

DRAFT

Special Meeting & Public Hearing
Of Casco Township Planning Commission
Wind Energy Ordinance
February 20, 2013, 6:00 PM

MEMBERS PRESENT: Bruce Barker, Dian Liepe, Daniel Fleming, Paul Macyauski, David Campbell and Judy Graff

ABSENT: John Stroud is excused

STAFF PRESENT: Janet Chambers, Recording Secretary

ALSO PRESENT: Patrick Hudson, Planner, and 6 Casco residents

1. Call to order and review of agenda

Meeting was called to order by Chairman Barker at 6:10 PM. After review of the agenda, Graff asked that *#7 Board Comment* be added to agenda.

2. Reading of meeting noticed in the South Haven Tribune on February 3, 2013. Zoning Ordinance Amendments involving the restatement of Section PP, Wind Energy Conversion Systems in Chapter 15, Special Land Use. Copies of the Public Notice were provided for all in attendance.

- 3. Public Comment Correspondence; From, Date Received & Subject:** Correspondence received by the PC included an email from Commissioner Campbell (attachment #1), dated February 12, with items he would like further discussion on. An email was received from Diana Ostermann (attachment #2), dated February 14, regarding risks involved in WECS including decline in property values and many internet links in support of her statement. An email from Martin Super (attachment #3), dated February 20, in support of WECS and disputing the "science" that claims health risks. Other information, provided by Patrick Hudson, Township Planner, included the following maps: A map depicting where WECS could be located with 1,000 ft setback (attachment #4); where WECS could be located with a 2,000 ft. setback (attachment #5); a map showing Lakeshore Residential Buffers of 1,000 ft., 2,000 ft. and 1.5 miles (attachment #6); and a US map showing wind resources and transmission lines (attachment #7). Also provided by Hudson is a WECS Zoning Ordinance comparison chart (attachment #8) between Casco's draft, Mason County and a Michigan State Model. Liepe provided an article from Michigan State showing a sample of zoning for WECS which can be found at <http://www.oem.msu.edu/userfiles/file/resources/windandhealthreport.pdf> A letter from Allan Overhiser, February 20, 2013, (attachment #9) in reference to excessive setback prohibiting the use of WECS and preventing a clean, environment friendly option to ensure farmers financial survival .

4. Public Hearing on proposed amendment for Section PP

Hudson explained changes made from the last meeting on WECS, and the following discussion and changes were made.

Page 1, PP 2 the following sentence will be added at the end of the paragraph: **“Testing facilities will be covered in Section 3.34.”**

Hudson pointed out that in PP 3 c and PP 3 e, concerning site plan drawings, the number 2,000 has not been decided, and is still open for discussion.

Page 3, PP 6 b (5) there were two options for (5) concerning the required setback for non-participating dwelling. The first option will be eliminated and second option used with further discussion about the number of feet the setback will be.

On page 4, PP b (6) concerning failure of a sound barrier to bring excessive noise to an acceptable level, Graff asked that a time limit be added. After discussion it was agreed upon to read *“WECS shall be removed or altered to conform with (5) above. Noise will be stopped within 90 days, and the issue resolved within one year.”*

Hudson showed maps of various buffers from residential areas on an overhead projector. The map as shown does not take into account the possibility of farmers grouping together. Campbell pointed out that pooling resources or buy in would change the map considerably. He also stated that with a 500 ft. tower at a fall distance of 1.1 times the height would be a 550 ft. setback from any structures.

After looking the map showing Lakeshore Residential Buffers of 1,000 ft., 2,000 ft. and 1.5 miles (attachment #6) there was a small agricultural area west of 196 that could be outside the buffer. Graff expressed concern because, in the past, it has been said WECS would not be located west of 196. Hudson said because of setbacks and limited space it may not be necessary. Graff would like to see it more clearly defined. Chairman Barker pointed out that, although there is currently agricultural district west of 196, in the Master Plan all agricultural districts are located west of 196.

Fleming questioned why protect a district instead of people. He also questioned why not let someone have a windmill if they want to earn some money. Machyauski answered it is up to the township to protect the people with proper setbacks.

Graff again emphasized that the ordinance needs to be clearly spelled out.

Macyauski stated that maybe there should not be buffer zones to districts, just setbacks from occupied dwellings.

Liepe said that there first needs to be a decision on the setback distance. Currently the draft says 2,000 ft. Liepe questioned whether it might be 1,000.

Chairman Barker pointed out that with a setback of 1.1 times the height of each tower, it is 1,100 ft. He suggested between 1,200 and 1,800 ft.

Campbell recalled that JEWI Wind had suggested a setback to an occupied dwelling would be reasonable at 1,000 to 12,500 ft.

Liepe stated that anything greater than 1,500 ft. will be too restrictive to allow the business.

Hudson said that would be under the Mason County received complaints up to 1,800 ft. Chairman Barker said that, for the purpose of getting past this part of ordinance, to use 1,500 ft. for now, and it can be revisited later.

Campbell questioned how many towers are being considered. Jim Raak, 6967 109th Avenue and Bill Sill, 794 68th Street, farmers interested in WECS, said the utilities are interested in putting WECS in Ganges, Clyde and Casco Townships. The Companies are waiting for Casco to come up with an ordinance. They already have something set up in Ganges and Clyde Townships. Raak said they are hoping to put up approximately 50 towers between the three townships. They have to be within a reasonable distance of two big power lines.

Raak stated that he did not know how many in each township. but it would be one wind farm. He added that it would depend on availability and they would not just be located on hills, but also in valleys.

Campbell asked if it would be easier to allow the towers in a specific area where conditions are good for WECS. Chairman Barker stated that would be telling farmers some could have them and some could not.

Liepe said the location will be market driven.

Fleming suggested opening up the area where WECS are allowed and have them as a special use. That way the PC could look at specific generators, where they are going, and then make a decision based on more specific information.

Chairman Barker stated that it really has to do with sound. Setbacks could be 1,000 to 1,500 ft. and if it meets the sound restrictions for the nearest residential it should be ok.

Hudson said that under #6 there are different sound barriers that can be used. The type of propellers and different methods of placing the towers so that the sound waves interfere with each other and cancel out some of the sound, are ways to affect the sound.

Raak expressed that just because Mason County has complaints up to 1800 ft. does not mean there was a legitimate problem because complaints could have come from someone who was negative about the idea of WECS.

Chairman Barker recommended setting 5b at 1,250 ft for now and the rest of the meeting moving through the rest of the ordinance. There will be another public meeting and then will go to the board.

Hudson suggested adding something about a sound barrier. Graff questioned the size and location of a sound barrier. Hudson answered that a 500 ft. tower might have a 25 ft. wall.

Eric Schlanser, 45 North Shore Drive N., Casco, read a notice from National Transportation Safety concerning testing towers. Because testing towers are under the 200 ft. limit for federal regulation

for air space, they are advising that marking and lighting be considered. It is not mandatory at the federal level, and Schlanser therefore recommends it be mandatory at the Township level. This could be a danger to medevac helicopters, private planes, and especially in agricultural areas where there is crop dusting. Markings should be alternating orange and white like other obstructions have. As far as lighting, you see balls on guide lines, etc. Hudson said this would be added to 3.34 Temporary Uses as 3.34 B. Schlanser provided Hudson with a copy of his text. Hudson will look it over and work it into the text.

Campbell suggested the Ellingsen may need help with all of this. Graff added that there should be an engineer to help the PC through the whole process.

The PC moved on to Pg 4 i Noise Emissions. Campbell questioned if, with setbacks being changed to 1250 ft., 40 decibels is excessive. After discussion it was decided to leave it at 40 decibels because setbacks are separate from sound testing distances.

Discussion ensued about dBA and dBC measurements. Diana Ostermann said that dBC measures normal sounds and dBA measures the low, more irritating sound. Sometimes a swing 20 is allowed, meaning if 35 dBA is allowed dBC could be set at 55, which is the allowed dBA + 20. The more the swing, the more irritating the sound becomes. Both dBA and dBC need to be measured.

It was decided to leave the distance for measuring sound level at 2,000 from the nearest non-participating residence, and add dBA plus 20 to determine the dBC maximum. Chairman Barker asked that Hudson confirm that information.

Section 6 i (2) will be removed.

6 i (3) (now becoming 6 i (2)) The second sentence will read "~~The Planning Commission~~ Township Board shall review this log at least once per year and may require additional sound studies to be prepared by an acoustic engineer approved by the Township Board.

Campbell suggested the utility put money in escrow for the cost of studies that may be necessary. Discussion continued about noise complaints. It was decided that 6 i (2) would include: If a complaint result in an acoustic testing being done, the costs accrued would come out of the escrow money. If the results show the noise to be excessive, the utility would reimburse the escrow account. If the complainer is wrong and the utility is not in violation, the complainer would reimburse the escrow account. This would be a separate account from the performance guarantee. Hudson will add Developer shall have an escrow account of \$XXXX., separate from the Performance Guarantee.

On page 6, 6 L, Shadow Flicker, second paragraph, first sentence add *participants and* as follows: (except for *participants and* property owner's house on which the WECS is located)

Theo Ostermann said, in reference to flicker, if the setback is 1250 you could be affected for an hour and ½. It was decided that shadow flicker remain to be measured at 2,000 ft. Campbell added that the flicker annalist should be an independent expert. Chairman Barker said that flicker measurements could still be at 2,000 ft. if the setback is changed to 1250.

Campbell said there should be a realistic amount used under 9 b, on page 7 (decommissioning). Raak stated that he is requiring a guarantee, in his contract, that the Utility pays for decommissioning if no longer in use.

Campbell felt the 200' height in residential is show stopper for Wind Towers. With the setback it would be eliminated from the Residential areas because of the fall setback. It would take 4 acres. Hudson explained because it would be for residential use, it would not necessarily need to be 200 ft. high. He also suggested that single property towers that are under "x" ft. are exempt from these regulations. This could be added on page 1, under #2.

Campbell questioned what the litigation to the township could be. Hudson replied that it depends on whether people think it is working. Campbell said Casco could get tied up in litigation. Hudson replied that the township could get tied up in litigation if you don't provide for WECS. Campbell said that the board will want the attorney to look at it.

On Page 9, Definitions, WECS: Wind Energy Conversion System. "*Land used for generating power by use of wind*" will be added.

Page 10 Section 2.22 Wind Energy Conversion System, Single Property, On-Site Use: the last line will be changed as follows:kilowatts and ~~does not exceed~~ shall be less than 200 feet in height.

Page 10 Section 2.22 Wind Energy Conversion System, Single Property, On-Site Use, Structure Mounted last line will be changed as follows:which is mounted ~~does not exceed~~ shall be less than 200 feet in height.

Page 11, Section 3.35 B 2, in reference to Single property on-site use property setbacks, line 3 "1.1 times" will be added as follows:shall be at least *1.1 times* the height.

5. **Resolutions requiring Planning Commission action; vote on recommendation to be given to Township Board** This Public Hearing will be continued on March 13 at 6:00 PM

6. **Public Comment:** Jim Raak asked if there is agricultural zone on the west side of 196. He was told that there is a small area at this time, but the Master Plan is to keep it all on the east side of 196.

7. **Board Comments:** Graff updated the PC on a discussion at the Township Board meeting. Ten years ago the township and TechniSand agreed on a 10 year settlement for mining of sand. Because the 10 years have passed, it is time to consider the legalities of sand mining, and the next step for Casco Township. Hudson said the State Legislature got in on this and extraction of natural resources must be allowed unless the consequences are very serious. It has to be allowed in all zoning districts. There can be reasonable conditions such as limitations on noise, etc. There could be an impact study on pedestrian traffic studies, health, safety & welfare, etc.

Chairman Barker said at the March 6th regular PC meeting at 7:00, they would go through special land uses and permitted uses, Sections 4.07 and 4.08 regarding mining, in all districts. Any PC Commissioners unable to attend the March 6th meeting are asked to submit a "yes" or "no" for each item prior to the meeting. Chairman Barker will ask Ellingsen to attend that meeting.

Although the noise ordinance is not part of this Public Hearing, and the Planning Commission is not making a recommendation to the board on the Noise Ordinance at this time, Hudson recommended the following: Under section Z.02 Audible Noise or Sound Pressure Level Standards in reference to WECS, the dBA may be changed from 45 to 40, and the chart at the bottom of the page may be removed.

A motion to suspend this public hearing was made by Macyauski, seconded by Fleming. All in favor, MSC. Meeting suspended at 9:10 PM to be continued on March 13, 2013, at 6:00 PM.

The March regular Planning Commission Meeting will be Wednesday, March 6th, 2013
Minutes prepared by Janet Chambers, Recording Secretary

Attachment #1: Campbell email, February 12, with items he would like further discussion on.

Attachment #2: Ostermann email, February 14, regarding risks involved in WECS

Attachment #3: Super email, dated February 20, in support of WECS

Attachment #4: Map depicting where WECS could be with 1,000 ft setback

Attachment #5: Map depicting where WECS could be with 2,000 ft. setback

Attachment #6: Map of Lakeshore Residential Buffers of 1,000 ft., 2,000 ft. and 1.5 miles

Attachment #7: US map of wind resources and transmission lines

Attachment #8: WECS Zoning Ordinance comparison chart

Attachment #9: Letter from Overhiser, February 20, 2013, regarding excessive setbacks for WECS