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**BENZIE COUNTY PLANNING COMMISSION
WIND ENERGY WORK SESSION
AUGUST 5, 2009
MINUTES**

6 **MEMBERS PRESENT:** Damm, Moorman, Ross, Pitcher, Roberts, Tanner, Ralston

7 **STAFF PRESENT:** David Neiger, Chris Flynn

8 **OTHERS PRESENT:** Bruce Harwood, Jan Harwood, Dennis Holcombe, Jury Lewizky,
9 James Pelekis, James Noffsinger, Ralph Williams, Cecily Williams, Paul Solem, Clarence
10 Davis, Hugh Walton, Grace Williams, Tom Karas, Rudy Ruterbusch, Greg Landsfeld, Bruce
11 Olgilvie, Reverend Steven B. Thompson, Joshua Mills, John Wheeler, Greg Kindig, Shauna
12 Fite, Susanne Glynn, Jim MacInnes, Richard Robb, Jon Robb, Jim Dulzo and several other
13 citizens.

15 **I. Open the Meeting** Chairperson Ralston opened the meeting at 7:00 p.m.

17 **II. Presentation of the Draft Ordinance Language**

18
19 ● **Karen Roberts** presents the draft ordinance language via a power point presentation.
20 She explains that there have been some minor changes to the hand out on the table.
21 Starting with Purpose and Intent, she explains that Kurt Schindler (MSUE) advises that this
22 should be a special land use. She adds that should it be adopted as a special land use the
23 purpose and intent will go away. She states that she recommends it be its own article so it will
24 not affect other articles in the ordinance. She describes the logic behind the ordinance
25 language and explains that we tried to make it extremely friendly to the small wind system
26 owner, (the individual homeowner, business owner or agriculture). She explained the table at
27 the end of the document pointing out the differences between the various permits and
28 requirements. She also reviewed some of the different types of systems. She comments that
29 she doesn't believe there will be large wind farms in Benzie County because there are no large
30 enough land masses available and no 3 phase power lines except along US-31, M-115 and part
31 of Grace Road.

32 ● **Neiger** states there are landmen out there buying leases from people to pool together
33 for a developer, who could be thinking of putting together a farm like down in Huron county.

34 ● **Roberts** points out the definition of "fall zone" commenting that is what is used in
35 determining setbacks. She makes the following comments:

- 36 ▪ Our definition of height includes the blade in the vertical position.
- 37 ▪ We do not determine setback based on height.
- 38 ▪ Setback is the fall zone (height of the tower) unless there is documentation
39 showing that the tower will collapse on itself.
- 40 ▪ Dave Neiger wrote the road provisions from language elsewhere in the
41 ordinance.
- 42 ▪ There is a requirement that an anemometer come down in 15 months.
- 43 ▪ She described color and finish requirements.
- 44 ▪ All systems must comply with all other requirements state, federal and local.
- 45 ▪ Units less than 200' generally do not need lighting, anything 200' and units over
46 do.
- 47 ▪ The only lighting allowed will be that required by FAA.
- 48 ▪ Environmental issues are notated to refer to a different article in the zoning
49 ordinance.

- 1 ▪ Sound levels are set referenced to ambient sound levels rather than a straight
2 decibel level and how close the unit is to residence and human gathering places.
- 3 ● **Neiger** described decibels, ambient noise and comments that our ordinance says 5
4 decibels above ambient noise in the location. Additionally he described the Pigeon Area Wind
5 Farm commenting with the new towers there can be some flutter noise. The older models may
6 have some clanging, blade wash etc.
- 7 ● **Roberts** explains that the language does not have a maximum total height. She states
8 height comes into play during the permitting process and the determination that the unit is a
9 permit by right or a minor or major special land use. The determination will be made on a case-
10 by-case basis.
- 11 ● **Roberts** explains that signs are not allowed beyond the required safety signs, power
12 lines must be below ground whenever possible, and for a grid system the applicant must inform
13 the utility. She comments that we do not have anything to say about what the utility will want.
- 14 ● **Site Plan Review**, Roberts explains:
- 15 ▪ For a minor special land use the special use documentation is minimal (she
16 reviewed the special standards for a minor)
- 17 ▪ For a major special land use an applicant will need at least the following:
- 18 * Sound modeling to ISO standards,
19 * Third party environmental analysis,
20 * Third party avian and wildlife impact analysis,
21 * Shadow flicker analysis and mitigation measures if any,
22 * Traffic logistics,
23 * Road/structure removal and replacement or repair,
- 24
- 25 ▪ The General Provision section has requirements for decommissioning and the
26 land refurbished up to plow depth.
- 27

28 **III. Discussion/Public Input**

- 29 ● **Pitcher** asks if there was a possibility that the State is going to mandate that wind
30 energy systems be allowed in certain designated areas in every township.
- 31 ● **Neiger** states that it is not the case right now. He thinks the threat is there that if we
32 don't' allow enough facilities to make it economically feasible and everything else according to
33 State Guidelines that the State Legislature will enact a statewide regulation that will exempt
34 them from local control. Then the State, through the Michigan Public Service Commission, or
35 some other organization will be placing these things with little or probably no oversight from the
36 local communities.
- 37 ● **Roberts** comments that the purpose of the report (Proposed Report of the Michigan
38 Wind Energy Resource Zone Board, 6/2/09) was to determine how to prioritize where the wind
39 energy systems could best be located. They can certify a system and override any kind of local
40 zoning if they want to.
- 41 ● **Tanner** comments that there might be some pressure, depending on how local units of
42 government react to the development of wind systems, to enact some legislation that would say
43 you can put these up.
- 44 ● **Jury Lewizky** asks how wind energy is different from gas line regulations, such as
45 putting the gas lines underground.
- 46 ● **Neiger** states the major question is whether or not it is a designated essential service.
47 The Michigan Public Service Commission regulates the domestic piped gas line that MichCon
48 owns that runs to your house.
- 49 ● **Neiger** explains that the line that runs from a gas well over in Antrim County or down in
50 Thompsonville or wherever, is permitted and allowed by the Supervisor of Wells at the MDEQ.

1 And their mandate is to get the resource out of the ground and into that domestic gas line. I
2 foresee that if something major happens and we do not locate enough of these windmills, then it
3 could go the way of the Antrim Gas Wells, where the State will just take over total control.
4 Leelanau and Benzie have been designated prime wind areas for these facilities. We have to
5 look at everything very critically and have a friendly ordinance that allows these things to be
6 here and still protect the environment.

- 7 • **Tom Karas states** this is a tremendous piece of work and could bring recognition to
8 Benzie County. It balances allowing the units with sensitivity to others. He asks if the 200' max
9 height before lighting, is the tower height or does it include the blade. **Pitcher** answers it is the
10 total height (with blade), but the light would be on the tower not the blade and there are different
11 light type requirements.
- 12 • There is discussion on who the 3rd party would be for the environmental, avian & wildlife
13 studies would be. **Pitcher** states the County has a policy that requires using local people
14 whenever possible. **Neiger** comments that there would have to be an escrow account and the
15 Planning Commission would probably pick the 3rd party.
- 16 • Discussion on big wind farms:
 - 17 ▪ **Susanne Glynn** asks about the comments that big wind farms will not happen
18 here. She states this area is designated 2nd in the state for wind power and the designated first
19 area already has the big farms. She thinks they will come here and we will be a target for the
20 state to mandate a big wind farm.
 - 21 ▪ **Roberts** explains that it is a draft report, that right now the State is requesting
22 public comment, then it will go to the Public Service Commission, who will make the decision.
 - 23 ▪ **Neiger** states he submitted comment in relation to the errors in the maps.
 - 24 ▪ **Neiger** comments that there might be developers down in Lansing ready to come
25 in and apply. Cecily Williams, states she had a wind generator for years for many years. She
26 asks if there is any discount from Consumers Power
- 27 • **Dennis Holcombe** asks if the ordinance can be gone through in sequence? **Roberts**
28 stated she went through it from top to bottom.
- 29 • **Dennis Holcombe** suggests adding definition of decibels.
- 30 • **Mr. Holcombe** passes a typed copy of his suggestions and remarks to the Chair
31 (attached). He goes through his list at the appropriate times.
- 32 **Neiger** reads definition of decibel.
- 33 • **Jury Lewinski** asks if the county has a measuring device to physically measure the
34 sound decibels.
- 35 • **Neiger** states that the answer is no right now, but we might need to get one.
- 36 • **Susanne Glynn** is confused on ambient noise between a school and another place
37 where there will be no noise
- 38 • **Roberts** says there will be no noise above what is ambient, recognizing that there are
39 variations. It varies with the sound around it.
- 40 • **Mr. Holcombe** requests definitions for sound pressure and sound pressure level.
- 41 • Sound level should be changed to ambient sound level.
- 42 • **Jury Lewizky** questions the guy wires protective sleeves being 8 meters. **Roberts**
43 states it should be 8 feet.
- 44 • **Bruce Olgilvie** has seen too many examples in technologies that rapidly becomes
45 obsolete. States that not only is decommissioning a must but there must be a fund there to do
46 it. He asks if they put the towers up, what are the possibilities of the county being able to tax the
47 units. Will it be part of the revenue stream, or as personal property? Will the state be able to
48 eliminate the taxability?
- 49 • **Neiger** states that Wireless Communication Towers are taxed as personal property.
- 50 • **Bruce Olgilvie** asks how the decommissioning of a small unit will be regulated.

- 1 ● **Pitcher** comments that there is something in the ordinance on decommissioning cell
2 phone towers and asks if that will be the same.
- 3 ● **Neiger** says we require removal of the unit and restoration of the land to above plow
4 depth.
- 5 ● More discussion on bonding for funds to decommission.
- 6 ● **Roberts** says if someone will help with the language she will put it in.
7 Discussion that we have not in the past asked for money up front. Discussion on what happens
8 if owner goes bankrupt. What if it gets noisy?
- 9 ● **Neiger** states the Zoning Ordinance allows the Planning Commission to require an
10 escrow or a letter of credit. If it is a letter of credit, it needs to be for a long enough period of
11 time.
- 12 ● **Tanner** comments in a bankruptcy issue it could roll over into the land bank (and might
13 qualify for Brownfield funds).
- 14 ● There is discussion on treating residential systems differently from commercial ones.
- 15 ● **John Wheeler** comments on the noise issue, stating there are limits on the average
16 noise, but the ordinance does not address the maximum level of noise.
- 17 ● **Jim Dulzo** comments that the more noise a system makes the less efficiently it must be
18 operating, so if a system gets noisy it means that something is wrong and it will stop itself.
19 He adds if you want to put a maximum noise limit that is fine, but on a wind turbine a noise
20 issue will solve itself.
- 21 ● **Mr. Holcombe** has a comment on noise included in his letter (attached)
- 22 ● **Jim McInnes** suggests adding something about energy security. He states he will get
23 us an example in a few weeks. He also comments that the foundations for the larger wind
24 turbines have to be carefully designed and urges that sealed drawing/design of the foundation
25 be included, either in here or by building code. Neiger refers to Paragraph Y and explains that
26 building code will require sealed plans as well as us.
- 27 ● **Rudy Rudebush** asks how many wind turbines are operating in the county.
- 28 ● **Neiger** says half a dozen but they are residential systems, not connected to the grid.
- 29 ● **Pitcher** says theirs a couple connected to the grid.
- 30 ● **Rudy Rudebush** explains that most manufactures include the noise levels in their
31 specifications and if a system exceeds the allowable level you just cross those off the list of
32 allowed manufactures. He asks how the number 82 feet was decided on.
- 33 ● **Roberts** explains it is a meter conversion.
- 34 ● **Rudy Rudebush** suggests 90', his is 74' high, but many manufactures have pre-built
35 packages, and if you increase the height you will increase the number of American
36 manufactures allowed. He suggests adding survival speed requirements commenting that
37 some manufacturers have the specifications but some do not. He feels the ordinance should
38 have some number for survival speed, for residential units as well as commercial. He adds that
39 if the State wants the wind farms here they will put the grid here. However, he feels the county
40 should regulate what it can.
- 41 ● **Jury Lewizky** thinks the only limitations should be what the FAA requires and the
42 setback so if it falls it does not damage your neighbors.
- 43
- 44 Provisions
- 45 ● **Mr. Holcombe** would like to see another paragraph addressing the negative impact on
46 a neighbor within ½ mile. (See his written comments, attached).
- 47 ● **Jim Dulzo**- would then ask what compensation would be given if the property increased
48 in value.
- 49 ● There is some discussion on the Huron County Plan.

- 1 • **Ross** asks if the townships would have the power to do something, like the blight ordinance, if it becomes unsightly. **Neiger** states the township would have to have a junk ordinance.
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- 4 • There is a brief discussion on sign regulations elsewhere in the ordinance.
- 5 • **Tanner** comments that the assessor will note adverse or good impacts.
- 6 • **Neiger** comments on the 3 Wireless Communication Towers on Forrester Road, stating they have some value to them.
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- 8 • **Mr. Holcombe** reads his suggestions on appearance, color and finish (attached).
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10 SITE PLAN REVIEW REQUIREMENTS

- 11 • **Neiger** states the Special Use Requirements are in addition to the regular site plan review standards. He says the General Provisions are standards used for review. The site plan is what is submitted for approval.
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- 14 • **Greg Landsfeld** asks about the no permit allowance for a residential system under 82 feet, what if you want more than 1 unit less than 82 feet. There was discussion that unless it became community wind system or system to be placed on the grid, it would be exempt.
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- 17 • **Paul Solem** asks are we looking at big robot towers, underground lines and eminent domain?
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- 19 • **Tanner** says yes, the ordinance will address that.
- 20 • **Paul Solem** thinks it might be an assessing issue.
- 21 • There is some discussion about requiring big transmission lines to be underground.
- 22 **Neiger** states that in a development you might, but outside of the development you probably would not be able to.
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25 Chairperson Ralston closed public input at 8:56 p.m.

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27 Board Discussion

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29 There is discussion that the Zoning Ordinance Rewrite Committee (ZORC) or the Wind Sub-committee might need to look at this some more. **Pitcher** suggests setting a committee meeting date. The Wind Energy Sub-committee will meet at 3:00 p.m. on August 20, combined with the ZORC.

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33 Flynn was directed to cancel the Public Hearing.

34 Flynn will count days for a possible September public hearing or the soonest date a public hearing could be scheduled.

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37 **IV. Recommendation** The Planning Commission referred the Wind Energy ordinance language back to the sub-committee and ZORC.

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40 **V. Public Input on or off the Agenda within the Planning Commission Jurisdiction**

- 41 • **Tom Karas** asks when the public hearing will be. He was informed that a date might be set at the August 20, 2009 Zoning Ordinance Rewrite Committee meeting. **Tom Karas** asks when attorney review happens. After the final draft is submitted.
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- 44 • **Tom Karas** asks that during the August 20, 2009 meeting that any requests for changes be accompanied by objective documentation. There is some discussion that not everything can be substantiated.
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- 47 • **Jim Noffsinger** asks if the number of towers would be limited by the 30 kilowatt requirement? **Roberts** states no, the number would be limited by setback. You could put up 2 or more if they were all under 30 kilowatt. **Roberts** states she drafted the language not as a business issue but a safety issue.
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- 1 • **Jim Noffsinger** asks assuming you cannot exceed 30 kilowatts, does that mean you
2 cannot add solar. There is some discussion on systems where solar panels are attached to the
3 tower itself. **Roberts** states she might be willing to drop the kilowatt requirement because
4 technologies change. There is some discussion on limitations in case someone did want to put
5 up a hundred towers on their property. It was decided that would be discussed at the
6 committee meeting.
- 7 **Rev. Steven B. Thompson** compliments the Planning Commission on the wonderful draft. He
8 brings up an issue with a well project between 6 Mile Rd and Joyfield Rd. He states the gas
9 well is located on the Joseph Smeltzer property. He states he was assured it would not be
10 noisy, unsightly etc. He states the environment is being destroyed, the peace and tranquility is
11 gone, and the noise sounds like a factory without walls. There is constant big truck traffic,
12 fumes and noise. **Tanner** states he will look into that. **Neiger** suggests he call the DEQ in
13 Cadillac and ask for Mel Keogela, the supervisor of wells. They have jurisdiction over those
14 wells.
- 15 • **Mr. Holcombe** adds the noise issue is big one. The big turbines can create a lot of
16 disturbing noise and he would hate to see the county affected by this.
- 17 • **Jury Lewizky** asks if a group in the county have the financial authority to buy sound
18 meters. **Ralston** thinks the wind towers will probably need a measurement. **Neiger** states any
19 time you get into enforcement issues you have to have someone qualified to use the instrument.
20 **Josh Mills** states the City of Frankfort has one that costs about \$200. **Roberts's** states there
21 are requirements for the large systems.

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23 **VI. Adjourn** Chairperson Ralston adjourned the meeting at 9:19 p.m. The next regular
24 meeting of the Planning Commission is scheduled for August 13, 2009.

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26 Respectfully Submitted:

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30 _____
31 Katherine Ross, Secretary

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33 _____
34 Christi Flynn, Recording Secretary

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