



# BEAR CREEK TOWNSHIP

## PLANNING BOARD

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Chairman

Joseph Yenchik

Vice Chairman

Anthony Ciliberto

Board Members

Richard Kresge, Jr.

Michael Parri

Ed Benkoski

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### April 17, 2006 Planning Board Meeting Minutes

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The meeting began at 7:05 pm and all Board Members were present.

The March 2006 meeting minutes were approved with a motion by Ed Benkoski, and a second by Mike Parri. All Board members were in favor.

#### **Agenda Item: Cingular Wireless – Harlow Pond Site**

Attny. James Mitchell was in attendance representing this agenda item.

Attny. Mitchell addressed all of the conditions the Board provided in writing on this submission. The conditions included surveyor seal, soil & sedimentation plan, legal descriptions, lease agreement, highway occupancy permit, etc.

Clarification was provided on the lease agreement for this project. There will not be a lease agreement since the PA Game Commission owns the property, however, Cingular will obtain a license for the site. Attny. Bill Vinsko had no problem with this arrangement as long as this is made a condition of the approval.

Additionally, Cingular will be using as much of the existing roads as possible for the least amount of land disturbance.

The Board reminded Cingular that they have 90 days to record the plan as well as the Townships ordinance on barb wire (not allowed).

A motion was made by Joe Yenchik and a second by Tony Ciliberto to approve the Cingular Wireless - Harlow Pond submission. All Board Members were in favor. (The Chairman and Secretary of the Planning Board signed the map.)

#### **Agenda Item: Cingular Wireless – Meadow Run Road Site**

Attny. James Mitchell & Mario was in attendance representing this agenda item.

Rich Kresge asked the representative to obtain a highway occupancy permit for this site and if they cannot obtain one than at least provide a statement indicating this drive is grand fathered.

The access road for this site will be enhanced to 12 feet but up to 20 feet for access of utilities to enter the project. Jack Varaly noted that if the distance of the road is greater than 5,000 square feet an erosion and sedimentation plan must be submitted. Additionally, if the distance is greater than 5,000 square feet, the project will also need to be submitted to Luzerne County for their review.

Questions (Mike Gatcha, George Weitz) surrounding the location of the project and interference with other towers were addressed by the representatives of Cingular Wireless. The project is located on the left hand side of Meadow Run Road bordering the Weitz and Game Commission property. The tower will not interfere with any other utilities.

Joe Yenchik asked to have the barb wire language removed from the map since the Township does not allow for this type of fencing. Cingular Wireless agreed to remove the literal from the map.

Attny. Mitchell noted that there is no plan to landscape the area and that since other space is the Township should expect other carriers to be interested this site.

A motion was made by Joe Yenchik and a second by Ed Benkoski to approve the Cingular Wireless – Meadow Run Road submission. This approval was with the condition that a highway occupancy permit (or statement from PA Dept. of Transportation) and license agreement with the PA Game Commission is obtained. All Board Members were in favor. (The Chairman and Secretary of the Planning Board signed the map.)

### **Agenda Item: Bald Mountain Wind Farm**

Attny. Vinsko updated the Board on the Bald Mountain Wind Farm violations as a result of inspection. Earth disturbance was in violation of DEP's Clean Streams Law. This can be rectified and Community Energy has stated they will begin to correct the problem very soon. A written response to the violations was requested by Attny. Vinsko but not yet responded to.

Additionally, a building was constructed on the project that was not part of the approve plan. This is clearly in violation and Joe Andrews is addressing this issue. Jack Varaly indicated that Community Energy has 30 days to respond to this issue and the current plan will need to be amended. The building is not far from the entrance gate and has a well and a septic system constructed for use with the building.

### **Agenda Item: Energy Unlimited, Inc. – Penobscot Wind Farm**

The Board reviewed the comments received from David Lamm and Luzerne Country regarding the project.

Attny. Preate updated the Board and the audience of the change in leadership of the project. Bob White of AES is no longer associated with the project. David Lamm will resume his responsibility and manage the project. The owner of EUI (Harry Halliman) was also in attendance to show his support of this project.

David Lamm began by responding to a question at the last meeting pertaining to a promise made by Bear Creek Township. He stated that the promise he referred to related to the decision made by the Supervisors on the 9 conditions and not private discussions.

Attny. Preate noted that although David Lamm responded to the additional items of concern to the Planning Board, EUI did not have sufficient time to properly address all of the items. Joe Yenchik indicated that David Lamm did respond to all concerns and that the Board and EUI may never fully agree on everything.

Ed Benkoski asked Jack Varaly if he personally review the changes in the plan. Jack responded by stating that the changes are up to the discretion of the Board and that he reviewed the plans for procedure not substance.

Joe Yenchik and Tom Dilley had a conversation regarding the boundary corners and lack of set pins utilized for a section of the project. Joe Yenchik made it clear that he feels the Board is guiding this project and EUI should have address most of their concerns prior to bringing this project before them.

Attny. Higgs (Defend our Watershed) noted this project cannot be piecemealed and Bear Creek Township based on current ordinances. He would like to see the entire project presented at one time. Ed Benkoski stated Attny. Higgs concern had no bearing on the project before the Planning Board.

Sally Horny asked several questions regarding the project and Defend our Watershed. Attny. Higgs explained Defend our Watershed's involvement and members of the Board explained what their role is in this project.

Rose Andrews mentioned that she has been at every meeting for this project and that patience on all sides is wearing thin. She feels a new submission would slow down the process to allow this project to proceed without problems. To date, there have been too many changes on the project and with ownership of the project for anyone to feel comfortable about moving forward.

Attny. Preate asked the Board to grant EUI a 60-day extension.

The Board voted to have an Executive Session to discuss next steps. (8:30 pm)

The Board resumed the meeting (9 pm) with Attny. Vinsko explaining a vote must be taken on either a new submission or an extension. Prior to that, the Board would like to ask some specific questions relating to the responses provided by David Lamm to the additional concerns of the Board.

In reference to a closed boundary survey, Tom Dilley indicated no pins were set around Crystal Lake and he would not set pins in this area. Joe Yenchik asked if this was a paper survey. Tony Ciliberto asked Tom Dilley how he knows the turbines are located properly if the entire Crystal Lake area is not pinned. Walter Poplawski indicated that A&E stakes their reputation on their work.

In reference to the access road geometry, this is considered incomplete for six roads traversing to turbines. Access to the Hutter property has no bearings or distances reflected on the map. A discussion began over how the Hutter property is currently landlocked and cannot be developed.

In reference to the approval from other agencies, the Board just received the comments from Luzerne County and the Game Commission letter was never addressed. Attny. Preate stated they are not violating any law by not addressing the Game Commission letter. However, Joe Yenchik noted the Game Commission was very concerned with the environmental impact of this project (as is the Board) and they requested the final plan be sent to them.

Ed Benkoski asked the EUI representative if the original 9 and subsequent 28 conditions would be satisfied. David Lamm stated they would not comply with the 100-foot distance of a turbine from wetlands. He is committed to getting this approved but the impact of this change would be too great. EUI would have to move too many turbines to comply with this concern. Currently, every turbine is set back 15ft from identified wetlands. Attny. Vinsko stated the Board couldn't hold EUI to wetland setbacks because it is not part of the Bear Creek Township ordinance.

In reference to bonding, David Lamm indicated EUI is willing to discuss a decommissioning bond but feel it will be very complex.

Ed Benkoski made a motion, a second by Rich Kresge, to approve a 60-day extension of time (July 5<sup>th</sup>, 2006) for decision on the Penobscot Wind Farm Project. The motion was approved. (Ed Benkoski = Yes, Rich Kresge = Yes, Joe Yenchik = No, Tony Ciliberto = No, Mike Parri = Yes)

Attny. Vinsko reminded the Board they still have the power to deem this project a new submission.

A motion was made by Tony Ciliberto to close the Planning Board meeting, seconded by Ed Benkoski. All were in favor.

The meeting closed at 10:00 pm.