



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg, Michigan
7:00 p.m. Monday, August 24, 2009

Meeting called to Order with the Pledge of Allegiance at 7:01 p.m.

Members present: M. Vermetten (Chair), B. Carstens (Vice Chair), C. David, S. Feringa, R. Hardin, D. Krause, P. Yamaguchi, J. Zollinger
Members excused: D. White
Staff Present: S. Vreeland, Township Manager/Recording Secretary
J. Jocks, Legal Counsel

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

APPROVAL OF AGENDA: Motion by Carstens, support by David to approve the agenda as presented. Motion carried unanimously.

- 1. Consent Calendar:**
Motion by Zollinger, support by Yamaguchi to approve the Consent Calendar as presented, including:

Receive and File:

- a) Draft Unapproved Minutes of:**
 - 1. 08-11-09** Board Meeting
 - 2. 07-24-09** Heritage Advisory
 - 3. 08-06-09** Public Safety Advisory
 - 4. 08-12-09** Shoreline Advisory
 - 5. 08-13-09** Zoning Board of Appeals
- b) Planning & Zoning News July 2009**
- c) Planning & Zoning News August 2009**

Action:

- d) Approve minutes of the 07-27-09 Planning Commission Meeting**

Motion carried unanimously.

- 2. Correspondence:** None

- 3. Limited Public Comment:**

Gene Veliquette, 8369 Elk Lake Road in Whitewater Township, asked if public comment would be entertained relative to the proposed wind energy ordinance; it will be during the public hearing.

- 4. Preliminary Hearings:** None

- 5. Public Hearings:**

- a) Wind Energy Ordinance:** Hull reported that the township based its proposed wind generation ordinance on model language provided by the state. Hardin noted a typographic error on page 2, paragraph 3 (Section 13.3) a “fo” in the second line should read “for.” David asked why Section 13.3.3 would have off-grid wind energy systems be exempt from compliance with Michigan Public Service Commission (MPSC) and Federal Energy Regulatory Commission (FERC) standards. Hull stated that the sentence before it specifies that any energy system connected to the public

power grid must comply; the sentence in question applies to stand-alone systems only.

Public Hearing opened at 7:15 p.m. Mr. Veliquette questioned the need to regulate the construction and operation of wind energy systems, as he believes these areas to be regulated by other agencies. For instance, construction is regulated by the County Construction Code Office. He understands that regulating wind energy system siting is within the township's scope. Mr. Veliquette also feels that there is an overabundance of local requirements being added to those imposed by other regulatory agencies. He feels property owners ought to be allowed to harvest wind energy above their properties, but is particularly concerned about the italicized section of Section 13.5.5 which would prohibit location of any utility grid-connected wind energy systems within any scenic viewsheds listed in the Master Plan. He is unaware whether there is a map that shows these viewsheds, or how large they are, and is concerned that because viewsheds can be largely subjective that this will make it too difficult for landowners to exercise their rights in this regard. He also referred to Section 13.5.10, feeling that it would allow only one or two people to stall a "multi-million dollar project" needlessly for extended periods of time. The ordinance does not state that the complaints must have legitimacy or validity, and Mr. Veliquette believes that there should be clearly spelled out standards and processes for any complaint system. He displayed a viewshed map given to him by Hull, and noted that many of the viewshed areas seem to encompass most of the high orchard land that is both scenic and possibly the best for wind generation. He hopes we don't adopt an ordinance that ends up only permitting "hobby" personal wind towers that people put up to gain a personal tax credit and doesn't really enable the larger public to benefit from large-scale wind generation. With a few changes he feels it could be a good document.

Steve Smiley, Leelanau Township, stated that he has represented townships professionally regarding wind energy but is present in his own personal capacity. He provided a list of [12 typed comments](#). He stated that many model ordinances have been drafted by wind energy antagonists in a preventive mode rather than in a promotive mode. Mr. Smiley's first two statements are that he opposes the draft ordinance without significant revisions, believing it to be "discriminatory, punitive and likely to be found illegal." He indicated that utility grid wind energy systems can be large or small in size, that the permitted height of 66' is too short because it would provide limited energy at higher cost than taller towers. He opined that the vertical axis windmills being made in Manistee work poorly despite the hype they have received. Taller towers create more cost-effective energy. Mr. Smiley stated he appeared in front of the Acme ZBA several years ago to obtain permission for a "met" tower east of the Resort, so he is familiar with wind patterns in the township and would be glad to work with the township to redraft the ordinance. Mr. Smiley asserts that only residences, and not commercial operations, are affected by noise levels from wind towers, so noise levels should be monitored at the nearest residence(s) and not the nearest property lines. He has had a windmill 100' from his bedroom for 20 years, and has been more disturbed by agricultural spraying noise. He recommended that sound, visual, shadow and wildlife impact analyses requirements be flexible relative to each application rather than mandatory for all. Mr. Smiley believes that excluding grid wind energy systems from defined scenic viewsheds would essentially exclude them from the township altogether, and that lattice towers should not be prohibited. He asserted that electromagnetic interference is not usually an issue of concern and that studies in this regard be required only in special situations. He stated that when the TC Light & Power windmill was installed, the local radio and TV stations with antennae nearby conducted extensive tests to insure there would be no unacceptable interference.

Public Hearing closed at 7:31 p.m.

Yamaguchi asked the height of the TCL&P windmill; it is 165' at the center of the blades and 235' to top of vertical blade. Elmwood Township imposed a 100' setback from the property lines.

Feringa believes the draft is too restrictive in terms of setbacks, viewsheds, third-party consultants, sound (55 decibels is not very loud; next to M-72 the Tribe found there were 90 decibels being generated just by passing traffic), lattice towers, verification of leases (property ownership should be verified as well.)

Zollinger used to install large transmission towers, and said height is an issue if a tower falls down due to a storm. In a rural setting this might not be much of an issue, but in a more densely populated area there would be greater risk of property damage and injury. Perhaps an approach to setbacks should be adopted that takes land use context into consideration. He also thought this was a model ordinance from the state, so he is concerned to read comments and see some validity in them that these standards are perhaps too restrictive. Krause agreed with Zollinger's comments.

David feels that the conflict resolution process is adequately covered by the proposed ordinance by saying it does not preclude the township from following up on a complaint. He does not believe that lattice towers can be as unobtrusive as a tubular, neutrally-colored tower. For him viewsheds are a real issue, and the phrasing as proposed does preclude many possible locations in the township. Perhaps requiring a Special Use Permit (SUP) for towers more than 66' tall will adequately address this situation and is reasonable because it doesn't trigger denial, but just promotes a public process in those situations where public concerns are more likely.

Hull noted that an attempt has been made to treat cell towers and wind towers similarly in terms of the ordinance proposals regarding viewsheds and setbacks. They are both large and potentially highly visible structures. Whatever the township decides to do with these issues relative to wind towers will hint at future discussion regarding cell towers.

Hardin noted that the proposed ordinance does not ban towers over 66' high, it requires a different approval process for them. Windmills have existed for over 500 years and their fundamental design and function have changed little over the years. Tourists travel to Holland to see them. Aesthetics will continue to be an area of disagreement and debate. To him they are not unattractive. He agreed with Feringa that if the township wants to promote wind energy the ordinance should be less restrictive, and sometimes they may be placed most efficiently in places where some people would prefer not to see them. Yamaguchi observed that someday there may be wind generation towers out in the bay or the larger lake. She also asked if the viewshed list and map in the Master Plan had been updated, noting that she sent Hull a list of areas that didn't seem to be viewsheds anymore. Hull reported that there was so much contention within the Commission on the issue that it was set aside to be dealt with during the next significant Master Plan revision.

Carstens and Yamaguchi both attended training about wind generation ordinances. One thing he learned from the people teaching the class was that they felt strongly that the potential for damage from setbacks that are too small relative to shadow flicker is real. People who are prone to seizures can apparently be potentially affected. He agrees that there is more room for discussion about some of the proposed standards that may be too restrictive, and he finds himself confused by the

conflicting points of view presented.

Vermetten noted that “reasonable minds can differ” and a variety of presenters can have differing agendas they seek to promote. He was most impressed by Mr. Veliquette’s concern that scenic viewsheds are perceived to be everywhere in the township, that they are different for different people, and he also respects Yamaguchi’s statements that some viewsheds don’t really exist as defined anymore. He tends to agree that if the towers can’t be located within the defined viewsheds, the idea that the ordinance promotes towers may be illusory. Vermetten would also like to review the 66’ height to the top of the blade as the breaking point between uses by right and by special use permit. He has worked with some clients on wind towers, and this height has never come up in discussion. He does not believe that height tower will effectively generate power. He sees both sides of the debate as to setbacks, and generally prefers “may” language over “shall” language to give local bodies more discretion. He dislikes the conflict resolution section, believing it sets up a possibility of neighbor conflicts, and generally feels the ordinance is too restrictive.

David asked where the 66’ height came from; it was part of the state model ordinance.

Jocks reviewed the ordinance but did not participate in its drafting and is unable to address the history of the draft. He sees nothing in the draft that renders it illegal, but he does see a potential conflict with the cell tower ordinance as pertains to viewsheds. He was part of the process of approving the Cellere tower within the township, and for him two ordinance sections that deal with tower heights two different ways are a sincere concern.

Hull noted that there seem to be a handful of very sincere concerns about the proposed ordinance that the staff can go to work on and present back to the Commission when ready. He understands a concern that a number of standards are too restrictive and a need to find out their basis, whether that basis is scientific or arbitrary, and what a more reasonable standard might be. He understands that the restrictions should be as loose as possible and that the ordinance should truly encourage wind generation within the township. Zollinger suggested that where changes are made in the draft, particularly of a dimensional nature, he would like to see attached commentary on the provenance of the numbers.

Motion by Zollinger, support by Hardin to continue the Wind Energy Ordinance public hearing to the September 28 meeting.

Carstens asked if references to utility grid wind generation systems mean facilities designed to serve a large number of utility customers; Hull understands it to mean commercial power plant-scale facilities. Carstens stated that as a County Planning Commissioner he has seen a number of proposed local wind generation ordinances that he feels are more comprehensive than the proposed draft. Vermetten encouraged Carstens to share those documents with Hull as he continues work on the ordinance. Carstens would like to explore whether there is a necessary proximity between a wind energy generation site and high-powered transmission lines. Yamaguchi asked if one month will be enough to examine all of the issues raised this evening. Carstens stated that Bill Carlson from Consumers Energy, part of the potential Bates Road realignment project, might be willing to address the township on these questions.

Motion carried unanimously.

A five minute recess was declared by the Chair at 8:00 p.m.

6. **Old Business:**

- a) **Draft Ordinance Amendment on Accessory Building Regulation:** Krause was the individual who asked for discussion about this revision at the last Commission meeting. He is also the Commission representative to the ZBA. He brought this issue up at a recent ZBA meeting, and learned that body would strongly prefer to continue having the question of accessory structures between the road and a primary structure on waterfront property remain subject to review on a case by case basis. Hull agreed that this was the ZBA's position; however, the rules under which the ZBA operates state that if a situation is fairly common a rule should be developed for it rather than it being dealt with through the variance process. Hardin noted that in most residential areas in Traverse City houses are accessed from alleyways behind the houses. Their definition of the "front" of a lot may differ from ours, but we will run into this issue again on non-waterfront parcels when a village develops in Acme that, if designed traditionally, will have lots accessed from what rationally seems to be a rear yard. It would seem prudent to get ahead of the issue. Vreeland observed that the ordinance states that variances are for unusual situations, and that situations that are fairly common should have a rule put in place to govern them.

Vermetten drew attention to Mike Grant's proposed ordinance amendment, which would change the language of Section 7.2.1, Accessory Buildings, to read that accessory buildings could not be erected in the front yard of any non-waterfront parcel. This language could be further re-crafted to address the sort of traditional downtown housing development pattern that we hope to achieve in the future where driveways serve properties from alleyways in the middle of blocks.

Hull would prefer a solution that allows for some flexibility, but he also noted that what people put in the front yards of their waterfront properties would be highly visible to their neighbors across the street. How much discretion should the waterfront property owners have to institute land uses in their front yard that others may only have in their back yards. Krause believes this is one of the reasons the ZBA prefers to address these situations on a case-by-case basis. Hardin noted that this can lead to a level of objectivity about design or construction that may not be appropriate.

Motion by Carstens, support by Yamaguchi to have staff and counsel continue to work on revisions to the accessory structures ordinance and present them at the September 28 meeting. Motion carried unanimously.

- b) **Discussion of Bates-area sub-plan:** Hull noted that the Commission indicated a desire to begin work on a Bates-area sub-plan as described in the Master Plan. He has circulated the notice of intent to plan as required by state law, and has provided the Commission with an MSU Extension-generated checklist for how to proceed with the process. Hull is seeking some more detailed input on how the Commission wishes to proceed; for instance does it wish to retain a consultant to assist with the visioning process, or does it wish to conduct the process entirely in-house? Carstens feels that at a minimum a meeting of the immediate Bates area stakeholders should be convened. He feels it may be possible to conduct the process in-house, as the area to be planned for is not that extensive. Chuck Walters asked to be included, and he suspects the people who live on M-72, Bates Road, and the landowners in Railway Industrial Commons should all be included. Vermetten feels this should be a stand-alone, special meeting to gain input from all interested parties. He feels the work can be done in-house as a start.

David recalls that this initiative grew out of the proposed realignment of the M-72 and Bates Road intersection, but wonders why additional work is required if the

realignment plan has been largely set. Feringa noted that Consumers Energy has sought township feedback on how welcome a potential application to rezone their property from agricultural to commercial would be. Vreeland added that the Master Plan calls for the township to create a sub-area plan, and now that dialogue has already been opened between the township, various agencies and various land owners, and with projected development plans at the Resort, Turtle Creek and elsewhere, it seems like now may be the time to proceed. Discussion followed about who the key stakeholders to particularly invite to participate would be, with the Commission generally approving of an area outlined by Vreeland on a zoning map on the wall that extends eastward to the township boundary, includes Highpointe Golf Course and all of South Bates Road, extends westward along the south side of M-72 East far enough to encompass the proposed Bates Crossing property, several residences and some vacant parcels, and includes areas north of M-72 and south of Brackett Road between the township line and the "Hoxsie Property" portion of the resort. A date of October 19 from 7-9 p.m. was set for a special meeting exclusively for this purpose. Staff will begin organizing and publicizing the event.

- c) **Update Planning Goals for 2009-2010:** The Commission reviewed the status of various issues on their existing goal list. Many items, such as the neutral ordinance re-write, the sewer district and the mobile home regulations have been addressed. Some are in process, such as the communication towers and affordable housing issues. Vermetten indicated that the sign ordinance should be addressed in the near future. There were questions about the status of the private road ordinance. Carstens noted that Whitewater Township has a road ordinance that deals with more than just private roads. Carstens and the TART people would like to plan for a TART trail extension along the Bates Road corridor from its existing terminus at Bates and M-72 towards Elk Rapids. He has also heard White speak with some ambivalence about extension of a TART spur through the center of the agricultural production area. The township has committed to farmland preservation, and Carstens would like to learn more about the potential positive and negative results from having a bicycle trail run through the heart of our agricultural lands and resolve any conflicts. Road agencies primarily seek to promote motorized transportation, but the public values non-motorized trails and he would like the township to plan and advocate for them. Vermetten noted that he had recently bicycled through the agricultural area and it is beautiful with the sunflower and other crops in bloom. Vreeland noted that she and Kladder will be attending an agricultural zoning seminar a week from tonight and she will try to pose the question about potential farming/biking impacts if possible for group input. She also mentioned that she spoke to Doug White in the spring to get his help in leading an effort to review and update our agricultural district zoning this fall after the key harvest seasons are past. This effort should be high on the priority list. Zollinger suggested updating the table to clearly reflect which issues have been put to bed and which remain, and to add the non-neutral proposed zoning ordinance amendments discussed during the ordinance re-writing and begin working on those. Hull stated that a number of "red flag" issues have already been addressed. Most remaining issues are fairly small and can be handled in bulk, with one or two larger issues that will need to stand on their own.

7. New Business: None

8. Public Comment/Any other Business that may come before the Commission:

Roger Wing was born in the Bates area and has a family trust that holds two pieces of land on the Bates corridor. One is surrounded by Flintfields, the Consumers Energy property and the Resort property, so the Bates planning sincerely affects him. He may not wish to continue living on the property as it becomes surrounded by industrialization and as the proposed new road alignment may create glare in his home at 6389 Bates Road. Another parcel in the

family trust is on Saylor Road; it used to be hayed but is currently fallow. He lives in Nevada and may not be able to attend the meeting on October 19, but will try to work with staff to have input in the meantime.

David asked if the Commission would express support for continuing sidewalks on the east side of US 31 from M-72 to Bunker Hill. He feels this would be a sincere benefit and should be included in the capital improvements plan. Vreeland noted that this is one of Supervisor Kladder's 23 goals for his four-year term in office, and would likely take a combination of grant funding and/or a special assessment district on the landowners.

Zollinger thanked the staff for having minutes loaded quickly to the website after meetings, and for circulating a potential agenda for upcoming meetings several weeks in advance. This helps him prepare for upcoming meetings.

Carstens thanked Hull for his presentation to the County Planning Commission recently, noting it is very helpful to have people there to answer questions about their issues.

Meeting adjourned at 9:00 p.m.