

CHARTER TOWNSHIP OF MONITOR
REGULAR PLANNING COMMISSION MEETING
March 6, 2018

The meeting was called to order by Chairman J. Bellor at 7:00 p.m.

The Pledge of Allegiance was recited by all present.

Members present: J. Bellor, R. Campbell, D. Darland, J. Frank, C. Hoyle, and B. Reder
Members absent: T. Miller
Also present: R. Sheppard, Planning Attorney; P. Lippens, Planner
Others present: Kenneth M. Malkin, Township Supervisor
Public present: See Sign-In Sheet

Motion by B. Reder seconded by R. Campbell to adopt the agenda as presented.

Motion carried.

Motion by R. Campbell seconded by C. Hoyle to approve the minutes of the February 6, 2018 regular meeting as presented.

Motion carried.

Public Input

Chairman J. Bellor opened public comment at 7:05 p.m.

Chris Lutz inquired about a vacant parcel that is currently for sale adjacent to 3868 2 Mile Road. He considers the property a good prospect for a self-storage facility. The property is currently zoned R-3. He would like the viewpoint of the Township to the feasibility of the development.

R. Sheppard stated that self or mini storage is not allowed in any residential zone therefore the property would need to first be rezoned. It is contiguous with commercial properties to the west and to the westerly half to the south. It could be rezoned, and a special use permit obtained which can be done at the same hearing.

D. Darland remarked that it would leave an island of residential properties. The properties across the street are residential as well. The current Master Plan does show the parcel in question to have future commercial zoning.

R. Sheppard stated that one of the items to consider is looping the water main at the Hampton Inn hotel to the west in order to get the fire hydrant pressure coming from both ways. If application is made first to rezone it is quite possible that the residential properties may be considered for rezoning at the same time.

P. Lippens stated in addition to the applications for rezoning and special land use, a full engineered site plan will also be required.

Paul Funk of DTE Energy was present to hear about about the status of the wind energy amendments. P. Funk shared a copy of the Gratiot County wind ordinance and stated they were on hand and available to answer any questions if needed.

Craig Close representing Atwell LLC., a consulting firm for DTE Energy, introduced himself as the site manager of the area and his job is to act as a facilitator between townships and DTE. He passed out his contact information in order to expedite any questions with regard to wind energy that the Planning Commission or township officials may have.

K. Malkin spoke referring to the Ordinance specifically verbiage regarding small, medium, and large scale categories. The decommissioning language is very good on the small and medium categories in terms of what authority the Planning Commission has in case of decommissioning but is absent under the large scale category.

Public input was closed at 7:24 p.m.

Items for Consideration

Zoning Ordinance Review

Wind Energy Ordinance

P. Lippens commented stating that although the Charter Township of Monitor has had a wind ordinance in effect for quite some time, there are some parameters that the group has recommended to modify. A synopsis of the various changes include requiring a cash bond payment for decommissioning which garnered wide support from both the Board of Trustees and Planning Commission. Several other parameters that were looked at and taken into comparison to other communities were noise, setbacks, shadow flicker, environmental impact and additional decommissioning requirements.

P. Lippens commented on the table analysis he prepared which compared Tuscola, Williams, Wheeler and Pine River Township in Gratiot County, and the APA (American Planning Association) Best Practice Report on creating regulations for wind. The other ordinances are fairly similar, but in some cases some modifications could certainly reduce the impact and protect the Township's agricultural lands which are one of the primary goals of the Master Plan. Ultimately, the recommendation would be to modify the standards to comply with some of the better parameters that were considered. P. Lippens pointed out a correction should be made to the noise limit which read up to 60 dBA in his comparison noting that it should have been down to 45 dBA.

Chairman J. Bellor allowed P. Funk, DTE Energy to inquire if he could obtain a copy of the comparable analysis. He commented that Beaver Township has set their standard at a 45 dBA Lmax. P. Funk contends that Lmax defines the maximum level of sound that would generate for one (1) second out of entire year. According to DTE's subject matter experts this would require a setback of approximately 3700 ft from the wind turbine. Would Monitor Township be using an Lmax, and if so, would setbacks be measured from a residence or property line? These different

parameters are very significant and he believes it would impact and hinder further development in the community.

P. Lippens encouraged P. Funk to submit this question in writing.

D. Darland commented that he thought that the Township Board of Trustees would be supporting a 40 decibel level.

P. Lippens confirmed that in the APA Best Practice Report, 40 dBA is considered the low range, with 55 dBA the high range. The Wind Ordinance in effect is currently at the higher range.

R. Sheppard recollects that the Township Board was going to continue with the Zoning Ordinance amendments specifically for this [wind] section. There was no discussion at the previous joint meeting regarding this issue and the majority of those that had read the material that the Planner provided noticed the error of 60 dBA in the report. The consensus of the Board of Trustees was to reduce the current maximum level from 55 dBA to 40 dBA; to insert additional language to limit the shadow flicker for a maximum number of hours a year; and increase the setback from 150% of the turbine height to 200% as referenced in the Regular Township Board Meeting of February 26, 2018 minutes. It was also recommended that the Planning Commission have a lengthy discussion on the decommissioning process and soil restoration.

B. Reder offered to obtain a copy of the comparable analysis that was prepared by our Planner for P. Funk, DTE Energy.

R. Sheppard stated that one of the confusing aspects of the current wind ordinance in effect is found in Section 3.46, Subsection (f.), which addresses the standards for large-scale and utility grid wind energy conversion systems. There are standards which need to be amended.

J. Frank asked the DTE representative how high the tower is from the ground to the center of the hub.

P. Funk responded; stating that it is usually 100 meters [328.084 feet]. The blade would be an additional 150' feet, which would put the tower just below 500' feet.

R. Sheppard stated that P. Lippens had pointed out Substandard 2, the setbacks are the distance equal to 150% of the turbine height including the top of the blade in its vertical position.

D. Darland asked if the "table" on page 4 should be amended.

P. Lippens stated that currently we are at 350' to 500' feet. Our current regulations are consistent with how a turbine is built. A change could be made to limit the height to 400' feet if desired.

R. Sheppard asked if there is noise coming from the turbine, it is correct to assume it comes from the blade and the hub.

J. Frank asked if the height was limited to 400' feet would it then require a shorter blade.

P. Funk answered that it would not matter as the overall height of the turbine, including the cell and blade combined, is 400' feet maximum. This is also the maximum height of the unit that DTE could install. Utility grade turbines that are built in Michigan are more than 400' feet in height.

J. Frank stated that Beaver Township has limited theirs to 400' feet.

P. Funk agreed, stating that is what Beaver Township has chosen to put in their ordinance. Their Planning Commission has specifically declared to set precedence by developing the most restrictive ordinance to be used as a template for Michigan to essentially stop wind expansion.

R. Campbell inquired if it was correct to surmise that 500' feet is an aeronautical consideration.

P. Funk agreed stating that per FAA standards any single tower over 200' feet and up to 500' feet must be lit. Second towers within a certain regulated distance would only require one of the two towers to be lighted. A typical lighting design in a wind development would require the perimeter turbines to be lit with a reduction of lighting on the interior due to the turbines being closer in proximity to each other. Most of the parks that DTE has developed so far have been lit at 70%. After 500' feet the FAA has a secondary mandate which requires that all of the turbines have to be lit.

J. Bellor asked if there was any regulatory measure with regard to the proximity to an airport.

P. Funk stated that there is an overall plane ascending and descending glide path which has to be followed.

P. Funk continued commenting that a 45 dBA at a residence is also what is a recommended sound level per EPA and World Health Organization recommends. This is also listed in the MSU (Michigan State University) guidelines. Our current ordinance is at 55 dBA from the property line, and lowering to a 45 dBA would require an additional setback of just over 1300' feet, or another ¼ mile. This would essentially put a noise limitation on vacant farmland in some areas.

R. Sheppard inquired if the height of the turbine mattered.

P. Funk answered, not particularly because the height of the turbine will not change whether you are building it a total height of 450' feet vs. 500' feet. There is some noise from the blade, but the loudest that the turbines actually are in most of the studies is when there is no wind and it is turning itself to go into the wind. Some of the mechanics can be heard as the gears are turning. The loudest that a wind turbine is for the case of a noise study is when it is calm air down on the ground but the treetops are still moving. These tests are completed under hard packed snow conditions with no or very little vegetation. Michigan State University guidelines suggest where

there is residential population; a 45 dBA is a recommended noise level to the property line and 55 dBA for vacant farmland, which is still just under normal conversation of 60 decibels.

R. Sheppard believes we need to consider our overall motive. Is it the growth of population or the expansion of wind turbines?

J. Frank and D. Darland believe that 45 dBA from the property line should be consistent for both scenarios. The remainder of the Planning Commission members agreed.

P. Funk stated that would require a 1300' ft radius around all non-participant property lines.

P. Lippens stated that noise mitigation could be done at the property line.

J. Bellor and J. Frank both commented that many property owners that currently have a wind turbine development are not necessarily happy.

As a recap, P. Lippens stated that we have 45 dBA, 200% setback of the tower height, which is up from 150%.

There was much deliberation with regard to further regulation of the wind turbine height.

P. Lippens continued to recap stating that the shadow flicker requirements will be added, the small-scale lot size requirements have been increased to a minimum of 2.0 acres, mid-scale remains the same at 5.0 acres and utility grade would require 2.0 acres per tower minimum. Decommissioning has been decided upon, requiring full site restoration and a cash bond. This is changed from our current regulations but not a change from what has been prior agreed upon.

J. Bellor brought up adding soil sample testing with comparable results before and after to be assured that the ground is fully restored upon decommissioning of a tower.

P. Lippens suggested including a statement which would satisfactorily cover this.

K. Malkin reminded the group to make sure that the large-scale language for decommissioning is corrected.

B. Reder asked the DTE representative if they have had experience decommissioning a turbine.

P. Funk stated they have never decommissioned a park as of yet, but have decommissioning and bonding as required for all but one Township.

P. Lippens will add language with regard to soil restoration; correct the large-scale language for decommissioning by adding the mid-scale verbiage.

P. Funk commented stating that the cement foundation on a wind tower is 12 feet deep. From the center of the turbine outward is 27' feet, and their largest is 37' from the center of the turbine. 52' feet - 64' feet across is as far as the foundation goes out and goes down on an angle.

These are installed 4' feet below grade which is out of a property owners farming activity. Those with an easement have accepted that. The farms are designed that they pay for themselves in ten (10) years. After that, the wind is free and the land owners are getting revenues paid for the thirty (30) years that the park is on there. That is the beauty of the wind farms.

B. Reder asked what the average lifetime of a wind farm is.

P. Funk answered that the base life for a unit is thirty (30) years. Of course, there is general maintenance involved of course.

K. Malkin commented that interest from the cash bonds on deposit would accumulate through the life of the wind development.

P. Lippens stated that accrued interest could be returned every five or ten years if it is greater than the cost to decommission at that time. Similarly more cash can be deposited if the fund would not cover current costs of removal.

J. Bellor stated that Gilford Township could most likely provide us with that information.

R. Sheppard pointed out that the Planning Commission or Township Board will need to establish the initial amount of the required cash needed to decommission a tower. Most likely this number will need to be obtained from the industry we are trying to regulate. The economy of scale should be updated perhaps every ten (10) or twenty (20) years. Likewise, there may only be a percentage of the bond amount needed if several towers are installed.

J. Bellor feels that updates should be reviewed every five (5) years because of rapid changes in technology and the economy.

After much discussion, R. Sheppard suggested that a decommissioning fee schedule be developed and adopted by the Township Board by resolution and amended from time to time. The Board should decide if more than one turbine is installed, for example ten (10), they would have to have enough money on hand to decommission two (2). The Board would have to then have procedures in place to replenish the fund.

P. Lippens commented, stating that he was under the impression that each tower would have its own decommissioning account and he is not sure how a fee schedule would relate to a cash payment.

There was considerable discussion.

R. Sheppard agreed to have this particular section written up with 100% decommissioning costs for each tower installed with a review every five (5) years. Payment will be in the form of a cash payment. This can be modified at the public hearing in a less restrictive manner if desired. A consensus from the Township Board can be obtained prior to the April meeting.

Gloria Byrne inquired, after receiving permission to speak from Chair Bellor, as to what would happen if the lease that DTE is offering differs from the zoning ordinance requirements. For example; the DTE lease language states that only 4' feet of concrete would be removed when or if decommissioned.

R. Sheppard answered, stating that although there is no enforcement of private leases our requirement would essentially trump or override their regulations.

G. Byrne offered to those in attendance a copy of the DTE lease that is being offered to landowners. She also voiced concerns over the setback of a turbine as it relates to closer placement to the property line if in the future technology makes that feasible.

R. Sheppard stated that other requirements would have to be met with regard to noise and shadow flicker.

P. Lippens agreed, including the fact that there could be other setback requirements to consider such as other structures.

The majority consensus was to allow a wind turbine at maximum height of 500' feet.

Prior to wrapping things up, D. Darland shared his preference for further amending the Zoning Ordinance to allow deferment of fencing requirement in certain cases.

J. Bellor also mentioned his desire to require final, as finished as-built drawings to be submitted digitally and placed on file at the Township upon completion.

K. Malkin stated that information should be included in the Development Manual which would need to be updated accordingly pending approval of the revised Zoning Ordinance.

It was discussed to also include this in the site plan submittal Section 3.20 of the revised Zoning Ordinance.

J. Frank suggested allowing only six (6) months for the decommissioning of a wind turbine instead of one (1) year.

P. Lippens believes that the twelve (12) consecutive month requirement is more realistic.

P. Lippens informed the group that the indexing document would be a separate document and developed after approval of the revised Zoning Ordinance.

Craig Close, representing Atwell LLC., asked permission to address the Commissioners inquiring if and when the amendments are completed, will they be able to provide comment on them prior to the public hearing.

P. Lippens advised Mr. Close to send a letter based on the discussion this evening. He did encourage him to attend and comment at the public hearing as the Township Board will also be

forwarded all public comments received at the hearing and will take these into consideration when making their decision. Likewise, the Planning Commission may consider your comments or recommendations at the public hearing then make revisions prior to submitting to the Township Board. The process will be available to everyone equally.

D. Darland made a motion seconded by C. Hoyle to set the public hearing for the revised Zoning Ordinance on Tuesday, April 3, 2018 at 7:00 p.m. at the Charter Township of Monitor offices.

Roll Call Vote:

Yes: Campbell, Darland, Frank, Hoyle, Reder, Bellor

No: None

Absent: Miller

Motion Carried.

Communications

Motion by R. Campbell supported by D. Darland to acknowledge receipt of Communications.

Motion carried.

Motion by C. Hoyle supported by D. Darland to adjourn.

Motion carried.

Meeting was adjourned at 9:09 p.m.

Respectfully submitted,

Dan Darland
Secretary

DD/blfp