



# 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

### May 15, 2006 Planning Board Meeting Minutes

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

The April 2006 meeting minutes were approved with a motion by Tony Ciliberto, and a second by Rich Kresge. All Board members were in favor.

#### **Update: Bald Mountain Wind Farm Violations**

Joe Andrews (CEO) updated the Board on the status of the issues surrounding the Bald Mountain Wind Farm. The Conservation District has signed off on the project and is satisfied with the seeding (Joe inspected this as well). The building on the project site not approved in the original plan design is still being researched. Joe has received documentation of checks and permits but this issue is still ongoing.

#### **Agenda Item: Review of Proposed Wind Farm Ordinance**

Jack Varaly prepared a draft Wind Farm Ordinance for review by the Board. He explained to the Board an ordinance must be adopted since the current Township regulations do not address this type of use. Without it, there is no guidance and wind farms can be placed anywhere. There will be no need to negotiate parts of the project due to the guidelines set forth in this ordinance. The ordinance addresses issues such as safety, location and environmental impact.

Jack also provided a computer-generated model to allow the Board to see what the project would look like from areas outside BCT.

Rich Kresge asked whether the timing of this ordinance could impact any litigation the Township might incur due to the Board of Supervisor decision to not accept the Energy Unlimited Inc. Penobscot Wind Farm Plan. Jack responded to this question by stating this ordinance is necessary since the Township currently has no regulations in place on this use. Attorney Vinsko added he is not concerned over the timing of this ordinance since this ordinance was discussed prior to any decision made by the Board of Supervisors. Attorney Vinsko did add if Energy Unlimited, Inc. were to submit a plan after this ordinance is enacted they would fall to these new guidelines – they are not grand fathered in.

Ed provided the Board members with a copy of the DEP Wind Farm ordinance for review. Jack mentioned the ordinance he prepared took the best of other ordinances (including DEP) to make one good ordinance for the Township. However, both the Planning and Supervisor Boards have the discretion to make changes in the best interests of the residents. Attorney Vinsko did mention to the Board that any changes made must have rationale behind them.

The Board reviewed the Draft Wind Farm Ordinance provided and discussed the following:

- Definitions – “tip” height is to the top of the blade when at its highest peak
- Zoning District – C-1 and A-1 will be used with strict regulations to minimize impact in these areas
- Use of setbacks properly and improperly – DEP ordinance dictates a turbine cannot be more than 5 times the distance of the hub height to the nearest dwelling.
- Specific wording will be added to require underground utilities for the entire project. If PPL requires something other than underground the developer would require a waiver from the Township.
- Nuisance issues – 55 decibels was common in other ordinances as well as DEPs standard ordinance. Jack will research the background of this number. Sugarloaf Twp. used 45 decibels in their wind farm ordinance.
- The turbine height will be updated in the ordinance to reflect the height of the turbines currently in BCT – 384 feet.
- Setback established for a wetland in the ordinance could be changed if a study is required and proves a farther distance is necessary. Jack will reword the ordinance to indicate wetlands should be avoided.
- Setback of 1,500 from property lines another 1,500 from any body of water plus the addition of a study to protect BCT.
- Insurance is addressed in the ordinance and must be maintained for the life of the project.
- A decommissioning bond will be required when the project reaches its life usefulness requiring the project area to be returned to the same condition prior to the project start.
- Roads in ordinance can only apply to BCT roads not state roads. Damage of roads is discretionary and it is assumed the road is in good condition prior to the project. Pictures/Video of the roads prior to start of project should be part of process.
- Additional items specific to the project area can be included as a condition of the project if not specifically addressed in the ordinance.
- Comparison will be done of the proposed ordinance and the DEP standard to ensure the final wind farm ordinance incorporates the best of both documents.

Jack will revise the ordinance to incorporate the changes request of the Board and send to everyone for a final review. Additionally, Jack will send this updated document to Luzerne County for further comments.

Willard Kresge asked questions of Jack as to the background behind the ordinance he prepared. Jack explained he prepared the document, however, the content was based on many different ordinances in an effort to create the best ordinance specific to BCT.

Attorney Preate (Representing Energy Unlimited, Inc.) went into a lengthy discussion as to the fact that there is no record or instance of any windmill and/or turbine falling to the ground. With this information, Attorney Preate feels there is no need for additional setbacks from ponded wetlands. Resident Rose Andrews rebutted the Attorney’s statement by referencing pictures provided by Dr. Henry Smith (Defend our Watershed) at a recent BCT Zoning Hearing. The pictures showed a windmill that had fallen to the ground after being struck by lightening. Ms. Andrews also mentioned from her own research that earthquakes could impact windmills or airplane crashes (both of which have occurred in BCT within the last 10 years).

Attorney Ernie Preate told the Board they must be prepared to defend the detail behind the ordinance in a court of law and that the Board is facing a lawsuit. Ultimately, Attorney Preate would like a public meeting to discuss this. Attorney Vinsko informed Attorney Preate the public hearing would be in front of the Board of Supervisors.

Attorney Preate requested copies of all cell tower plans, development plans and wind farm plans approved by the Township. Attorney Preate stated he would formally request this information in writing.

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 8:55 pm.