

TOWN OF TEMPLE, NEW HAMPSHIRE PLANNING BOARD

JANUARY 18, 2012
FINAL MINUTES OF PUBLIC MEETING

Board members present: John Kieley, Allan Pickman, Mary Beth Ayvazian, and Rose Lowry

Call to order by Pickman at 7:04 p.m.

PUBLIC HEARING - Large Wind Energy System (LWES) ordinance: At 7:04 p.m. Pickman opened the hearing to present the LWES ordinance to the public. Approximately 15-20 people were in the audience. Kieley provided a commentary as Lowry displayed a PowerPoint presentation that highlighted:

1. background behind large wind energy coming to Temple
2. drafting the ordinance itself – research, content, consultations, multiple revisions, and first public hearing
3. obtaining audience input – comments and questions
4. the next steps in the zoning amendment process – final draft of ordinance, second public hearing, and vote in March

Background – A Texas company called Pioneer Green Energy (PGE) has approached the towns of New Ipswich and Temple with plans to erect large wind turbines in the area of Kidder Mountain. PGE is a relatively new organization, never has done this type of project, does not build the towers themselves, leases land and arranges all permits, then sells project to developer/builder. The Temple Planning Board (PB) has done extensive research, and there are not many precedents in the state of New Hampshire with regard to available LWES ordinances. New Ipswich does have such an ordinance in place (2010) and will be voting on modifications in 2012, and Antrim is trying for a second time to establish an LWES ordinance in their town. The State of New Hampshire has mandated that by the year 2025 at least 25% of energy shall be produced from renewable sources. The State has also formed a Site Evaluation Committee (SEC) to expedite these types of projects. By law, towns cannot unduly restrict or limit development of renewable energy sites, or the State could step in and override the town.

Ordinance development involved a compilation of the best aspects found in other LWES ordinances, plus language specific to the features and needs of the town of Temple. [When an audience member asked about checking with other states, Kieley responded that the board must work with NH rules and regulations.] There have been multiple revisions, plus contact with the SEC, and consultation with a sound engineer and town counsel. Two town forums have been held to provide information to the community and seek their input. Several PB members visited the town of Lempster, where a large wind farm exists, to obtain information and impressions. [One audience member commented that it seems residents there are pleased with the wind farm. Kieley responded that easements and financial compensation can be offered by the developer to residents, after which complaints become minimized.]

The top priority is to protect public health, and a key element to this is limiting noise levels. There was mention of a recent study in Falmouth, MA which showed severe impact on health from nearby turbine placement. The ordinance bases noise controls on an EPA/WHO study of effects on public health, and utilizes both setbacks and limits on decibel levels to offer protection. Ayvazian pointed out that setting up the ordinance in this manner will not preclude future development. Lowry commented that the town attorney stated the town cannot set up the ordinance for future technology, but must address limits as relevant now. [An audience member

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asked about the size of the turbines and impact on wildlife. Another person suggested there may be impacts to pets and livestock as well.] Kieley said the town is trying to provide alternative energy while balancing protection for humans, wildlife, livestock, and pets.

Ordinance specifics: Maximum tower height is limited to 450' high structures on monopoles, and limits on lighting, color, wiring, and peripheral operating equipment or structures are addressed. There are controls on blasting, construction and operation. Minimum setbacks are 2000' from adjacent property lines, (except if a Participating Landowner waives their rights.) Siting and engineering cannot interfere with other communication types, such as television, phone, satellite, etc. Noise levels cannot exceed 33 decibels (dBA) at any time on a Non-Participating Landowner's property. It is expected this limit will result in sporadic to no complaints. At a higher decibel level of 45dBA sound becomes rhythmic, and both audible noise and inaudible noise (infrasound) may impact health. Shadow flicker, tower shadow, and glint are defined and addressed to reduce visual impact. Project construction shall not affect public infrastructure. PGE indicated they might improve certain roads (i.e. cut trees and widen) to accommodate movement of equipment, but this is seen as a negative for the town of Temple. Project access may be through the town of New Ipswich, but this has not yet been established. Due to the need to create massive inward roads for such a project on Participating Landowner's property, water issues such as runoff and erosion must be negated. Also, blasting of ledge could have impact on water sources and wells. These issues are addressed, with limitations and protections provided. Safety factors include concerns with tower design and operation, and fire and hazard protection. Emergency plans and on site signage are called for to afford protection. Environmental safeguards are mandated, specifically to avoid any sensitive areas, require spill protection levels, and produce an impact study at least every three years. Although these studies will be paid for by the developer, it is expected there will be some tracking and follow-up that are not reimbursable and will result in some increased expenses to the town. Impact on wildlife or habitat must be controlled, and studies will be required. It was noted that a National Wildlife Refuge is in the area, as is an Audubon raptor migration site. Lowry noted the Wapack range is specifically known as a "leading line" for migrating raptors, and is a unique geographic structure. Kieley mentioned this particular part of the ordinance might need to be upgraded, as Miller State Park (on Pack Monadnock) could be sold or otherwise utilized by the State. The project must be designed with specific requirements for protection of wildlife, birds, raptors, and bats. Historical Site protection is called for, which requires the Applicant to inventory and map historic sites within 2,000 feet of the proposed LWES project. A plan must be submitted to minimize impact during construction and operation, and the Planning Board may require setbacks or other action to protect these sites. Kieley commented that this would be a good example of trying to balance the ordinance and prioritize the most important aspects, i.e. aesthetics, history, health, and wildlife. Lowry stated the board cannot create restrictive setbacks that obliterate land options for the project, saying "In Temple it would be hard to get 2,000 feet away from a stone wall". Visual aspects must be considered, with tower design and location needing to avoid adverse visual impact, including dominating the landscape. There was mention of the trip to Lempster and the huge visual impact along the ridge there. A photo-simulation of the project is a requirement, and there are limitations to tower lighting. Decommissioning of the LWES project will be required when no longer operational, including restoration of the project area close to preconstruction status. Kieley noted that current federal subsidies will expire at the end of 2012, and these types of projects will lose some monetary

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incentives. The town does not want to have to deal with an abandoned wind tower project. A bond will be required by the town to ensure removal and restoration. It is expected the town may incur some expenses in dealing with a LWES project, i.e. consultation with biologists, engineers, and lawyers. The ordinance currently states the developer must maintain a \$25,000 fund with the town. There is some question if this might be considered prohibitive, and may not be legally permissible. Regarding enforcement, if there are problems with a project, the town can shut down the project or direct the operator to the Zoning Board of Adjustment (ZBA). A system for resident complaints must be established, and if conditions of the operating permit are determined to have been violated, they must be rectified or the project can be shut down.

Comments and questions: At 7:55 p.m. the audience was invited to express comments or ask questions, as below: [Q for Question, C for Comment, A for Answer]

Q. Maximum size of a wind turbine?

A. Height of 450' to tip of turbine blade.

C. Best water in town comes down off the mountain, and is an asset to the town; concerned about an impact study only every three years.

A. For the life of the project, the town would have a right to evaluate and correct the impact of the project on water, at the developer's expense. Also, this ordinance would apply to any LWES project in town.

Q. This project would have regional impact to other surrounding towns – what recourse would they have?

A. Other towns will have standing and can comment on the project.

Q. Alternative types of turbines – i.e. drum type – are available – could they be used in this project?

A. Those types of turbines are not in commercial use right now.

Q. There are no state incentives for energy benefits. Of what benefit is this project?

A. There is some tax money that comes to the town. Development companies promote high dollar amounts as a benefit to the town; after researching this, realize not so much monetary benefit. There is also some measure of pride in contributing to alternative energy – a small net gain – and meeting State requirements.

Q. Could the town negotiate with the developer for money?

A. At present the town either provides a tax bill for the assessed value, which eventually depreciation will affect, or accepts a "payment-in-lieu-of-taxes" (P.I.L.O.T.). Any income to the town gets shared (school, county, state). Also, the project is built on private property, not town owned land, so there is a financial gain for the landowners.

Q. Regarding the Glassworks owned by the Historical Society – would fall under the 2,000 foot setback?

A. As a Non-Participating Landowner, would have that setback protection. But, a cellar hole located on a Participating Landowner's property would not fall under this. Right now, historical

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sites are not defined. If the 2,000 foot setback is used for everything, it would preclude a viable project site, and the State would likely not allow this as it would be deemed too restrictive.

Q. Is there no way to stop this project from happening?

A. Actually, research indicates the bird option may be important here, especially the leading line feature of the Wapack. Description of the terrain in the area of Todd Road and the ridge, and mention of the need for balance.

Q. At the previous town forum, a number of attendees seem opposed to this. If there is no ordinance, what happens?

A. The State has the SEC in place for energy projects, and they can impose their own set of standards. If Temple has no ordinance in place, the town's ability to specify requests or preferences is diminished. If these are in place, the State cannot ignore. It is unclear about the actual SEC involvement. Where two towns are involved with the PGE project, the State could step in.

Q. Regarding the huge roads created for the project – when are these remediated?

A. At decommissioning. The roads are necessary for the duration of the project, in case of equipment replacement or new technology. The space is needed for awhile. Of note, the roads in the Lempster project are about seven miles long and lined with ugly rip-rap.

C. Congratulations to the Planning Board, for their work done on this ordinance is excellent, and it seems due diligence has been done.

Q. This seems inevitable, so the town must do the work so the State cannot “cram down our throats”. The project will have impact on the town (highways, fire, and police) - training and equipment will be needed, and there is a cost to maintain. Can we get help to maintain from the developer?

A. This will be explored and possibly written into the ordinance.

Q. Are the project roads private?

A. Yes, but if town roads are used or changed, the town must still maintain them.

Q. Setbacks are measured how?

A. From the base of the wind tower to the Non-Participating Landowner property line.

Q. What if a Participating Landowner has tenants?

A. Those tenants' rights would be gone as well.

Q. Regarding raptor migration – is New Ipswich equally concerned?

A. They do require a bird study in their ordinance. Temple's ordinance has stronger language; the unique Wapack feature needs protection.

Q. Regarding revenues and covering municipal costs – perhaps could consider a reduction in the view tax?

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A. This is outside the purview of the Planning Board, but the Board of Selectmen may entertain this. The issue may arise, and the Selectmen would need to defend the view tax or abate it. This could result in a loss of revenue to the town. The turbines would bring in some revenue and balance out, but the numbers are not really known.

C. The Planning Board did a great job working on this ordinance. The town will have the ordinance and a vote, but lacks strategy for dealing with this situation. Get the ordinance voted in – then what? Need to allow the town to decide what happens here. Need a strategy; need to anticipate politicking. Need counter measure to inform people and reduce effect on town. Suggests surrounding area towns should band together. It will be harder for the State to roll over multiple towns.

A. The Planning Board has been focused on getting the document done. Need to develop a communication plan to inform Temple voters.

C. Regarding the decommissioning fund, the town attorney has indicated we may not have the right to do.

A. Maine has state statutes for decommissioning, New Hampshire does not. Small town democracy has huge say. Calling legislators was suggested.

C. Pickman read comments from letters/emails received on subject, both pro and con. Also, mention of a recent health study from Massachusetts.

C. The impact to everyone in the town is dollars and cents.

A. Cautioned to not get too dramatic one way or another, as the real numbers are not known yet.

C. As a commercial project, should be no financial impact to town.

A. There is not enough money for the town to give up health and way of life here.

Q. What is the financial strength of PGE?

A. It took some doing, but they finally admitted they just go through the permitting process, sell off the project, and then banks are involved.

C. Suggested the ordinance state that the town will deal only with businesses with sufficient finances to cover the project and expenses of maintaining.

C. The SEC hearings force companies to prove financial stability. Why can't the town?

A. The ordinance can and should protect town interests. Any company wanting to invest would make sure the project was viable. However, there is always some risk.

C. Mention of Solyndra, a renewable energy company that went bust. Investors must be educated.

A. Discussion of PGE, finances, sale to investors.

C. The ordinance should allow the town to fight the SEC.

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A. "Low hanging fruit" principle from New Ipswich. Developers like towns with no zoning or ordinance. Towns want best companies and best technology.

C. "Green" projects seem to get fast-tracked.

A. Discussion of informing residents on ordinance and getting them to vote.

C. Any way to stop this project?

A. 1) perhaps raptor migration issue, 2) town should become "high hanging fruit", 3) if goes to SEC, town can protest. It can be hard/tricky to stop the developer. The Planning Board will send out a mailer to inform residents that a vote for the ordinance encourages protection for the town. [End Q&A]

Lowry stated the town attorney feels this ordinance could be construed as too restrictive. She asked the audience for their opinion on priorities, which is where the ordinance language should be the strongest. There was a brief discussion about aspects affecting health. After a show of hands for each of seven categories, the results were: 1) health, 2) wildlife and birds, and 3) town finances.

Kieley related the next steps in the ordinance process. He stated the board will incorporate suggestions from the sound consultant and the lawyer. A new draft version will become available on Friday, January 20, 2012, and will be posted on the town's website and also available in print at the municipal offices. There will be a second hearing on February 1st, 2012, after which only small refinements (such as grammar and punctuation) can be made to produce the final version. This will go to a vote of the townspeople in March.

The board extended their thanks to the audience for attending and participating, and the hearing closed at 9:08 p.m.

The meeting continued and board members discussed the comments and suggestions of the audience. The ordinance was reviewed and further changes were made. They agreed to meet the following evening to clean up the draft and finalize changes.

Meeting will be posted for Thursday, January 19, 2012 at 7:00 p.m.

Move to adjourn by Pickman, second by Kieley, and so voted unanimously at 10:17 p.m.

Minutes submitted by Betsy Perry