

Approved 6/5/13

Public Meeting of Casco Township Planning Commission
Wind Energy Ordinance
May 15, 2013, 6 PM

MEMBERS PRESENT: Bruce Barker, Lewis Adamson, Dian Liepe, David Campbell, Paul Macyauski, and Judy Graff

ABSENT: Daniel Fleming is excused

STAFF PRESENT: Janet Chambers, Recording Secretary

ALSO PRESENT: Casco residence: Dianna Ostermann, Dan Lexow and Bill Chambers

1. Call to order and review of agenda. The meeting was called to order at 6:05 PM. There were no changes to the agenda.
2. The Meeting was noticed in South Haven Tribune on April 28, 2013. Zoning Ordinance Amendments involving the restatement of Section PP, Wind Energy Conversion Systems in Chapter 15, Special Land Use.
3. Public Comment Correspondence: Diana Ostermann, 7364 North Shore Drive, South Haven, provided email links concerning WECS (attachment #1), an article concerning Ugly residence lawsuit with wind company (attachment #2), an article regarding Mason County lawsuit against Consumer's Energy (attachment #3), and an article regarding Plymouth County Council's change in WECS Ordinances (attachment #4).
4. Public Hearing on proposed amendment for Section PP. Dale Lexow, 6895 107th Avenue, South Haven questioned whether the property owner or utility would be responsible for taxes on a wind tower. He also asked if the zoning would be changed to allow WECS and if so, would that change the property tax rate. Chairman Barker stated that the property value would increase with a wind tower on it, which would cause the taxes to go up on that property. He also explained there would be no zoning change, as WECS would be allowed in the Ag district. Macyauski added that a \$2,000,000 wind tower would increase the property value and the additional tax would come to Casco Township.

Chairman Barker explained that a recommendation to adopt or deny the amendment to the WECS ordinance would be made at this meeting. The Board may accept the recommendation, deny the recommendation, or send it back to the Planning Commission for more work.

Macyauski said that the Planning Commission's decision will not be influenced by any revenue that might come to the township.

Lexow noted that if the property value is increased, and the property owner must pay the increase in taxes, it would eat into any profit the property owner makes. Chairman Barker

stated that it would be advisable for a property owner to seek legal advice before entering into a contract with a utility.

Ostermann stated that history shows property values dropping due to WECS, not increasing. In a lawsuit in Huron County, the judge found the decrease in property values near wind towers to be indisputable.

The public meeting was closed at 6:20 PM. Chairman Barker stated that if someone has a question or comment, they would be welcome to speak during the closed portion of the meeting. He reiterated that the PC will vote tonight and make a recommendation to the board. At that point it will be up to the Board to accept the decision. Historically, the Board does take the PC's recommendation. If there is a tie vote, it could be tabled until June.

Chairman Barker led discussion through the Wind Energy Conversions Systems amendments latest draft 4-10-13 chairman's text (attachment #5). Discussion resulted in the following changes:

- Page 1, PP3c- First sentence will read - Locations and height of all adjacent buildings, structures and above ground utilities located within two thousand (2,000) feet of the property lines housing the WECS.
- Page 2, PP3e will read – Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to all structures within two thousand (2,000) feet of all property lines. For wind farms in which numerous towers of similar height are planned, sketches are necessary only at borders of proposed project and adjacent to all property lines.
- Page 2, PP6a Height will read – Height. A permit from the Michigan Aeronautics Commission is required for any structure with a height of 200 feet or more. The permitted maximum height of a WECS shall be five hundred (500) feet. The rest of the text will be deleted, including the last part of the sentence at top of page 3.
- Page 3, PP6b(6) the first sentence will read – The base of any WECS tower shall be setback 2,000 feet from any non-participating property line. The rest of the paragraph remains the same.
- Page 4 & 5, PP6i(1) shall read – Audible Noise Standard: From 6:00 AM until 10:00 PM, for wind speeds from cut-in to rated-power of the wind energy system, the dB(A) scale equivalent noise level due to the WECS at the nearest non-participating property line shall not exceed 40 dB(A) and 60 dB(C) or the background sound level plus 5 dB(A),

whichever is greater. The background sound shall be measured using an L90 Scale. From 10:00 PM until 6:00 AM the dB(A) scale equivalent noise level due to the WECS at the nearest non-participating property line shall not exceed 35dB(A) and 55 dB(C) or the background sound level plus 5 dB(A) whichever is greater. The background sound shall be measured using an L90 scale. Estimates of noise levels shall be provided by applicant for normal operating conditions.

- Page 5 PP6i(4) shall read – Complaint Resolution: Where a complaint is verified by the qualified professional third party the owner/operator of the WECS shall be liable for the cost of the investigation. The rest of #4 is deleted.
- Page 5 & 6, PP6i(5) shall read – Inspection Escrow: The developer or owner will fund in advance an escrow account, to be managed by Casco Township, to cover the cost of professional third-party investigation.
- Page 6, PP6I The first sentence will be deleted. “If warranted” will be removed from the beginning of the 2nd sentence to read: A shadow flicker analysis shall be done by an independent third party professional, paid for by the developer, to identify locations that may be affected during sun-rise and sun-set over the course of a year. The last two sentences will remain the same.
- Page 7, PP6m(2) shall read – The developer or owner will fund an escrow account in advance, to be managed by Casco Township, to cover repairs to roads and utilities caused by the project.
- Page 10, Section 2.22 Definitions - change Wind Energy Conversion System, Single Property, On-Site Use to: Wind Energy Conversion System, Single Property, On-Site Use: A wind energy system intended to primarily serve the needs of the property owner. This type of WECS does not exceed 70 feet in height.
- Page 10, Section 2.22 Definitions - change Wind Energy Conversion System, Single Property, On-Site Use, Structure Mounted to: Wind Energy Conversion System, Single Property, On-Site Use, Structure Mounted: A wind energy system intended to primarily serve the needs of the property owner attached to a structure's roof, walls, or other elevated surface. The over-all height this type of WECS plus the structure on which it is mounted does not exceed 70 feet in height.
- Page 12 Section 3.34 Temporary Uses d. Height, Anemometer Tower shall read – Height, Anemometer Tower – Towers used to conduct wind assessment studies for possible installation of a WECS, including attached equipment, shall not exceed a height of 200 feet and shall be setback at least 1.1 times the height of the tower from any lot line or

right-of way line.

- Page 12 Section 3.35 Single Property, On-Site Use Wind Energy Conversion Systems B shall read – An On-Site Use Wind Energy Conversion System is intended to serve an individual property only. On-Site Use Wind Energy Systems (including Anemometer Towers) with no towers or with tower height(s) less than 70 feet and a maximum generation capacity of 250 kilowatts shall be permitted use in all zoning classifications subject to the following regulations:

 - Page 14, Noise Ordinance, Section Z.02 Vibrations or Wind Current, 3rd paragraph will read:
Complaint Investigation and Resolution:
The Casco Township Zoning Administrator shall maintain a WECS Complaint Log. The 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 and paid for through an escrow account established by the WECS operator with the amount agreed to by the Township Board of trustees, and managed by Casco Township.

 - Page 15, Noise Ordinance, Sound Measurement, Analysis and Applicable Sound Control Engineering Standards 2nd paragraph will read:
Upon complaint of a property owner or resident, ambient and maximum permitted decibel measurements shall be performed by an agent designated by the Township. The agent shall submit recorded sound measurements to the Township Board for review and evaluation and shall copy the complainant. The last sentence is deleted.

 - Page 15, Noise Ordinance Section Z.03 Penalty shall read – If maximum readings are determined to have been exceeded, the violation shall be corrected within 90 days from the date of notification. If the noise violation cannot be remedied, the WECS shall be removed or relocated.
5. Resolutions requiring Planning Commission action; vote on recommendation to be given to Township Board. Chairman Barker made a motion to recommend to the township board to accept the proposed amendments to the Zoning Ordinances, 2nd by Liepe. All in favor. MSC.

Chairman Barker noted that the reason for the recommendation is the current Ordinance gives a maximum height of 200 feet. The existing ordinance has very few standards, very few safeguards, nothing for rural residential or facilities. This will give the board the opportunity to have a public hearing. Although the standards may be currently prohibitive, as technology improves the ordinance will be in place and give farmers another source of income.

6. Public Comment

Graff asked Ostermann, who has spent time studying noise levels, if the limits seemed to be a safe level. Ostermann said they are at the upper limits of everything she has read, but as far as she knows they are ok.

Graff questioned whether complaints could also be submitted during the construction phase as well as in operation. Campbell noted it is during construction through operation.

Graff expressed her intent to express concern to the Board that WECS puts the Township Board into a new added responsibility that they currently don't have.

Campbell stated that the ordinance helps reduce risk to the township. The current standards open the township up to a lot of trouble.

A motion made by Adamson, 2nd by Liepe to adjourn. All in favor. Meeting adjourned at 9:00 PM.

Minutes prepared by Janet Chambers, Recording Secretary

Attachment #1: Diana Ostermann, email links concerning WECS

Attachment #2: Diana Ostermann, article concerning Ubyly residence lawsuit with wind company

Attachment #3: Diana Ostermann, article regarding Mason County lawsuit against Consumer's Energy

Attachment #4: Diana Ostermann, article regarding Plymouth County Council's change in WECS Ordinances

Attachment #5: WECS amendments, draft 4-10-13 Chairman's text