

**EMPIRE TOWNSHIP PLANNING COMMISSION  
MEETING MINUTES  
December 15, 2009  
Approved January 5, 2009**

The Empire Township Planning Commission held a regular meeting on Tuesday, December 15, 2009, at the Township office in Empire.

**CALL TO ORDER:** Dick Figura called the meeting to order at 6:00 p.m.

**ROLL CALL:**

Members Present: Dick Figura, Erik Foged, Larry Krawczak, Carl Noonan  
Members Absent: Duane Shugart  
Staff Present: Toni Perfect, Zoning Administrator/Susan Hilton, Recording Secretary  
**Motion** by Erik/2<sup>d</sup> to excuse the absence of Duane Shugart, who was out of town/**PASSED 4-0.**

**AGENDA:**

**Motion** by Erik/2<sup>d</sup> by Carl to approve the agenda as submitted/**PASSED 4 – 0.**

**APPROVAL OF MINUTES:**

**Motion** by Carl/2<sup>nd</sup> by Erik to approve the November 3, 2009 minutes as presented/**PASSED 4 – 0.**

**COMMUNICATIONS:** None

**PUBLIC COMMENT:** None.

**OLD BUSINESS:**

**a. Indigo Bluffs.** Dick reported that his legal review of the condominium documents was complete, the approval letter from the Fire Department was in hand and a settlement agreement among Glen Lake Community Schools, Indigo Bluffs and the former Sleepy Bear Campground owners was received. Those requirements having been met, a Site Plan Approval Certificate for Phase I has been prepared and will be delivered to Indigo Bluffs, with Toni keeping the original plans on file together with the approval.

**b. Bylaws.** Copies of the bylaws with the changes approved at the November 3, 2009 meeting were provided to Commission members.

**c. Wind Energy.**

The new draft ordinance prepared by Dick now incorporates much of the Benzie County ordinance language, but he concluded that there were many parts of the previous draft of the Empire ordinance that should remain intact. He also created a new section titled “General Conditions” that includes the requirements common to all three categories of wind systems, and “Special Conditions” sections specific to each of the three types. The wind energy ordinance will be inserted in Section 4 of the zoning ordinance as a new section 4.22. Members had the following comments.

**4.22.1. Definitions.**

Definitions specific to wind energy will be contained in this section for ease of reference, as opposed to Section 2 of the zoning ordinance where all other definitions are provided.

Ambient Sound Level. Larry would like to see a.m. and p.m. levels assessed. Will we require a sound study for each proposed system? Would this put an unrealistic financial burden on the owner? Consider adding after “the amount of background noise at a given location...” the words “**that exists for a continuous period of time over five minutes**”.

**4.22.2.General Provisions (all systems)**

N. Survival Speed– Remove “as stated by the manufacturer” at the end of the definition.

#### **4.22.3 On-site use Wind Energy Systems**

*Subsections 2.B and C*, as presently written, make it impossible for an owner of property along M-22 and on Glen Lake to have a windmill installation and needs to be re-written to provide for an exception. If you live on the lake, the front of your property should be considered the lake side, and the ZBA may grant a variance to allow a wind system being installed on the road side even if the property is located on a scenic roadway. It was also agreed that if an applicant can show that no location for a system other than along road frontage of the property is possible (such as a lot where the house is sited along the back edge of the property), the ZBA may grant a variance in its discretion.

Siting and installation of systems on unoccupied property should not pose a problem.

*3.D. Sound Pressure Level.* Carl recommended setting a definite dB(A) number. Dick felt it would be reasonable to establish a lower dB(A) in the residential district and on all lots of one acre or less. Carl suggested ambient sound levels should be determined by normal activities for the area in which the system will be located, which would vary depending on whether it was located in a residential zone or agricultural. The ambient sound level would be determined by measuring it over an as-yet-to-be-determined period of time. It was decided to add to the first sentence where sound level measurements “shall not exceed 55 dB(A) measured at the property lines”, **except in residential districts or lots one acre or less, 40 dB(A)** and delete the requirement that the dB(A) shall not exceed 35 dB(A) measured at an adjoining structure. Whatever is decided on must be enforceable. After much discussion, it was decided to delete the requirement that if the ambient sound pressure level exceeds 55 dB(A), “the standard shall be ambient dB(A) plus 5 dB(A)”, and provide instead that if an applicant believes the ambient sound level at his property line is greater than that established by this ordinance and can demonstrate that to the satisfaction of the planning commission, a higher level may be approved for that system at the commission’s discretion; however, the burden of proof belongs to the applicant. Applicants must also provide an engineer’s or manufacturer’s certification that the system being proposed will not exceed the dB(A) level established.

#### **4.22.4. On-site Use Wind Energy Systems Greater Than 40 Feet in Height.**

*Subsections 1 and 2.* Add after forty (40) feet: “**or more than one regardless of height**”.

*Subsections 2.A.1 and 2.* After a discussion of what constitutes “aesthetic”, it was decided to leave as-is for now and revisit later if necessary.

Discussion concluded at the end of Section 4.22.4. Sections 4.22.5 and 4.22.6 will be reviewed at the January 5 meeting. Dick will update the ordinance to reflect the changes agreed upon and circulate to commission members prior to the meeting.

**d. 2010 Proposed Meeting Schedule. Motion** by Erik/2d by Carl to approve the 2010 meeting schedule as presented/**PASSED 4-0.**

**NEW BUSINESS:** None.

**PUBLIC COMMENT:** None.

#### **BOARD COMMENT:**

Carl asked how wind energy systems affect Section 4.6, Essential Services. Dick will take a look at this issue and report back at the January meeting.

Carl wished everyone a Merry Christmas and Happy New Year and was joined in his sentiments by all present.

Dick congratulated Larry for being named “Lion of the Year” by the Empire Lions Club.

**NEXT REGULAR MEETING:** January 5, 2009 at 6:00 p.m. at the Empire Township office.

**ADJOURNMENT: Motion** by Larry/2<sup>d</sup> by Erik to adjourn at 8:10 p.m./**PASSED 4 – 0.**