

CENTERVILLE TOWNSHIP PLANNING COMMISSION

January 26, 2010

AT THE SOLON-CENTERVILLE TOWNSHIP FIRE HALL

**PUBLIC HEARING**

Commercial Wind Energy Systems Ordinance

**Call to Order:**

Chairperson Tim Johnson called the public hearing to order at 7:11 pm

**Members Present:**

Gerry Laskey, Mike Scharpf, Tim Johnson, Jim Schwantes, Molly Hyde, Recording Secretary Annette Kleinschmit, and Zoning Administrator Tim Cypher

**Public Present:** Bill LeGray, Jim Fuscaldo, Cary Weed (CWES Sub-committee), Bill Rastetter, Anne Hoyt, John Hoyt, Helmut Goral, Denis Baker, Charlene Goral, John Parker, Jerry Kelenske, Curtis Kelenske

**Intro/Welcome:** Johnson welcomed all for attending and asked the public present to sign the attendance sheet. The Planning Commission (PC) introduced themselves. Johnson reviewed the agenda items and established meeting procedures and rules. He explained that the main reason for the public hearing was to get public input on the Commercial Wind Energy Systems (CWES) Ordinance. A public hearing was held on August 25, 2009 and about 12 people attended. The PC gathered input and made minor revisions, but felt the need for another public hearing.

Johnson reviewed the events that led up to the creation of a CWES draft ordinance. In February 2006, Noble Energy held meetings and sought out large land owners for interest in placing commercial windmills on their property. In April 2006, the PC formed a subcommittee comprised of township residents who began to draft a CWES Ordinance. A public hearing was also held to gather public input. Johnson reviewed some of the input received at that hearing that was given to the subcommittee -- Positives: renewable energy is good, preserve farmlands, economic advantage, and alternative energy supply, Concerns: absentee ownership, locals wouldn't gain much, negative impact on tourism, noise, bird kills, retaining property rights, property values, pollution, character disruption and Sugarloaf airport concerns. After extensive research, the subcommittee presented a draft CWES Ordinance to the PC in March 2007. Another public hearing was held in August 2009 and the PC made a few minor changes to the draft CWES that they completed in September 2009. A public hearing is being held tonight to inform the public of these changes and gather any final input on the draft ordinance.

**Wind Energy Resource ~~Zone~~ Board of Zoning (WERZBBZ):**

Scharpf briefly described the function and findings of Michigan Public Service Commission's WERBZ. The Board was tasked to designate the area of Michigan likely to be most productive of wind energy. In October 2009, this 11-member board published a final report on its recommendations which listed Region 3 (Benzie, Manistee and Leelanau counties) as one of the most optimal regions. Utilities Companies and local units of government, including planning commissions, had an opportunity to give input on the report and then the MPSC was to make a final recommendation on January 13, 2010 to the Governor. The findings could possibly address legislation. No ruling has yet been made.

Scharpf added that Wolverine Power did submit a study to the WERZBBZ. He is not sure if Wolverine would pursue our area, as it would be quite costly for them to meet the requirements.

Anyone interested in more information can go to the MPSC website or contact Scharpf after the meeting.

**CWES Sub-Committee:**

Schwantes gave an overview of how the CWES Subcommittee was created after the April 2006 public hearing. The PC received 14 applications to serve on the subcommittee. The PC ranked the applications and decided upon the top 10 applicants. The subcommittee was comprised of eight public members, one PC member and one Board representative. Residents that served on the volunteer subcommittee were: Dave Wurm, Joe Czerniak, Gary Cook, Molly Hyde, Richard Kobetz, Richard Light, Travis Nelson, Dale Pleva, Carolyn Weed and Mark Zemanek. The subcommittee presented a draft of the CWES ordinance to the PC in March 2007. He explained that it has been a 4-year process of extensive research, public input, meetings, and modifications. Schwantes thanked the subcommittee for all their hard work.

**Subcommittee Draft Ordinance:**

Cary Weed, Co-Chair of the CWES subcommittee, reviewed the purpose and activities over the past 4 years. The subcommittee met 20 times over the course of a year. They reviewed the purpose of zoning, reviewed zoning laws, read Centerville's Master Plan and Zoning Ordinance, developed a statement of purpose to guide their decisions, familiarized themselves with commercial wind products, studied maps, reviewed energy regulations and siting guidelines in Michigan, other states and countries and reviewed standards recommended by the industry. The subcommittee then established an outline of topics for further research including noise, lighting, density, FAA regulations, safety, blade glint, property issues, financial matters, complaint resolutions and research reporting. They visited other wind farms in and outside of the state, spoke to residents, townships and business owners who were already living with wind farms. They consulted professionals on noise, township planners, park service, engineers, US Fish & Wildlife and other stakeholders. A draft version emerged and was given to the PC in March 2007. Weed indicated that the findings and "white papers" of the subcommittee can be found on the township's website. Weed also continued to work with the PC during their review providing additional resources when needed.

Johnson thanked the sub-committee for their extensive research efforts and dedication to the ordinance.

**Planning Commission Activities:**

Johnson stated that the CWES Ordinance had legal review and input from a public hearing in August 2009, which resulted in some changes. The PC felt these changes warranted another public hearing. The main changes are: to add an escrow account to be used to fund the removal of a windmill if necessary and include the special use in the "Recreational" districts. The latter change partly resulted from the Sugarloaf Visioning sessions. Input will be gathered tonight and the PC may or may not make changes to the ordinance. If no significant changes are made, it goes to the Leelanau County Planning Commission. Then there will be a final legal review and then back to the PC for final review/approval based on any comments from the other reviews. The final draft will then be given to the Centerville Township Board for final approval.

**Public Input:**

Jim Fuscaldo, Centerville resident – Complimented the PC and Subcommittee. He recommends the PC review section "4.23.2.8 Certificate of insurance" for inconsistencies on the insertion of "landowners". He also questioned where in the ordinance is the owner asked to have insurance? Because failure to maintain insurance results in termination of permits, but if he's not required to buy it, how can he maintain it? He recommends looking at that section again.

Fuscaldo also acknowledge the insertion of section “4.23.3.8 Interconnection and Electrical Distribution Facilities”, that states “all transmission lines are to be underground”. He said it’s unclear as to who is required to remove the underground transmission lines, if necessary, and the definition doesn’t include the underground transmission lines. He recommends the transmission lines be included in the definition and the PC be clear as to who is responsible to remove underground lines.

Fuscaldo questioned the measurements of “5 times the total height” stated in section “4.23.3.2 Setbacks”. Hyde clarified that the tower includes measurement to the top of the blade in an upright position. Fuscaldo suggests that be listed in the definitions. He also questioned the reference to “Inhabited Structure Setback”. He suggests “inhabited structure” be defined as “a structure designed for occupancy”, because it could be confusing if a home is for sale, but not currently occupied; or a home that is vacant part of the year, etc. He also asked from where is the setback measured – from the footprint of the structure or the property line? Johnson clarified that the setback is from the structure, not the property line. Hyde added that the language indicated was standard for CWES Ordinances that were reviewed. Weed added that the subcommittee researched setbacks and determined this so that a windmill wouldn’t fall down on a house. She indicated if the setback were from the property line, there could be concerns with taking someone’s wind rights and placing windmills too close together. Fuscaldo recommends putting in language that the setback is from the footprint of the structure, for purpose of clarification.

Fuscaldo asked where Leelanau ranked in the WERBZ findings. Scharpf replied that Region 2, including Benzie, Manistee and Leelanau counties, ranked second highest of the zones in Michigan. Fuscaldo questioned if the State drew up guidelines of what townships can and cannot regulate on wind power farms, and any noise limitations or setbacks, would the township’s attorney review these standards? Johnson replied that the Township would likely not pay for such a review.

Jerry Kelenske, Farmer in Centerville Township – Thanked the PC and subcommittee for all their hard work into producing the draft ordinance. He thinks the restrictions in the CWES Ordinance basically close the door on any type of commercial windmills for Centerville Township. He thinks there are many setback restrictions like 5-10 times from roads, wetlands, etc. He indicated that an 80-acre parcel couldn’t qualify because of these setbacks and he doesn’t see why we need 1000-2000 feet on certain setbacks. He understands noise could be a potential issue. He didn’t understand until tonight that the maximum height of 199 ft included the blade in an upright position. He thinks no power company is even going to look at our township now because they couldn’t put a windmill here. He feels the 3-mile setback from the National Park is excessive; what does it hurt? He reiterated his concern that the door is closed as far as he is concerned and that we all talk about saving farmland, and we have this resource – clean, renewable energy – but it can’t be used because of how the Ordinance is written.

Bill LaGray, Centerville Resident – LaGray pointed out a height discrepancy between page 5, section “4.23.3.1 Height Limit” and page 18, definition of “Height” – the Height Limit section indicates 199 ft., but under the definitions it indicates height as “the distance between the ground at the base of the wind energy system and the highest point of the wind energy system with the blade in the uppermost vertical position.” He thought the height of the tower at 199 ft. did not include the blade as read in section 4.23.3.1. Johnson explained that the 199 ft. included the height of the blade and the reason behind it was that any tower 200 ft or taller required lighting. Mr. LaGray feels there’s a lot of ambiguity in the ordinance. He questioned the need for all the setbacks. He felt the layout for the generator, points of interface, where the power ends at the landowners and the power company picks it up isn’t defined. He voiced concern about laying lines under roads that aren’t plowed and losses on power. Scharpf added that Centerville Township cannot regulate a public utility company. LaGray feels that compounding and ambiguous issues throughout the Ordinance aren’t totally understandable.

John White, Centerville Township Resident – White questioned if the residents of Centerville are to live with a turbine, why is it that the energy would have to go out of the township, couldn't the energy rest here? Johnson explained that the Ordinance doesn't regulate what happens to the energy. He also added that the PC will be working on a residential wind energy ordinance. Weed added that the subcommittee reviewed many ordinances, but none addressed this concern because townships cannot regulate public utilities..

Fuscaldo referenced section "4.23.2.2 Total Generating Capacity", and asked with respect to limitation of those allowed in the township, if the usage drops after construction, will they be grandfathered in? Scharpf commented that there's no way that Centerville can require the power generated remain in the township as it is a public utility company. Johnson indicated any existing windmills would be grandfathered in if usage dropped after construction.

Weed, Co Chair CWES Subcommittee – Weed indicated she was absent at the meeting where the PC added "Recreational" district to the Ordinance and said it is inconsistent with the National Lakeshore Park setback; that all of Centerville's recreational land is within the 3-mile lakeshore setback. Cypher added that RV parks are considered "recreational". Johnson indicated that the PC would take this into consideration, however, the recreational district in Centerville could be increased in the township in the future.

LeFray commented that he appreciates all the work gone into the Ordinance.

Bill Rastetter, Centerville Resident – Commented that the National Park Service requested a 5-mile setback; some were visual concerns and some concerns were because of migrating birds. He wanted to respond to the WERBZ recommendations and State's action. He finds it outrageous that the State would pass a law usurping the Township's zoning authority. He indicated if township law were to be preempted, township residents could claim nuisance law, but it would be a difficult proposition. He also acknowledged concerns by Kelenske; that the subcommittee started with over half in favor of commercial windmills in Centerville township, but over time realized more issues and concerns of commercial windmills. He said if the public is opposed to big systems for arbitrary reasons, he urges people to look at recent research and documentation on harm caused by large towers. Some are hard to sort out; noise and vibration doesn't bother some people, but it does bother others, and research shows that there is demonstrated harm on low vibration, and negative health impacts. He also questions is it fair to my neighbor if I were to put a wind farm on my property that has negative impact on the neighbors? He thinks the subcommittee was trying to balance all these concerns. He also questions why doesn't the Ordinance address the infrastructure? He indicated that zoning authority in Michigan is by local townships and zoning administrators, but in other states, there's regional zoning. He felt the Centerville PC and subcommittee had an obligation to struggle with this to balance it all out for all the residents.

Fuscaldo asked what the next steps in passing the CWES Ordinance are. Johnson replied that the PC would meet and make any changes based on public comments received. If there are any major changes, another public hearing would be set to publicize those changes. If no changes, then the Ordinance would be reviewed by the Leelanau County Planning Commission, legal review if necessary, and then to the Township Board for final approval.

**Overview of Ordinance by Planning Commission Members:** The PC gave their personal views of the CWES Ordinance.

Hyde – She indicated that drafting the Ordinance was an extremely complicated process, and the topic and research took a lot of time. Everything was intertwined and connected and over and over the subcommittee found that there were conflicts from existing turbines, and they wanted to be

protective in Centerville. She also wanted to clarify that with written permission, neighbors can combine properties to achieve the required setbacks. She supports the ordinance as written.

Scharpf – He supports the ordinance, but not the height limit. He feels it affects community-based windmills, but he doesn't support commercial wind energy farms. He doesn't feel the payback has been declared in Wisconsin where there are many wind farms. He supports community-based systems for Centerville residents; that we have a moral obligation to provide for our community, but not ruin the naturalness of our area. He feels we can learn valuable lessons from others who have wind farms in their communities.

Laskey – He indicated that he wasn't on the Planning Commission when the process of drafting the ordinance began. He was appointed to the PC a year ago. He said he is a retired superintendent, who has dealt with many committees and the public, and he feels the efforts and research with this ordinance is the most thorough that he's been involved with. He complimented the PC, subcommittee and public for their valuable efforts. He supports the ordinance.

Schwantes – He thinks the primary concern is to implement what's in the Master Plan. He thinks large commercial wind energy systems conflict with the Master Plan and the character of the township. He feels that some other areas have miles and miles of farmland, where these kinds of systems would have adequate room. He's learned some interesting research since the last public hearing on towers that have fallen down, so resident's concerns are genuine. He indicated that our setbacks are 3-miles from the National Park, but the Lake Energy Council recommends 16 miles away from shore to respect the Park. He feels that when wind issues came out, there were mixed feelings and complicated issues and the PC tried to balance out all the issues. He also learned that Northport is looking at a commercial community-based wind energy system like the size Centerville is recommending. Those paybacks are different. He supports the ordinance.

Johnson – He thinks the CWES Ordinance is the most comprehensive ordinance he's seen. But given the complexity of studies on noise, wildlife setbacks, setbacks from the lakeshore and Park, a lot of money upfront, money to tear it down and height limit, he agrees with Kelenske; it pretty much guarantees that we will not have any commercial wind systems in Centerville. He pointed out that the ordinance is not exclusionary though. It is legally defensible. He personally likes 400 ft windmills and they don't offend him. But he represents Centerville Township residents, and in 3 years he's only heard one complaint, so he has to represent the people. He hopes it doesn't prevent windmills to power farms and wineries. He is concerned about that, but in general, he supports the ordinance.

Johnson asked the twelve public present for a show of hands of who supports or opposes the ordinance. For the record; 8 support, 3 oppose and 1 undecided.

Hyde – Commented that most businesses in the area who desire to use a wind system would probably find their needs adequately met with the 30kw or less units that are net-metered. Those are not regulated by the commercial ordinance, would be hooked to the grid and meet the energy consistency needs required by their business.

Johnson stated that the commercial windmill on M-72 is 237 ft. Johnson thanked everyone for their input.

**Public hearing adjourned at 8:50 pm.**

Recorded by Annette Kleinschmit