leases and in some townships on the other side of the county all five board members have wind leases. In Lake Township people did what they were supposed to do, they voted. He stated that it is unbelievable that a government subsidized company like DTE can come in and override the vote, that if we allow this to happen here, it can happen anywhere.

Vivian Osborne, Lake Township resident, stated she has listened to both sides and still thinks it is best for her grandchildren; she wants clean energy for them. She read a list of tax revenues from other townships that have wind turbines.

Attorney Fahey commented that under Act 425, the amount of time is for as long as the two townships agree, anywhere from one to 50 years. He indicated the average is 35 years.

(Smith closed the 425 comment period at 8:36 P.M. and called for a brief recess.)

McCallum had questions to Attorney Fahey, specifically: *Who the property owners were that he was representing?* Fahey did not know all the names and responded that the list isn't final since they are being contacted by additional people to participate. *How many of the 80 townships he represents are self zoned and isn't self zoning preferred by many townships in order to ensure their residents have a voice in the planning of their community?* He indicated that approximately $\frac{3}{4}$ of his townships handle their own zoning, agreeing that one reason for local control is for the residents to have a voice. *How transferring almost $\frac{1}{2}$ of Lake Township's landmass under another township's zoning will impact those properties remaining in Lake Township?* He indicated that if the 425 goes through, the zoning regulations could be negotiated as part of the agreement. *What are the options when the voters turned down an ordinance?* He stated that when an ordinance is voted down the planning commission could do nothing or they could rewrite an ordinance and start the process over. *How he would feel if he voted on an issue and his vote was now not going to count?* Mr. Fahey would not give his personal opinion, only a legal opinion that the same ordinance could be adopted again.

Minutes of April 16, 2012 approved upon Motion by Fischer, seconded by Hartsell. Motion carried – all ayes.

Minutes of May 18th read by Smith. **Motion by Hartsell to approve, seconded by Osborne.** Motion carried – all ayes.

Supervisor's Report – None. Asked the Clerk about the meeting with the USACE. McCallum stated she arranged a meeting with Mark Lesinski of the USACE, the Zoning Administrator and Planning Commission Chairman Paul Golsch regarding boat hoists and Mr. Lesinski reiterated that the township does have the authority to regulate boat hoists, that the USACE will be issuing violation notices on all boat hoists that do not have a USACE permit and also that beach grooming permits are still required by the USACE at no cost.

Treasurer's Report – Submitted.

Clerk's Report - Advised the board that nine persons had filed to run for township offices, two candidates for the supervisor and treasurer positions, one for clerk and four for the trustee positions.

Trustee's Reports – None.

Correspondence read including May 21, 2012 IICC letter. No Petitions.

Public Comment: Questions regarding boat hoists and the USACE.

New Business:

Jim Quinn, Lake Township resident: Mr. Quinn stated that Lake Township's revenues and taxes are coming from every person in the room. Farmers worry about the lake and we spend hundreds of dollars to dig ditches to drain the farmland. Farmers want to do what they want to do with their land and that taxpayers pay millions of dollars in subsidies to farms in Huron County. TL says not to worry about the lights you won't see them. He stated he has a house in the woods and he can see the lights in Elkton and as far as Bad Axe. Fahey is getting paid to be here tonight. It all comes down to Al Gore's myth about global warming. Governor Granholm was looking for a way to create revenue and she mandated a certain percentage of green energy. If people are concerned about their children or grandchildren's future, they should be more concerned about the federal debt. It's all about democracy. 207 people voted no. *(Smith cut Quinn off saying his five minutes was up.)*

PA 425 Proposal: Motion by Smith to enter into negotiations with Chandler Township. Smith asked for board discussion. Hartsell stated he would like to keep the land in Lake Township and work more on the ordinance. McCallum stated that she believes the board should uphold the vote of the people. Osborne stated he doesn't think anyone on the board thinks it is the best and only way to

go about it, but that it is his personal opinion that Citizens for Planning Responsibly lied, that 99% of the people are intelligent and a lot of the residents that are not here could have been scared by the literature and the vote probably would have passed if the mailings were not sent out two days before the election. He stated he is hopeful that the township can get an ordinance passed that is acceptable to everyone in the township, but the farmers have rights also and he would like to see it done this summer and that is why he is for negotiation although he does not necessarily agree.

Dorothy Fischer agreed with Bill and stated we need to negotiate, and that we don't know yet what will happen.

Smith stated he is concerned about a 425 but the farmers have a right to use their land the way they want. Wind turbines are a thing of the future along with solar panels. He stated he believes in solar panels and wind turbines. Before we can find out whether the planning board can go ahead again with an ordinance just changing something, he would personally like to find out what would happen with a 425, trying to find out what it does. Smith asked McCallum what would happen if the planning commission wanted to change the ordinance. McCallum suggested having Attorney Fahey answer his question. Fahey stated the planning commission would go through the whole process of a public hearing, then to the township board and the people would have an opportunity for another referendum. Smith stated he still thinks we ought to consider entering into an agreement with Chandler. **Motion by Smith to consider entering into fact finding negotiations with Chandler Township, seconded by Fischer.** Roll call vote: McCallum and Hartsell – nay. Osborne, Smith, Fischer – aye. Motion carried.

Prepared motion read by Fischer that the Supervisor appoint three persons to meet with Chandler Township representatives to discuss the advantages and disadvantages of a PA 425 agreement. They will outline recommendations on whether or not it is beneficial to the township as a whole. The three person committee shall be comprised of two board members and one member of the planning commission, seconded by Osborne. Roll call vote: Hartsell and McCallum – nay. Fischer, Smith, Osborne – aye. Motion carried.

Motion by Smith to appoint himself, William Osborne and Paul Golsch as the negotiating committee, seconded by Fischer. Motion carried – Hartsell and McCallum opposed.

Website Wind Page. Smith stated he would like to revise the wind page, there is too much on the wind page and it needs to be cleaned up. McCallum stated that there is no reason for removing anything, it is historical information of all the work that has been done, another page can be added, if needed. **Motion by McCallum to leave the website as is and add another page, if needed, seconded by Osborne.** Motion carried – Fischer opposed.

Printer & Router: McCallum advised the board that the printer can be repaired for \$372, which is ½ the cost of purchasing a new one and then a new router is not necessary. **Motion by McCallum to approve repair, seconded by Smith.** Motion carried- all ayes.

2012-13 Budget - Revise Extra Voted Millage Levy: McCallum indicated that more funds should be allocated for this year's budget from the extra voted millage to the Gypsy Moth Fund so as to ensure adequate funds if it becomes necessary to spray next spring. Fischer said it will not be necessary to spray next year. After discussion, Fischer stated that funds could be increased at the end of the year. **Resolution 2012-14 Revised Millage Levy Resolution offered upon motion by Osborne to allocate \$30,000 for Gypsy Moth for 2012-13, seconded by Smith.** Roll call vote: All ayes.

Roads: Smith presented road improvements as follows:

Etzler Road between State Park and Elkton Roads - \$24,500
Pine Street between M-25 and Oak Beach Road - \$9,375
Conkey Road East of State Park - \$6,525
New Sand off Quarry - \$6,525
Sand road west of Quarry - \$6,625

Motion by Smith to approve road expenditures, seconded by Hartsell. Motion carried – all ayes.

Resolution 2012-15, Deputy Clerk Bank Signature on General Checking – offered by Hartsell, seconded by Osborne. Roll call vote: All ayes.

Public comment:

Lou Colletta commented that it was obvious it was a done deal as far as the 425. The voters said no, no means no negotiations.

Annette DuRussell, Bay County, told the Board that the decisions they are making tonight will impact everyone all over the State of Michigan, that the board is arrogant to think that they have the power to go against the vote of the people, that according to the constitution written by our founding fathers our country is to be run by the vote of the people. She stated that a board member does not have a personal opinion, that when a person takes a public office position their obligation is to the people. She stated that it is a sad moment in U.S. history and the State of Michigan when our young men and women are giving their lives fighting in Iraq and Afghanistan so those people have the right to vote and this Board is making a decision that is contrary to what their people voted. She stated that the board is setting a precedent, the board has just handed wind developers the ability to take what they want.

Les Simmons asked about the caps on air vents needed on Griggs Road.

Paul Beck stated that Smith did not have permission to enter into a contract with Konke Construction and the Faber's; that Lake Township should be changed to "Busheyville" since they control the township; that when Smith took office he got rid of planning commissioners; and that two people on the board should not be voting on wind issues because they have contracts. Osborne stated he has rescinded his wind lease.

Bob Siver asked what the contract was about that Smith signed. Smith stated that the ordinance was so vague that someone was allowed to build something that was higher than normal and larger than normal.

Motion by Osborne to pay bills with addition of 33.83 for DTE, seconded by Hartsell. Motion carried – all ayes.

Motion by Osborne to adjourn, seconded by Fischer. Motion carried – all ayes. Meeting adjourned at 9:39 P.M

Valerie McCallum, Clerk