

PENN FOREST TOWNSHIP
BOARD OF SUPERVISORS
2010 STATE ROUTE 903
JIM THORPE, PA 18229

WORKSHOP MINUTES

TUESDAY, MARCH 13, 2018

The Workshop of the Penn Forest Township Board of Supervisors and the Penn Forest Township Planning Commission is being held at Penn Forest Township Volunteer Fire Company #1, 1387 Route 903, Jim Thorpe, PA.

PLEDGE OF ALLEGIANCE:

Chairman Warren Reiner asked that all in attendance stand and recite the "Pledge of Allegiance".

CALL TO ORDER:

Supervisor Warren Reiner called the meeting to order at 7:00PM; Roll Call by Township Secretary

Members: Warren Reiner, Chairman
Roger Meckes, Vice-Chairman
Judith Knappenberger, Supervisor- ABSENT
Scott Lignore, Supervisor - ABSENT
Tom Cross, Supervisor

Planning: Dan Wilusz, Barry Isett, Municipal Engineer
John DeCusatis, Barry Isett, Code Specialist
William Miller, Chairman - ABSENT
William English, Vice Chairman
Chris Rau, Member - ABSENT
Stacy Venetos, Alternate

Solicitor: Thomas S. Nanovic---Solicitor
Office Staff: Dana Vitale---Twp. Secretary

A. REVIEW & DISCUSS DRAFT PROPOSED AMENDMENTS TO PFT ZONING ORDINANCE

Prepared and presented by Charlie Schmehl, Vice President, Urban Research and Development Corp.

B. PUBLIC QUESTIONS & COMMENTS

Warren Reiner stated that we are going to adjourn the meeting at 9:00 p.m. so we have 2 full hours. Solicitor Tom Nanovic addressed the public as to the topic of special meeting. The purpose of this Special meeting/Zoning Workshop is to get your comments on the proposed Zoning Ordinance Amendments to our current Zoning Ordinance; you can also send your comments to the Township.

Charlie Schmehl from URDC is going to go over the proposed changes that he recommends. This is just a first draft nothing is written in stone. This is not a hearing it's a Zoning Workshop, there is not court reporter etc. a meeting of the BOS and the Planning Commission to go over the proposed amendments. This is not to discuss the Wind Turbine Application the amendment we are discussing now will not apply to the current application. We are going to address all of your questions but we only have 2 hours and we are not going to be able to complete in this in 2 hours. Why do we permit certain uses in the township and there are certain adverse uses in the township like adult book stores? Because, if the township excludes these intrusive places it considered unconditional. Normally, these uses are addressed in my experience they are addressed as special exception. The procedure general takes about 90 days from the time it is adopted.

Charlie Schmehl from URDC- discussed the changes and additions.

Section 402.A.54 is hereby replaced with the following new text:

Part One. The provisions in Section 402.A.54. regarding Wind Turbines are hereby replaced with the following new text:

“54. Wind turbines, Other than is Allowed for Wind Turbine as an Accessory Use by Section 403 (This section regulates, among other items, a wind turbine as a principal use or in most cases 2 or more wind turbines per lot).”

- a. The wind turbine shall be setback from the nearest existing occupied dwelling on another lot a distance not less than **four times the** maximum height to the top of the maximum sweep of the blade of the turbine, unless a written waiver is provided by the owner of such **dwelling**. The turbine height shall be the measured from the ground level. The setback shall be measured from the base of the turbine to the nearest part of such dwelling. This setback shall only apply to dwellings that existed prior to the submission **of a complete application for zoning approval**.
 - (1) **Unless a larger setback is required by another section**, all wind turbines shall be set back from each lot line and *each* street right-of-way a minimum **distance equal to the total height to the top of the sweep** of the blade of the turbine. However, a **setback from a lot line may be reduced if a written waiver is provided by the owner of such** adjacent lot.
 - (2) **The maximum total height to the top of the fully extended sweep of the blade of a wind turbine above the adjacent ground level shall be 450 feet.**
- b. **The base of any wind turbine shall be setback a minimum of 300 feet from: a) the centerline of a perennial creek or other waterway and b) from the average water level of a public water supply reservoir.**
- c. The owner of the facility shall completely remove all above ground structures within 12 months after the wind turbine(s) are no longer used to generate electricity. Driveways shall be removed and disturbed earth shall be re-seeded, unless the applicant **provides evidence in writing** that a particular feature is needed to serve a new use.
- e. The turbine and its installation shall meet applicable regulations of the Uniform Construction Code and the National Electrical Code. The **safety matters** of the turbine shall be certified by Underwriters Laboratory or an equivalent **independent** organization. Any new electrical wiring shall be underground, to the maximum extent feasible.
- f. The design of the **wind turbines and related on-site facilities** shall conform to applicable written industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers

from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar **independent** certification organizations.

- g. Wind turbines shall be equipped with a redundant braking system to address high winds. This **shall include** both aerodynamic over speed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a failsafe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- h. The color of the turbine should be non-obtrusive, such as white, off-white or gray; **unless the applicant shows that an alternative is necessary to reduce hazards to birds and bats.**
- j. Wind turbines shall not display any advertising, except for a single sign of up to 5 square feet to identify the manufacturer. Safety warning signs and **emergency contact information signs** may also be placed.
- n. Accessory electrical facilities are allowed, such as a transformer or mechanical buildings, provided they meet principal building setbacks. **In addition, an accessory building may house necessary maintenance and safety equipment, provided it is setback a minimum of 200 feet from any exterior lot line.**
- o. The site plan shall show proposed driveways, turbines and areas of woods proposed to be cleared or preserved. **The delineation of areas of woods to be cleared or preserved shall be binding upon the project, unless a revised plan is later submitted for approval. The applicant shall show that the clearance of woods has been held to a reasonable minimum, and in no case shall there be clearance of more than 10 percent of the total woodland area on the tract for the use.**
- p. The audible sound from the wind turbine(s) shall not exceed 45 A weighted decibels, as measured at the exterior of an occupied dwelling on another lot, unless a written waiver is provided by the owner of such building. **This requirement shall be a maximum noise level, and not based upon an average. All required noise studies and testing shall be completed by a qualified independent professional specializing in noise analysis.**
 - (1) **With the application, the applicant shall provide a written noise study that projects the noise levels at the nearest dwellings, and that recommends measures that may be used as conditions by the Board to minimize noise impacts. The noise study shall also consider low frequency noise.**
 - (2) **The applicant shall provide an independent written test of actual noise produced by the project upon completion, and every 5 subsequent years after the project is completed, to show compliance with the noise limit. If the testing finds that the noise levels in this Section are being violated, then the owner of the turbines shall be required to modify, replace or repair turbines or to take turbines out of service until there is compliance with the noise limit.**
- q. "Land development" approval shall not be needed for the installation of one wind turbine, **but shall be required if more than one wind turbine is proposed on a lot.**
- r. **If an application involves more than 4 wind turbines, the applicant shall provide a hydro geologic study by a qualified professional. Such study shall consider impacts of the project upon groundwater recharge and water quality, and include recommendations for conditions that may be established by the Board to minimize negative impacts.**
- s. **If an application involves more than 4 wind turbines, the applicant shall provide an analysis of the impacts of the project upon birds and bats, by a qualified professional. Such study shall include recommendations for conditions that may be established by the Board to minimize negative impacts.**

- t. ***The applicant shall provide an analysis of the shadow flicker impacts of the project upon the dwellings that are most likely to be impacted by this effect. The analysis shall be conducted by a qualified professional using generally accepted modeling methods, and shall estimate the number of hours per year that dwellings will be impacted by shadow flickering.***
- u. ***Wind turbines may be placed upon the same lot as another allowed use.***
- v. ***The applicant shall submit a traffic study, which shall analyze how construction traffic will be able to be safely accommodated on public roads, considering the length and weight of truck loads, the weight limits of bridges, the geometry of intersections and the slope of roads.***
- w. ***The applicant shall submit an emergency response plan, which shall address matters such as firefighting. The emergency response plan shall be submitted to local fire officials for comment. The applicant shall offer to cooperate with local emergency responders to provide training in the proper response to on-site hazards.***
- v. ***If an application involves more than 4 wind turbines, the applicant shall submit an analysis by a qualified appraiser of the actual impacts upon residential property values of a similar set of wind turbines in a mostly rural community within the United States. Such analysis shall compare changes in property values of impacted dwellings to changes in property values of non-impacted dwellings over the same time period.***
- w. ***The Zoning Hearing Board may place conditions upon an approval to address ice throw hazards, such as requiring mechanisms to sense heavy ice build-up, and which allow remote-controlled or automatic shut -down of turbine blades.”***

Floor was opened to public comment

Ryan Whitney – If the maximum distance needs to be 4 times the height of the wind turbines distance why not have a set-back of 2 miles distance. Tom Nanovic stated: There is exclusory zoning would be a legal issue. We have to a physical place to put wind turbines then it becomes a legal issue. If we specifically state that we cannot put adverse uses then it is considered exclusionary and the courts would consider ordinance unconstitutional and cause problems for the township. Ryan Whitney - Who decides who the experts that are doing to do these sound/water studies. Schmehl- I don't think the township has the ability to choose the applicants expert, I haven't seen that. Mr.Nanovic- I don't have the answer to that and I will look into it.

John Fontaine- Mr. Nanovic is correct with the exclusory zoning. PA is the most fractured state. This is not an ordinance it's an accommodation and not in harmony with residential property. It should not be permitted in residential use and not compliant with Carbon County Comprehensive Plan. If the applicant to pick the experts then he is cherry picking. He believes that Bethlehem Ordinance has a cap on 250ft why are we at 450ft. It has no business being in a residential district. You have to look to protect the residents and start working for the residents. Mr. Schmehl stated it is a very positive suggestion.

Mr. Ingrasio- Mr. Nanovic is saying we can't oppose this because it may come up as unconstitutional. Mr. Nanovic said it must be an acceptable use somewhere in the township. This sounds like your selling insurance and why are you bothering with this. I have a concern with low level noise. I worked for an industry for 40 years that told us that it wasn't over 45 decibels so they said your fine and we lost our hearing. Low level noise was considered a problem and I lost my

hearing. Mr. Schmehl- we did add a provision that the noise study must consider/analyze low frequency noise. Mr. Marcus- DBA registering what you can hear and Infrasound can be felt like when you're at a concert. It could affect people's sleep and it needs to be measured. We need an expert acoustical engineer stronger ordinance is more exacting in how we measure sound.

Diane Altieri- regards to you measuring prior to wind turbines and you get your readings and how are going to being effected the measure when the forest are plowed down. What happens when there readings are above after the trees are plowed down? Talking about the noise removal of trees if we are measuring before trees go done and then after and can't see having a positive change and measurement so now someone living further away is going to hear them because you removed trees. At my residence I won't hear them but someone further away will hear them. The impact on birds and bats, you had made the comment to not run the turbine or run at lower speed. Mr. Schmehl-recommends to not run the turbines at low speeds because that is when the bats are more vulnerable.

Jack Englehardt – Should the ordinance address health and safety concern of the community it doesn't state anything this this ordinance. I don't think that URDC is considered and expert on sound and such. I think this community is unique. Fire safety is a big issue and concern. Local Fire Co. officials should have to approve safety plan and the ordinance. This ordinance does not give the township and recourse if something goes wrong. Mr.Nanovic stated they can be fined \$500/day. You can go to court and get injunction and it's not always easy. It takes years to get the violations corrected.

Sam Trangone- Construction of the wind turbines blasting drilling the level of platform they are going to be on. My concern is I don't think an expert can truly say if the turbines will affect the water if by any chance of the contaminated water in our ground water. There is no way water be clarified. We don't want city water in the mountains. What if the manufacturer gives a water tank and who is going to maintain the water tank? I think this is a very serious issue. If this was in a remote area then I can see. We have over 4,000 homes in this area.

Rob Lee- These proposal would not affect any of the applications. Mr. Nanovic stated this new ordinance would not affect the older applications but if they have a 3rd application it would. Mr. Schmehl stated if they are approved then this new ordinance will not affect but if they are denied yes it would.

Rosalie LoRusso- I have observed I took a trip in August to Seattle Washington and when you get to Montana you look up at the ridge and all these turbines and not one of them was moving. I don't get it. They had these tractor trailers transporting these huge blades; I don't understand how our roads are going to handle this. Who gets the electric?

Bill Morrow- How many applications are we supposed to entertain at one time. We should consider holding any application until we have an ordinance. It's starting to get a little ridiculous.

Bob Rhodes- Why is the setback near water source so low. 300 ft. . . . Why would you have a setback so low when your building on water shed? I was looking at the applicant at the last hearing the attitude and arrogance. I think they are going to laugh at our face and run to bank when we ever have to fine them. Mr. Schmehl – We can look at the set back further.

Judy Salovay- What happens when one of these turbines break and they hold 120 gallons of oil. Who is going to be responsible for when our home values drop or our health problems? Our property will become stigmatized. We have worked so hard who is going to protect us are we going to sue the

township for not being protected. We have these rights that are not be listened to. What happens when these companies go bankrupt, then what?

Diane Seachrist- I'm concerned that we have all of these entities that are supposed to protect us and what I see they are letting us down. Bethlehem Water Authority is supposed to be protecting the water and now they are so corrupt to allow this to happen. Is there no other viable place in the township that we can put these turbines and can it only be one? With-in our township is there is a place in the township whatever we feel comfortable why don't we just make the setback 2 miles- Schmehl- it cannot be token in size. You are from Bethlehem why are we going to an outfit in Bethlehem? Everyone is corrupt. Mr. Nanovic- I thought this was a very good meeting and before you make these wild allegations I would hope you have proof. You should not defame people without having proof. These are wild allegations. No one is corrupt or getting paid.

Charles Bogardus- Removing 10% of trees I was here for all the meetings. The first night Atlantic Wind gave testimonial they said it would be under 45 decibels and the infrasound wasn't really bought up. They gave testimony of the appraisal to the sound on flat ground. We don't have that we have ridges I do not believe they will be able to maintain 45 decibels. The zoning went passed the 45 days maximum. Do they automatically get approval because the zoning solicitor missed the 45 days deadline? Mr. Nanovic – No, they are currently pending in the court of common pleas.

Frank Gola- What will happen when they begin construction and end. Right now my well is good. If we take a reading of all these things and then we have been living by a certain standard. And something should change then there is no question of where the change is coming from. Let's set the standard now so that there is no question later if something goes wrong with my water and property value declines. So that we can prove it later that the only thing that changed was the new construction.

Marcus Laurence- See attached proposed amendments from Mr. Laurence. He stated that he would hope for the next workshop that he will be able to have ample time to review.

Catherine Cintrine- We need to really look into the water solution. Can we make these companies put money in escrow for any situation that may arise that are hazardous? Mr. Nanovic- I have not seen this happen anywhere.

Anita Strohl - I have a concern of the rain off from the construction. There was a rainstorm in Allentown next to my house caused a raging river because they took out the land and put up apartments. I watched this water absolve our yard. Mr. Schmehl- Storm water drainage must be approved by engineer.

Phil Malitsch – The land in question is zoned for residential use and only permits a single principal use. On residential lots there should never be two principal uses. You are reverse engineering a residential zone. Studies for sound and water quality and flow should be made before construction and the post-construction to confirm compliance with requirement of the ordinance.

BEING NO FURTHER BUSINESS, MEETING WAS ADJOURNED AT 9:00 P.M.

MOTION made by Supervisor Reiner, Second by Supervisor Meckes to adjourn the meeting.

ROLL CALL: JK-Absent; SL-Absent; RM-Yes; TC- Yes ; WR- Yes **MOTION PASSED**

**DANA VITALE
SECRETARY
PENN FOREST TOWNSHIP**

**WARREN R. REINER
CHAIRMAN, BOARD OF SUPERVISORS
PENN FOREST TOWNSHIP**