

IICC Comments on SB 438

Kevon Martis- Director of Interstate Informed Citizen's Coalition, Inc.

101 E. Adrian Street, Blissfield, MI 49228

5/5/2016

Document list:

1. Power point slides
2. Joint Op-ed with OH Senator William Seitz and IICC's Kevon Martis
3. New York State Code of Conduct for Wind Developers
4. Portion of Kentucky legislation requiring wind developers to inform public of intent to lease ground for wind development
5. Various news articles from Tuscola County Advertiser documenting recent and ongoing turmoil from wind development.

Sincerely,

Kevon Martis

Director

www.iiccosa.org

Comments on SB438

by
Kevon Martis

Executive Director
Interstate Informed Citizens' Coalition, Inc.
Blissfield, MI

Senior Policy Fellow
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Washington, D.C.

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www.iicccusa.org

Who is the IICC?

The IICC is a bi-partisan renewable energy citizen's watchdog group based in Blissfield, MI.

Our constituents are approximately 40% Democratic, 60% Republican. They range from self-identified liberal environmentalists to free-market libertarians.

Many of our supporters live on the front lines of industrial wind development in the State of Michigan.

We seek energy policy that is affordable, reliable and socially and environmentally responsible.

My focus- the proposed 30% RE/EE Goal:

17 (3) AS A GOAL, NOT LESS THAN 30% OF THIS STATE'S ELECTRIC
18 NEEDS SHOULD BE MET THROUGH A COMBINATION OF ENERGY WASTE REDUCTION
19 AND RENEWABLE ENERGY BY 2025, IF THE INVESTMENTS IN ENERGY WASTE
20 REDUCTION AND RENEWABLE ENERGY ARE THE MOST REASONABLE MEANS OF
21 MEETING AN ELECTRIC UTILITY'S ENERGY AND CAPACITY NEEDS RELATIVE TO
22 OTHER RESOURCE OPTIONS. BOTH OF THE FOLLOWING COUNT TOWARD
23 ACHIEVEMENT OF THE GOAL:

Phrase by phrase analysis:

AS A GOAL

While IICC opposes any percentages, we are pleased it is a goal and not a mandate.

First Objection:

NOT LESS THAN 30%
ENERGY WASTE REDUCTION
AND RENEWABLE ENERGY BY 2025

By setting a goal for 30% RE and EO,
there is an implicit endorsement of
those two resources as being
particularly desirable for ratepayers
and the environment.

The science does not bear this out:

First Objection cont'd:

Reference case & Phase 1 scenarios

Scenario	EPA Assumptions and Methodology	Cost per ton of CO ₂ reduction (\$/ton)
Reference Case	MISO's MTEP-15 Business As Usual future assumptions**	-
Building Block 1	In 2020, apply a 6% heat rate improvement to all the coal-fired units at a capital cost of \$100/kW (amortized over 10 years).	5
Building Block 2	Calculate and enforce, starting in 2020, a minimum fuel burn for existing CC units to yield an annual 70% capacity factor.	53
Building Block 3	Calculate and add the equivalent amount of wind MWs to meet the incremental regional non-hydro renewable target.	237
Building Block 4	Calculate the amount of energy savings for the MISO footprint and incorporate it as a 20-year EE program in the model.	70
All Building Blocks	Application of all building blocks.	60
CO ₂ Constraint	Application of a mass-based CO ₂ reduction target, allowing the model to optimize.	38

* The cost per ton of CO₂ reduction is indicative - actual values may vary depending on different input assumptions, etc.

** Assumptions matrix is available at <https://www.misoenergy.org/Support/Pages/REG-CO2-00120.aspx>

MISO analysis of CPP makes it clear that wind
energy and EE measures are more expensive
means of reducing emissions.

First thought:

30%

The utilities and other interest groups roundly criticized Proposal 3's 25% RE mandate as "arbitrary". And the people of the State concurred by nearly 2:1 at the ballot box

How then 30%?

Phrase by phrase cont'd:

NOT LESS THAN 30%

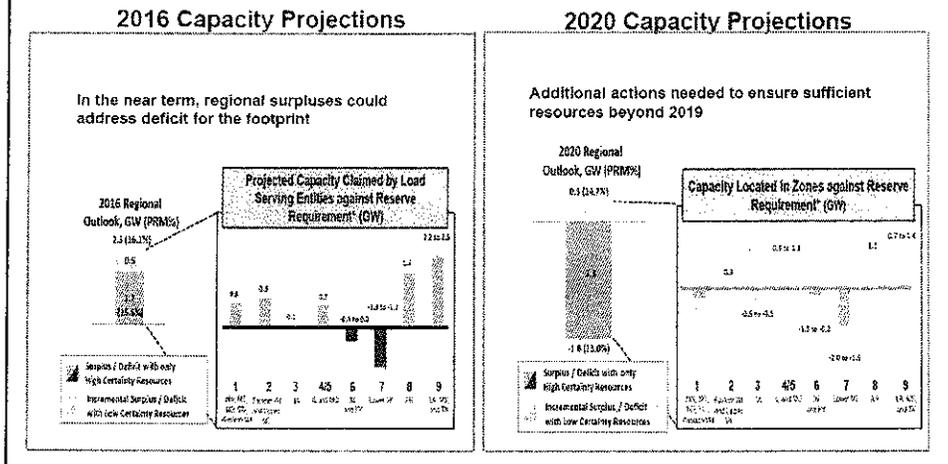
ENERGY WASTE REDUCTION

AND RENEWABLE ENERGY BY 2025

We have multiple objections to this phrase:

Second Objection:

MISO suggests that MI may need to procure 1-2GW of new capacity by 2020:



Second Objection cont'd:

Wind energy has a relatively low Capacity Value. Capacity value (in simple terms) is the ability to replace a dispatchable generator.

Some sources* place MISO wind capacity value as low as 2.7% of nameplate capacity, or, nearly 0.

http://www.potomaceconomics.com/uploads/midwest_reports/2012_SDM_Report_final_6-10-13.pdf

Second Objection cont'd:

What this means is that wind generators cannot be relied upon to fill the capacity deficit Michigan faces.

In fact, wind generation works in a parasitic relationship to gas fired generators, robbing those generators of energy sales. This then drives up the cost of energy from those gas generators.

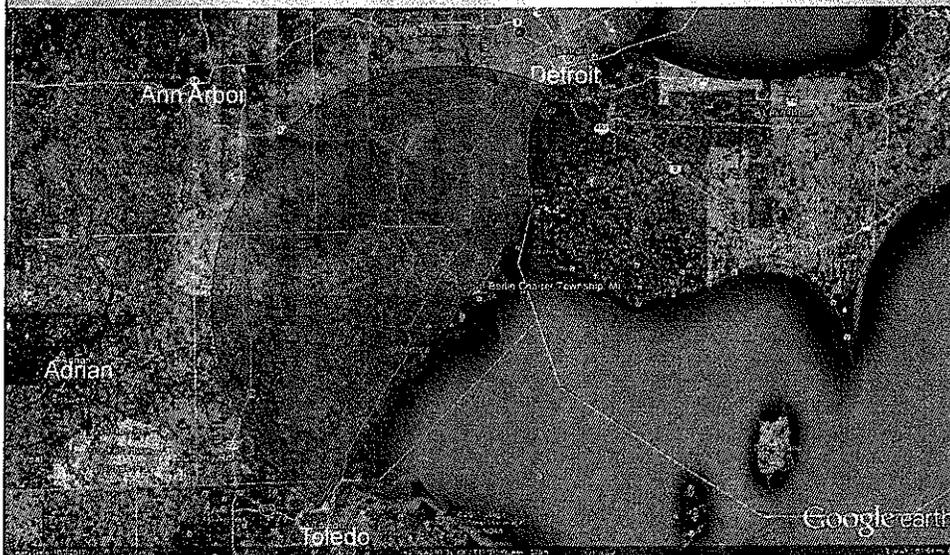


CF vs. CV illustrated:



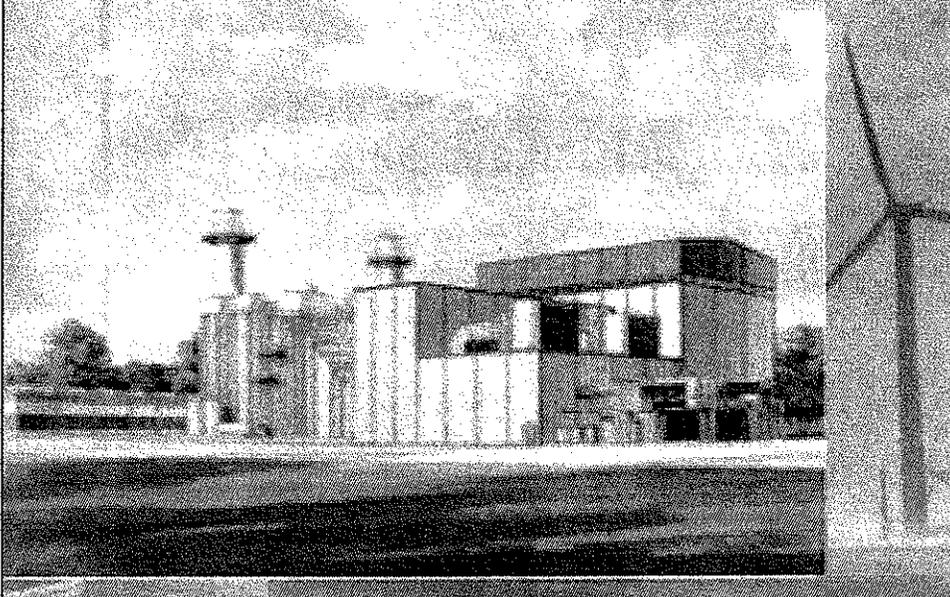
Fermi II Reactor- ~1100 Mw

1100 MW from wind at 3.6 MW/sq mile w/30%CF



2 Vestas V-100 turbines per square mile

...and a couple of these for July, August, etc.



In other words:

Setting a goal of 10, 20 or 30% Renewable Energy is to say that it is somehow in the ratepayers' best interest to attach a "parasitic" wind generator to every dispatchable "host" generator while compelling the ratepayers to keep the parasitized hosts alive by paying ever higher rates for the ever smaller amounts of energy the requisite host generates.

This is poor policy.

Instead of RE/EE goal we prefer:

1. Set a goal of reducing Michigan's net generation by X% by 2025 by deploying energy efficiency measures.
2. Set a goal of reducing CO₂, PM_{2.5}, Hg and/or other emissions by X% by 2025 by either importing energy from existing out-of-state generators or by constructing new generators of any type that reduce system wide emissions most cheaply as measured by \$/unit-of-emissions avoided.

Observation:

Had PA295 prioritized low cost emissions avoidance instead of forcing renewable generation, the more than \$3 billion spent on MI wind turbines to date could have replaced 3,000MW of existing coal capacity with far cleaner combined cycle gas turbines, thereby exceeding the emissions reductions required under CPP by a wide margin.

Next-a big "IF":

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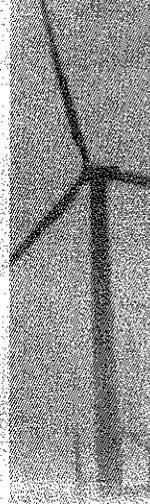
We absolutely agree with this qualifying statement but we have 2 concerns:

1st concern:

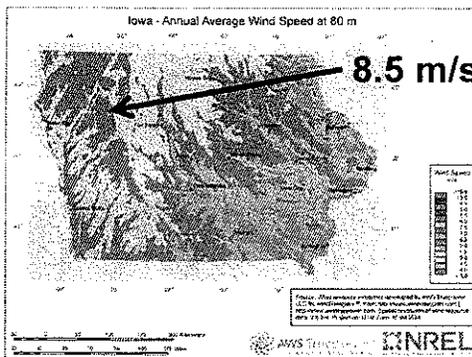
We already know that wind energy is not a significant source of dispatchable capacity.

We also know that MI wind is uncompetitive in price relative to its regional peers in IA and MN.

Thus this test negates the goal of 30% RE/EE on the face.

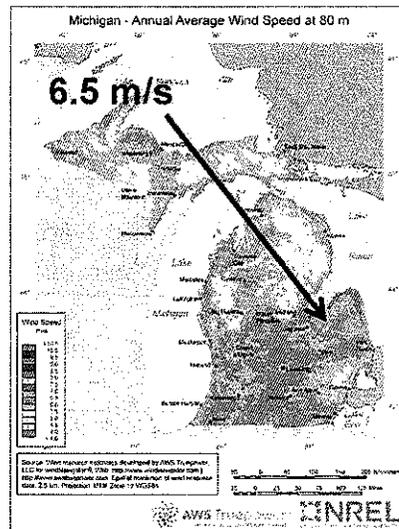


MI wind noncompetitive



IA has large regions of 8.5m/s wind potential. MI has none, even @ 100m.

IA will produce ~2x the energy from each turbine as MI, a permanent 2:1 price disadvantage for MI



2nd concern:

It is not clear that our regulatory bodies are now or will be impartial enough in the future with respect to the politics of renewable energy to be reliable gatekeepers of ratepayer dollars.

Consider:

PA295 required MPSC to prepare an annual report that shows "...each of the different types of renewable energy sold at retail in this state, specifies the difference between the cost of the renewable energy and the cost of electricity generated from new conventional coal-fired electric generating facilities."

This language seemed clear enough but...

Cont'd:

MPSC later determined that the crystal clear language of PA295 was inadequate.

The staff reasoned that conventional coal plants would not be built due to environmental concerns. Thus they chose to compare the cost of wind generation with new "advanced coal with carbon capture and sequestration".

Observation:

Perversely, CCS does not exist in commercial form anywhere on the planet. Yet the false and misleading comparison between wind and a non-existent generator is dutifully published in every annual report.

And at any rate, the LCOE of non-dispatchable wind energy cannot be compared to the LCOE of dispatchable coal generation of any type.

Consequence:

Nonetheless, as a result of this annual report, people are led to believe that wind energy is a cheap alternative to coal plants:

GREEN TECHNOLOGY, SOLAR POWER, WIND ENERGY

REPORT SHOWS MICHIGAN WIND POWER NOW CHEAPER THAN COAL

© FEBRUARY 12, 2015 | A 25-MINUTE READ | LEAVE A COMMENT

LANSING — Renewable wind energy is now cheaper than electricity from coal, according to the Michigan Public Service Commission's fifth annual report on the state's renewable energy standard and its cost effectiveness.

The report shows the weighted average price of existing renewable energy contracts is \$76.55 per megawatt-hour, which the report noted was "significantly lower than the cost of coal-fired generation plants."

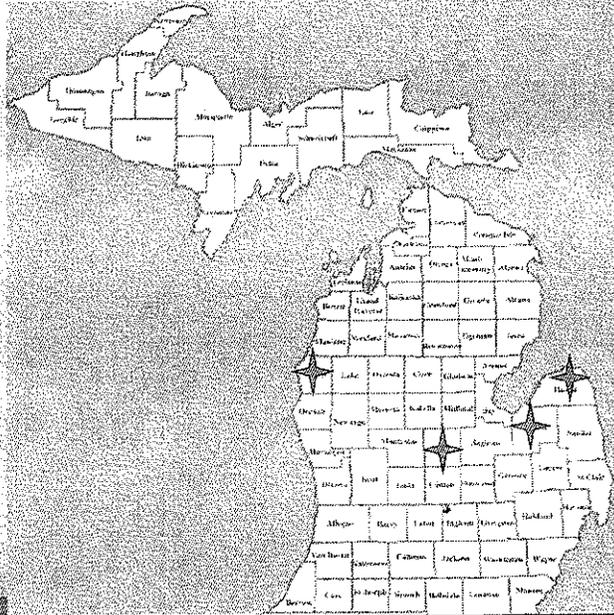
My point?

If simple language like PA295's mandate to compare wind LCOE with conventional coal LCOE can be gamed by MPSC, how much more so the phrase "most reasonable means"?

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23 ACHIEVEMENT OF THE GOAL:

Where wind is built:

Michigan wind development occurs primarily in unzoned townships subject to county zoning or in self-zoned townships with a preponderance of wind lease holders on local trustee boards and planning commissions.



100% of townships have voted no since 2009:

Meade	60	40
Lake	62	38
Paris	64	36
Riga	64	36
Palmyra	55	45
Seneca	51	49
Reading	71	29
Wheatland	63	37
Moore	57	43
Argyle	53	47

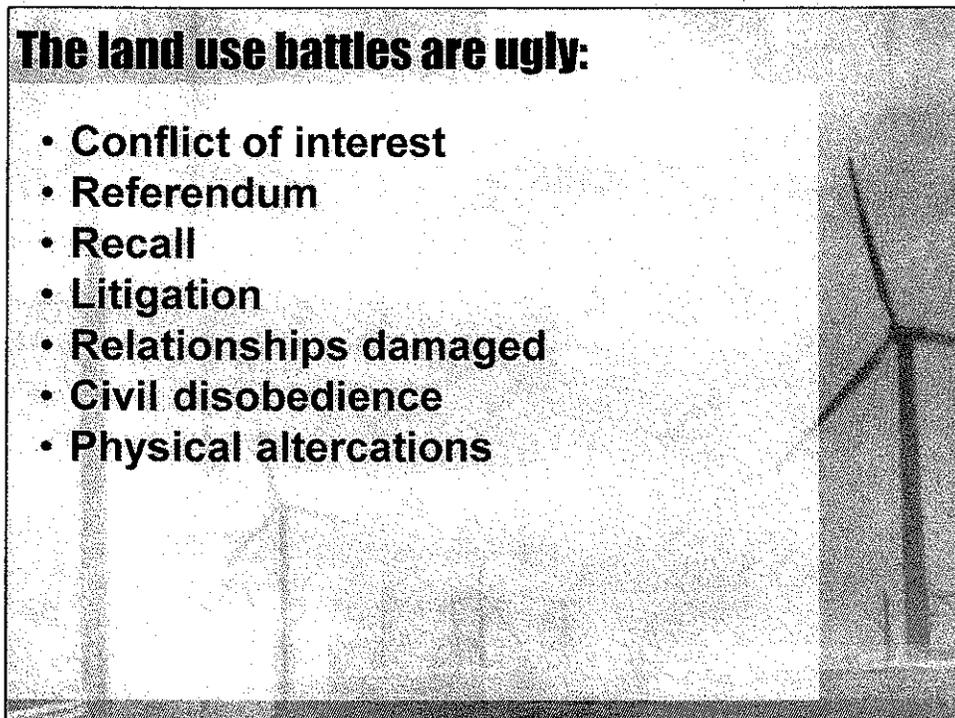


Dissent is growing:

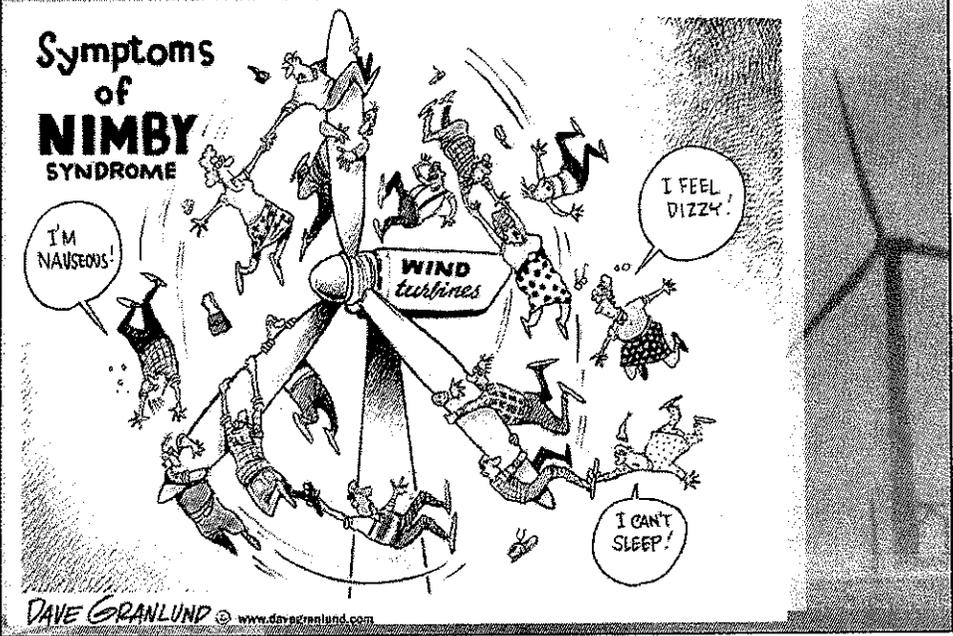


The land use battles are ugly:

- Conflict of interest
- Referendum
- Recall
- Litigation
- Relationships damaged
- Civil disobedience
- Physical altercations

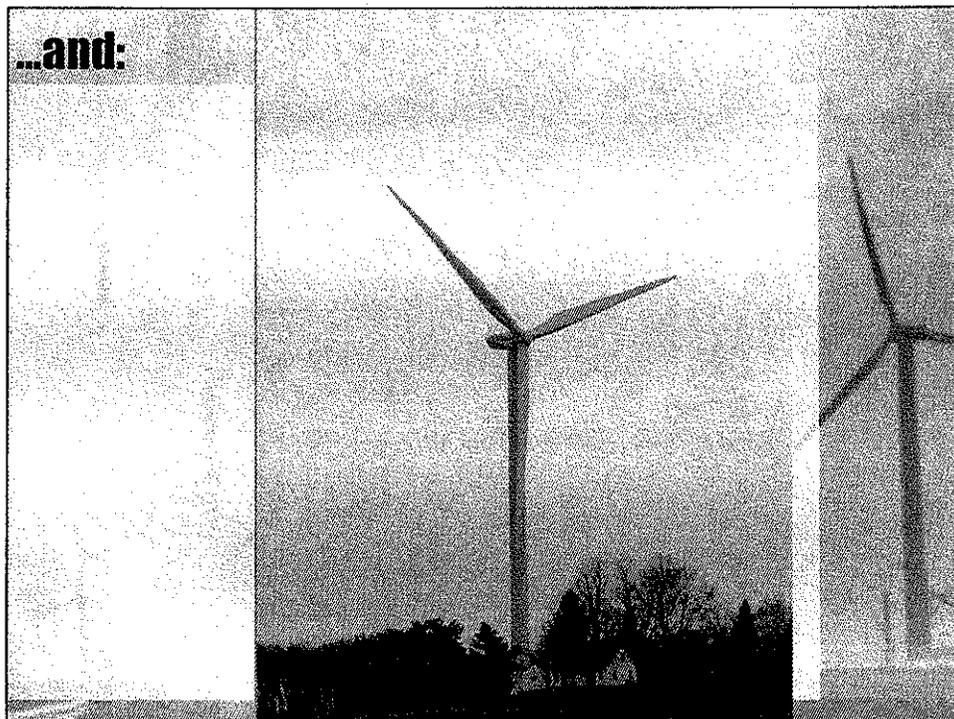


Opposition is crudely dismissed as NIMBYism:



Yet the energy blight is real:

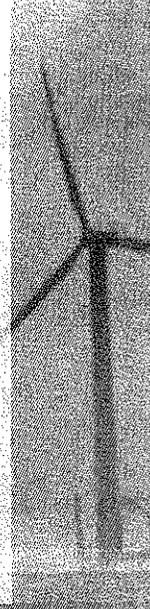




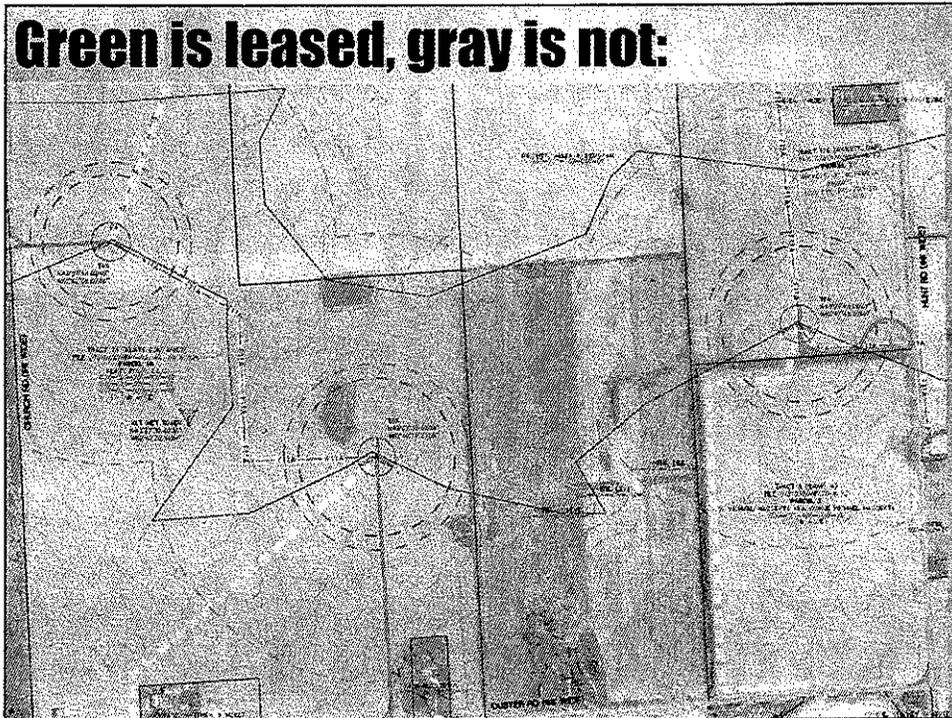
The real culprit:

**The most divisive issue
is wind development's
secret subsidy:**

Trespass Zoning



Green is leased, gray is not:



Trespass zoning:

Wind development only occurs when the zoning authority enacts land use regulations that forcibly donate unleased farm ground to the wind farmer's tenant. This is unjust.

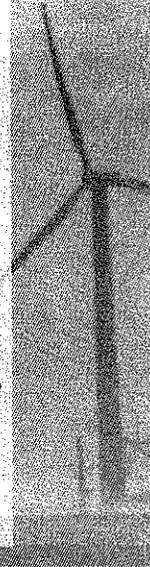


30% RE?

I know of no other land use that engenders as much division and hatred as wind development.

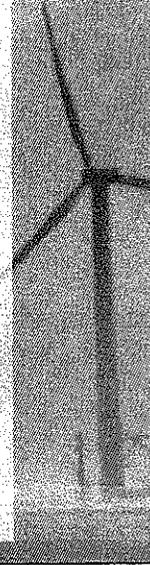
Since 2008, MI wind development has been dominated by corporate bullying, corruption and hostility.

And it is turning our rural communities into industrialized blight.



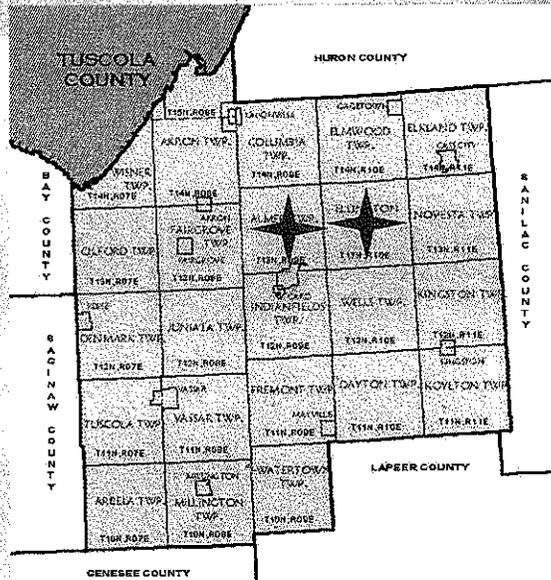
A sea change:

After 8 year under PA295, areas once friendly to wind development have turned bitterly against it:



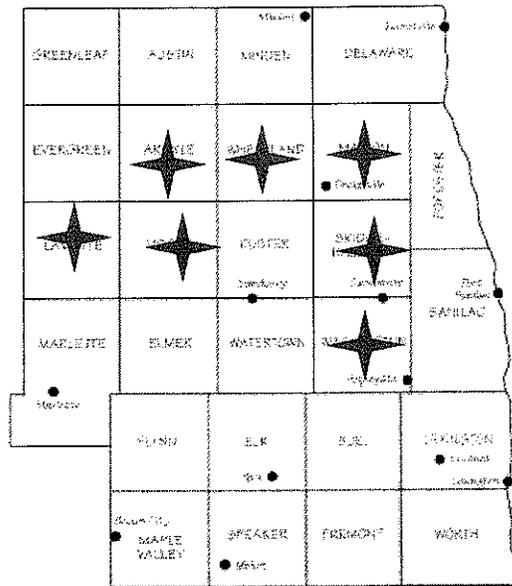
Tuscola County:

Having built in Akron, Gilford and Fairgrove Townships, NextEra is now locked in a fierce battle with Almer and Ellington Township residents.



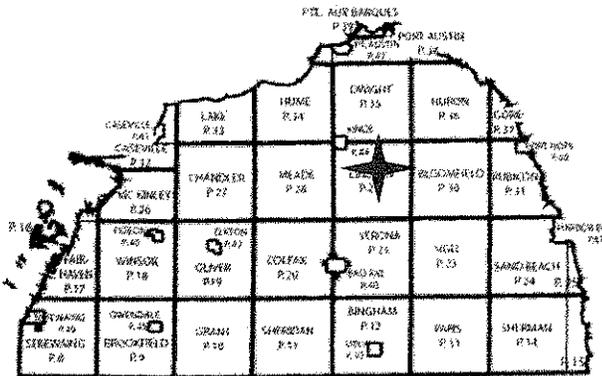
Sanilac County:

With operating wind development in Minden and Delaware Townships, Invenergy and Exelon now face fierce opposition in Argyle, Wheatland, Lamotte, Moore, Marion, Washington and Bridgehampton.



Huron County:

With more turbines than the rest of the state combined, HC residents appear to have had enough. DTE now faces a leaseholder revolt in Lincoln Township. All 5 trustees have wind leases but...



Huron County cont'd:

...they recently sent a letter to HC zoning stating:

"We feel that Huron County has done our part as far as Green Energy. We feel that no additional turbines should be allowed in Huron County."

Truth:

Nothing makes it harder for a wind developer to sell a township on wind development than an operating wind plant in the township next door.

My point?

A 30% RE/EE goal may sound benign when being considered by legislators in Lansing.

But to those who are still reeling from the unintended consequences of PA295's 10% RE mandate, it simply adds insult to injury.

Final Recommendations:

We prefer an outright ban on Michigan wind development. It is expensive, a poor environmental value and is shredding the social fabric of our once-tight-knit rural communities.

Absent a ban, we recommend the following:

Recommendation 1:

Institute a strong code of ethics for wind developers in the state. New York has done so and I have included a model in my packet.

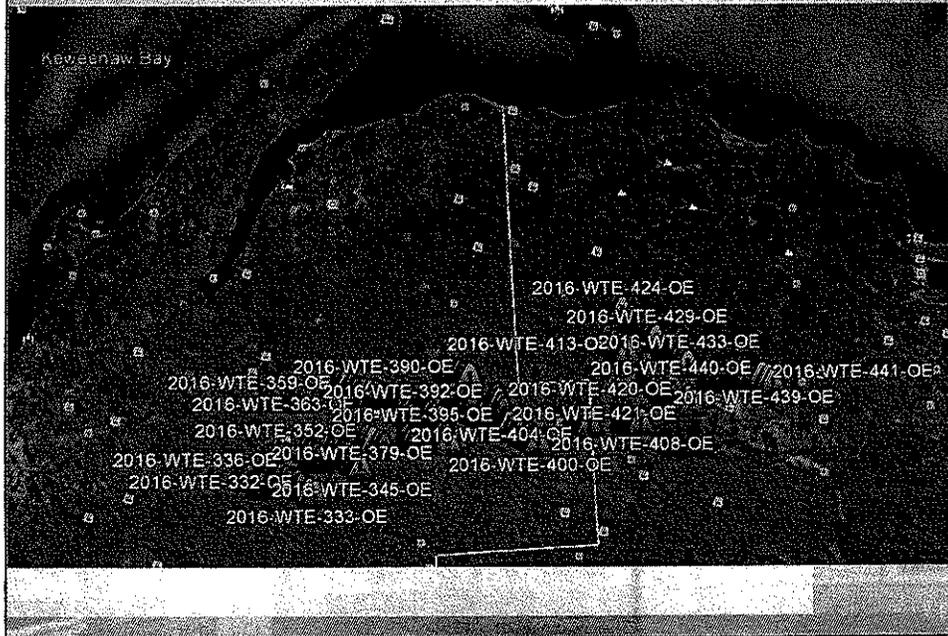
Recommendation 2:

MI wind development has occurred primarily under a cloak of secrecy with many thousands of acres of ground being leased before the general public is even aware of an imminent project.

Kentucky enacted a disclosure law requiring energy plant developers to host a public meeting within 30 days of commencement of leasing.

I have included the legislation in my packet and ask that you amend this bill in a similar fashion.

Real life example:



Real life example cont'd:

These 120 turbines are proposed for Marquette and Baraga Counties between L'Anse and Marquette. This is some of the most pristine wilderness in the UP.

The turbine locations are revealed by FAA when the developer seeks approval from them for the project.

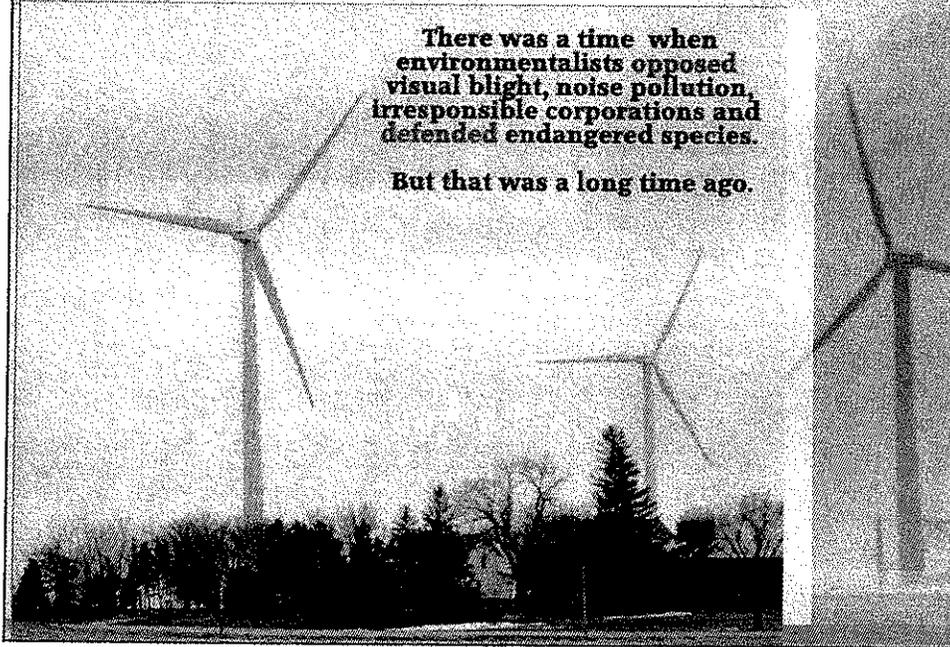
But until the FAA has rendered a determination as to the impacts on air navigation, the name of the developer is not released. Township and county officials in this area, along with local stakeholders, have sought in vain to find any information beyond the simple locations.



Whither environmentalism?

There was a time when environmentalists opposed visual blight, noise pollution, irresponsible corporations and defended endangered species.

But that was a long time ago.



ICC supporters, left and right, bring a simple message...



...from poor energy policy.



Questions?



About the presenter:

Mr. Kevon Martis

BA-University of MI-1989
Lenawee County Rural Land Use
Committee-vice-chairman-2007-09
Riga Township Planning
Commission-Vice-chairman 2005-
2011

Interstate Informed Citizen's
Coalition, Inc. Founding Director
2011-present

Kevon@kevonmartis.com
www.iiccusa.org

CODE OF CONDUCT AGREEMENT

WHEREAS, the State of New York is committed to fostering and encouraging the use and development of renewable energy sources in order to protect the environment and provide long-term, sustainable benefits to the State and its residents;

WHEREAS, the New York State Office of the Attorney General ("OAG") has received numerous complaints regarding Wind Farm Development from citizens, groups and public officials alleging improper relationships between Wind Companies and local officials; and

WHEREAS, the OAG seeks to ensure that wind farm development is done in a transparent manner, in which municipal officials and companies are accountable, and wind farm development business practices are established and maintained so as to avoid conflicts of interest, or the appearance thereof; therefore,

To foster economic development and renewable energy, and promote public integrity in Wind Farm Development, the OAG has created the following Code of Conduct Agreement. The Code of Conduct Agreement will be monitored by an ongoing Advisory Task Force (the "Task Force") assembled simultaneously herewith. The Task Force will include a representative from each of the following agencies: the Franklin County District Attorney's Office, the Monroe County District Attorney's Office, the Wyoming County District Attorney's Office, the New York State Association of Counties, a not-for profit association representing the Wind Industry (such as, but not limited to, Alliance for Clean Energy New York or American Wind Energy Association), and the Association of Towns of the State of New York. The Task Force shall also include a representative of the OAG, and one other designee of the OAG who is not a member of that office.

CODE OF CONDUCT FOR WIND FARM DEVELOPMENT

The below-signed Wind Company voluntarily agrees to implement the following Code of Conduct Agreement, and the other terms herein, pursuant to this contract between the parties, to govern future conduct in connection with the Wind Company's Wind Farm Development in New York State.

I. CONFLICTS OF INTEREST - PROHIBITED

1. General Standard: The Wind Company shall not knowingly, directly or indirectly offer to, or confer on, a Municipal Officer, his or her Relative, or any third party on behalf of such Municipal Officer, any benefit under circumstances in which it could reasonably be inferred that the benefit would influence such Municipal Officer to commit an official act or to refrain from performing an official duty in connection with the Wind Company's Wind Farm Development, unless such Municipal Officer recuses him- or herself from any official duties in connection with the Wind Company's Wind Farm Development. For the purpose of this paragraph only, "official duties in connection with the Wind

William J. Seitz and Kevon Martis: Trespass zoning is wind energy's secret subsidy

First Posted: 9:00 pm - February 19th, 2016

By William J. Seitz and Kevon Martis - Contributing Columnists

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Like	Share		<div style="border: 1px solid black; padding: 2px; display: inline-block;">G+1</div>

There was a time when the environmental movement opposed noise pollution, fought industrial blight, and supported "little guys" whose quality of life was threatened by "corporate greed."

But that was a long time ago, before wind energy.

The American Wind Energy Association and its allies at the Sierra Club and the Ohio Environmental Council continue to press the Ohio legislature to overturn recent wind energy siting guidelines that corrected a grievous fault in the earlier state guidelines.

The old regulations measured turbine setback distances and noise limits from the 500 foot to 600 foot tall wind turbines from the foundation or bedroom windows of neighboring homes. The new regulations established by the legislature measure setback distance and noise limits from neighboring property lines. Establishing siting regulations from property lines is standard practice for all other land use regulations. After all, homeowners are not confined to their homes. They and their kids like to play in the yard, enjoy outdoor picnics, or watch sunsets from patios and decks.

By measuring noise and setbacks for wind turbines from neighboring homes rather than property lines, the old law essentially awarded wind developers an uncompensated nuisance noise and safety easement across private property even though that neighboring parcel was not leased to the wind developer.

In effect, future development rights on thousands of acres of private property were stripped from Ohio's rural citizens and handed to their neighbor's tenant: the wind developer.

The basic premise of zoning is to separate conflicting uses of land. If safety setbacks and noise emissions are measured at a home rather than a property line, there is in fact NO separation of the conflicting use.

The definition of trespassing is "to enter the owner's land or property without permission".

By establishing the setback and noise limit criteria from neighboring homes rather than from property lines, Ohio's former wind turbine siting guidelines had effectively legalized trespassing in our rural communities. It essentially established trespass zoning.

The legislature simply moved the setback distances to the property lines, thus replacing trespass zoning with property rights zoning. The legislature did not change the setback distance itself which remains at 1,125 feet—a distance that is consistent with the wind turbine manufacturers' own safety manuals. The only change was to restore property rights zoning by eliminating trespass zoning.

Since 2008 when Ohio's wind mandate was adopted, one thing has become clear: wind development brings controversy and sharply divides residents in our rural communities.

People opposing wind development are often crudely caricatured by wind developers and wind lease holders as NIMBYs-Not In My Back Yard. In truth these are landowners who simply recognize that the trespass zoning demanded by wind developers like the U.K.'s EverPower and Spain's Iberdrola-is a de facto subsidy extracted from the neighbors without any compensation.

Where the wind developer can use these unleased properties for nuisance noise and safety easements free of charge, they have no reason to approach the neighboring residents to negotiate a fair price for their loss of amenity. Trespass zoning has deprived wind plant neighbors of all economic bargaining power. Trespass zoning has donated their private property to the neighboring landowner's wind developer tenant.

By replacing trespass zoning with property rights zoning as the Legislature did in 2014 in House Bill 483, the wind developer can no longer ignore the private property rights of rural Ohioans.

The environmental lobby regularly demands that "fossil fuel" utilities be held accountable for the "externalities" of their conventional coal- and gas-fired power generation. By moving turbine setbacks to the property lines the Ohio Legislature has simply held wind electric generators accountable for the externalities of wind development: noise pollution, turbine rotor failure and its attendant debris field, property value loss and visual blight.

Good neighbors don't trespass. If Big Wind wants to be a good neighbor in rural Ohio, it needs to abandon its demand for trespass zoning.

William J. Seitz is a state senator. Kevon Martis is executive director of the Interstate Informed Citizens Coalition.

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Comments

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12 Comments

The Lima News

windtech2000 ~

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ekgermann · 2 months ago

Senator Seitz should then be concerned with other forms of "trespass zoning"

1. Animal barns and their associated manure spread on fields is uncompensated. Should I be compensated so my grandkids can "play in the yard, enjoy a picnic outdoors or watch sunsets from my patio or deck" without the overwhelming stench of manure wafting in the breeze?
2. Do coal plants compensate me for the increased CO2 emissions I enjoy in area?
3. What of unitization of mineral rights in the shale energy areas? What of the landowners who didn't want to negotiate their mineral rights away and had them (literally) taken out from under them courtesy of the State of Ohio and their actions? (see <http://switchboard.nrdc.org/bl...>)

The Senator and the lobbyist can't have it both ways.

Reply · Share

Company's Wind Farm Development" do not include the non-discretionary duties of a Town Clerk or Tax Assessor.

2. No Gifts: The Wind Company shall not knowingly give any Municipal Officer, his or her Relative, or any third party on behalf of such Municipal Officer, any gift or gifts totaling more than ten dollars (\$10.00) in the aggregate during any one-year period.
3. No Compensation for Services: The Wind Company shall not knowingly employ, hire, retain or compensate, or agree to employ, hire, retain or compensate, any Municipal Officer whose official duties involve Wind Farm Development in connection with the Wind Company, or his or her Relative, within two years of the time that such Municipal Officer had such duties, unless such Municipal Officer first recuses him- or herself from any official conduct in connection with the Wind Company's Wind Farm Development. Accordingly, any compensation provided by the Wind Company to such Municipal Officer, his or her Relative, or third party on behalf of such Municipal Officer or Relative, shall be contingent on such prior recusal. The Wind Company shall disclose in writing to the Task Force and the OAG any agreement that is contingent on such recusal.
4. No Contingent Compensation: The Wind Company shall not knowingly provide or agree to provide compensation to any Municipal Officer or his or her Relative that is contingent upon such Municipal Officer's appearance before, or action as a member of, any Municipal agency.
5. No Honorarium: The Wind Company shall not knowingly confer on any Municipal Officer or his or her Relative any honorarium during the Municipal Officer's public service, or for a period of two years after termination of such Municipal Officer's service.
6. Restrictions on Easements/Leases with Municipal Officers: The Wind Company shall not knowingly enter into any agreement with any Municipal Officer that requires the Municipal Officer to support or cooperate with the Wind Company's Wind Farm Development in any manner that relates to the Municipal Officer's official duties.
7. Confidential Information: The Wind Company shall not knowingly solicit, use, or receive Confidential Information acquired by a Municipal Officer in the course of his or her official duties.
8. Restrictions on Legal Representation: The Wind Company shall not agree to pay legal fees for any Municipal Officer or Municipality in connection with any investigation by any law enforcement agency.

II. PUBLIC DISCLOSURE

For any financial interest held by a Municipal Officer or his or her Relative in any property identified for the Wind Company's Wind Farm Development within six years prior to the date of the execution of this Code of Conduct Agreement, the Wind Company shall disclose the Municipal Officer or his or her Relative and the nature and scope of the financial interest in a

submission to the OAG and displayed on a website, or on a link from a website, hosted by the Wind Company. The submission shall include all such instances of which the Wind Company has knowledge, or through the exercise of reasonable diligence should know, and the format of the submission shall be subject to the approval of the OAG.

For events transpiring after the date this Code of Conduct Agreement is signed, the Wind Company shall make the disclosures as set forth in this section.

1. Before the Wind Company presents or submits to a Municipality in any way, formally or informally, an initial application to install any meteorological tower or fixed wind measuring device for a potential new wind farm, or, if no permit is required for such installation, before the Wind Company installs any meteorological tower or fixed wind measuring device for a potential new wind farm, or if no such tower or device will be installed, before the Wind Company presents or submits to a Municipality in any way, formally or informally, the prospect of a potential new wind farm, the Wind Company shall make the following public disclosures in the following manner regarding any property identified for the Wind Company's Wind Farm Development to the extent that the Wind Company has knowledge, or through the exercise of reasonable diligence should know, that any Municipal Officer or his or her Relative has a financial interest in the property. For any such property, the Wind Company shall publicly disclose the full name of any Municipal Officer or his or her Relative who has a financial interest in the property and the nature of the financial interest, in the following manner:
 - a. Submit the information in writing for public inspection to the Clerk of such Municipality.
 - b. Publish the information in a newspaper having a general circulation in such Municipality.
 - c. Display the information on a website, or on a link from a website, hosted by the Wind Company.
 - d. Submit the information in writing to the Task Force and the Office of the Attorney General.
2. All easements and leases relating to Wind Farm Development shall be in writing. Before the Wind Company presents or submits to a Municipality in any way, formally or informally, an initial application to install any meteorological tower or fixed wind measuring device for a potential new wind farm, or, if no permit is required for such installation, before the Wind Company installs any meteorological tower or fixed wind measuring device for a potential new wind farm, or if no such tower or device will be installed, before the Wind Company presents or submits to a Municipality in any way, formally or informally, the prospect of a potential new wind farm, the Wind Company shall duly file, record, and index, in the Office of the County Clerk for the county in which the subject property is located, an abstract or memorandum of each such agreement. To the extent the Wind Company has knowledge, or through the exercise of

reasonable diligence should know, that any Municipal Officer or his or her Relative has a financial interest in any property that is the subject of such an agreement, the Wind Company also shall post the abstract or memorandum of such agreement on a website hosted by the Wind Company.

3. The abstract or memorandum of such agreements shall, at a minimum, include:
 - a. The full names and addresses of the parties;
 - b. A full description of the property subject to the agreement;
 - c. The essential terms of the agreement, including the rights conveyed by the property owner and, if the property owner is a Municipal Officer or his or her Relative, which of the following ranges encompasses the actual monetary consideration offered by the Wind Company or, if the actual monetary consideration is not fixed, the Wind Company's good faith estimate of the monetary consideration, which estimate may be accompanied by a description of any factors or contingencies that could affect the actual monetary compensation:
 - i. Under \$5,000
 - ii. \$5,000 to under \$20,000
 - iii. \$20,000 to under \$60,000
 - iv. \$60,000 to under \$100,000
 - v. \$100,000 to under \$250,000
 - vi. \$250,000 to under \$500,000
 - vii. \$500,000 to under \$1,000,000
 - viii. \$1,000,000 or higher.

III. EDUCATION AND TRAINING

1. Before the Wind Company presents or submits to a Municipality in any way, formally or informally, an initial application to install any meteorological tower or fixed wind measuring device for a potential new wind farm, or, if no permit is required for such installation, before the Wind Company installs any meteorological tower or fixed wind measuring device for a potential new wind farm, or if no such tower or device will be installed, before the Wind Company presents or submits to a Municipality in any way, formally or informally, the prospect of a potential new wind farm, the Wind Company shall provide a copy of this Code of Conduct Agreement and a written statement of its

intention to comply with this Code of Conduct Agreement to the government of the Municipality.

2. Within one week of the execution of this Code of Conduct Agreement, the Wind Company shall publish this Code of Conduct Agreement on a website, or on a link from a website, hosted by the Company and on any internal computer network (intranet) site that can be accessed only by its officers or employees, distribute copies of this Code of Conduct Agreement to its officers and employees and post copies in its main office, any office in New York State, and any other office where the Wind Company has personnel involved in Wind Farm Development in New York State.
3. Within sixty days after the execution of this Code of Conduct Agreement, the Wind Company shall conduct a seminar for all officers and employees about identifying and preventing conflicts of interest when working with Municipal Officers.
4. Within thirty days of the seminar, the Wind Company shall obtain acknowledgement forms from each of its officers and employees, certifying that they have: (i) attended the seminar required by paragraph 3 of this section and (ii) have read and agree to comply with this Code of Conduct Agreement. If, due to exceptional circumstances, an officer or employee is unable to attend the seminar required in paragraph 3 of this section, alternative arrangements should be made as soon as is practical for such officer or employee to receive the training described in paragraph 3 and sign the acknowledgement form. The Wind Company shall discontinue employment on Wind Farm Development in the State of New York of any such officer or employee who fails to attend the seminar or its equivalent, or sign the acknowledgement form.
5. The Wind Company shall distribute to all its officers and employees and post prominently in all its work locations, as well as on its website and intranet system, the OAG's Public Integrity Hotline number, with instructions that any misconduct, violation of the law, or corruption of any sort in connection with Wind Farm Development or any violation of this Code of Conduct Agreement shall be promptly reported to the OAG.
6. Upon discovery by the Wind Company that a Municipal Officer or his or her Relative has entered into a lease or easement with the Wind Company, the Wind Company shall (i) notify the attorney for the Municipality and (ii) recommend to such Municipal Officer that he or she consult with the Municipality's attorney concerning his or her legal obligations, including any obligation to recuse him- or herself.

IV. ENFORCEMENT AND COMPLIANCE

1. The OAG shall establish the above-referenced Task Force to monitor compliance with this Code of Conduct Agreement. The Task Force shall include, among others, local elected officials, including the District Attorneys of Franklin, Monroe and Wyoming Counties, and a representative from each of the following: the New York State Association of Counties, the Association of Towns of the State of New York, and a not-for-profit association representing the Wind Industry (such as, but not limited to, Alliance

for Clean Energy New York or American Wind Energy Association). The representative from the not-for-profit association representing the Wind Industry shall be chosen by the OAG from a list of up to four individuals nominated by the Wind Companies who are signatories to this Code of Conduct Agreement. The Task Force shall also include a representative of the OAG, and one other designee of the OAG who is not a member of that office. Each Task Force member shall be asked to certify that such member can be impartial and fair in performing the duties of the Task Force. The Task Force shall report only to the OAG. The OAG shall establish responsibilities and guidelines for the Task Force and shall seek the advice and input of the Task Force members in establishing such responsibilities and guidelines.

2. For three years following the Wind Company's agreement to this Code of Conduct Agreement or until the Wind Company ceases operations in New York State, whichever is earlier, the Wind Company shall contribute a proportional share of the reasonable administrative costs of the Task Force, in an amount to be determined by the Task Force. No Wind Company will be required to make a contribution in excess of \$20,000 in any one-year period. So long as this Code of Conduct Agreement is in effect, the Wind Company shall fully cooperate with the Task Force. Nothing in this Agreement, however, shall mandate the disclosure of privileged information.
3. Should the Wind Company discover any conduct in violation of the provisions of this Code of Conduct Agreement, the Wind Company shall promptly disclose such information to the OAG. The Wind Company shall fully cooperate with the OAG in any investigation arising out of such violation.
4. The Task Force shall promptly give notice of any complaints relating to violations of this Code of Conduct Agreement to the OAG. The Task Force may refer such complaints to the OAG. The Task Force may decide not to refer such a complaint if it determines that the matter can be resolved by the Task Force. With respect to any complaint referred to the OAG by the Task Force, the OAG shall advise the Wind Company of the complaint and give the Wind Company a reasonable opportunity to submit to the OAG information relevant to the complaint. After providing such opportunity, the OAG shall make a written determination, based on a reasonable investigation, including any information provided by the Wind Company, whether a preponderance of the evidence establishes that the Wind Company has violated this Code of Conduct Agreement in any material respect. In the event that a violation of any provision set forth in this Code of Conduct Agreement is found, the Wind Company may be subject to penalties of up to \$50,000 for the first violation and up to \$100,000 for any subsequent violation. In establishing a penalty amount under this Code of Conduct Agreement, the OAG shall consider the relative severity of, and the relative harm to public integrity occasioned by, such violation and shall provide written findings in support of such conclusions. Any payment shall be made by certified check made payable to the "State of New York." The Wind Company shall have the right to challenge in court the OAG's finding of a violation of this Code of Conduct Agreement and determination of the penalty amount, on the grounds that such determinations are not supported by a preponderance of the evidence. The Wind Company shall pay any assessed penalties to a reserve fund of the State of New York

pending the resolution of any such court challenge. In the event that the OAG's determination is overturned upon judicial review, the penalty payment (including any interest accrued) shall be returned to the Wind Company.

5. The Wind Company and the OAG shall meet to review the terms of this Code of Conduct Agreement on the four-month anniversary and the one-year anniversary of the date on which this Code of Conduct Agreement is signed. Starting on the two-year anniversary of the date on which this Code of Conduct Agreement is signed, the Wind Company and the OAG shall meet annually to review the terms of this Code of Conduct Agreement and to consider whether to set a sunset date for this Code of Conduct Agreement.

V. DEFINITIONS

Unless otherwise stated or unless the context otherwise requires, when used in this Code:

1. "Confidential Information" means:
 - a. information that reveals an imminent or present determination, decision, report, audit or recommendation by the State, an agency of the State, a Municipality or Municipal Officer that is related to Wind Farm Development and that is scheduled, planned or required to be announced or made available to the public in the future;
 - b. information derived from communications as to which the Municipality could assert a claim of privilege under section 4503 of the Civil Practice Law and Rules;
 - c. trade secrets submitted to the Municipality by a commercial enterprise or derived from information obtained from a commercial enterprise, which if disclosed could cause substantial injury to the competitive position of the subject enterprise;
 - d. information compiled for law enforcement purposes; and
 - e. any other information deemed confidential by a law, rule or code to which the Municipal Officer was subjected.
2. For the purpose of Paragraphs III.3 and III.4 above, "employee" or "employees," when used in reference to a Wind Company, shall mean the Wind Company's employees who are involved in Wind Farm Development in New York State, except those who perform solely administrative/clerical, accounting, construction or maintenance functions.
3. "Gift" means any thing having more than a nominal value, whether in the form of money, service, loan, investment, travel, entertainment, hospitality, or in any other form, and includes an offer to a charitable organization at the designation of the Municipal Officer or at the designation of his or her Relative. "Gift" does not include educational materials provided to Municipal Officers by the Wind Company in connection with Wind Farm Development in New York State.

4. "Honorarium" means any payment made in consideration for any speech given at a public or private conference, convention, meeting, social event, meal or like gathering.
5. "Identified" means that the Wind Company has begun to pursue the purchase or lease of, or an easement on, real property, in which the Wind Company knows, or through the exercise of reasonable diligence should have known, that a Municipal Officer or his or her Relative has a financial interest in the property.
6. "Knowingly," "knowing" or "has knowledge" means that a person:
 - a. has actual knowledge of a claim or information;
 - b. acts in deliberate ignorance of the truth or falsity of a claim or information; or
 - c. acts in reckless disregard of the truth or falsity of a claim or information.
7. "Municipality" means a county, city, town, village, public authority, school district, or any other special or improvement district, but shall have no application to a city having a population of one million or more, or to a county, school district, or other public agency or facility therein.
8. "Municipal Officer" means any officer or employee of a municipality, whether paid or unpaid and includes, without limitation, members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, or committee of the municipality. "Municipal Officer" also includes any entity that is directly or indirectly controlled by, or is under common control with, such officer or employee. "Municipal Officer" shall not include:
 - a. a judge, justice, officer, or employee of the unified court system;
 - b. a volunteer firefighter or civil defense volunteer, except a fire chief or assistant fire chief; or
 - c. a member of an advisory board of the municipality if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the municipality or to restrict authority of the municipality to act.
9. "Officer" or "officers," when used in reference to a Wind Company, shall mean the Wind Company's officers who are involved in Wind Farm Development in New York State, except those who perform solely administrative/clerical, accounting, construction or maintenance functions
10. For the purpose of paragraphs I.1 and I.3 above, "relative" means a spouse or domestic partner, child, step-child, or parent of the Municipal Officer, or a person claimed as a dependent on the Municipal Officer's latest individual state income tax return. For the

purpose of the remainder of this Code of Conduct Agreement, "relative" also includes sibling.

11. "Wind Company" means the signatory of this Code of Conduct Agreement as well as its officers, directors, employees, subsidiaries and any affiliates over which it exercises control.
12. "Wind Farm Development" means any stage of past, present or future development or siting of wind farms, wind turbines, wind power and related facilities or wind power projects in the State of New York, whether considered, planned, attempted or completed, including but not limited to permitting, licensing, construction and energy production. "Wind Farm Development" shall not include past, present, or future development or siting of so-called "community energy" projects involving wind turbines and related facilities that are interconnected to utility distribution systems (less than 50 kV), either directly or through a retail customer meter.

VI. FORMS

The following forms shall be used to comply with the disclosure requirements in Sections II and III above.

1. Disclosure under paragraph II.1.a. above shall be made with the following form:

PROPERTY INTEREST OF MUNICIPAL OFFICER
FOR FILING WITH CLERK OF MUNICIPAL ENTITY

Please take notice that a Municipal Officer has a financial interest in a property identified for Wind Farm Development by the Wind Company as set forth below:

Name of Municipal Official:

Name of Municipality and Position that Municipal Official Holds:

Name of Wind Company:

Address of Wind Company:

Description of Property:

Street Address:

Town/City:

Section/Block/Lot #:

2. Disclosure under paragraph II.1.b. and c. above shall be made with the following form:

PUBLISHING ABSTRACT

NOTICE OF CONVEYANCE OF PROPERTY INTEREST
BY MUNICIPAL OFFICER TO WIND COMPANY

Please be advised that [Name of Municipal Official] who holds that position of _____ with the _____ of _____, New York, has conveyed a _____ to [Name of Wind Company] for property with the following street address and section/block/lot number in the _____ of _____, New York. An abstract with more information concerning the transfer is available with the _____ Clerk of the _____ of _____.

3. Disclosure under paragraph III.6. above shall be made with the following form:

NOTICE TO MUNICIPAL OFFICER

Dear Municipal Official:

It has come to our attention that either you and/or one or more of your relatives may be a Municipal Officer or Employee that has transferred or otherwise conveyed an interest in real property to a wind company.

We strongly recommend that you contact your municipality's attorney to discuss possible obligations, including, but not limited to the obligation under certain laws to recuse yourself from certain matters involving that wind company.

DATED: New York, New York
July _____, 2009

By.

Andrew M. Cuomo
Attorney General of the State of New York

278.218; and 278.700 to 278.716 at a distance closer than those provided in subsection (2) of this section.

- (5) If the merchant electric generating facility is proposed to be located on a site of a former coal processing plant in the Commonwealth where the electric generating facility will utilize on-site waste coal as a fuel source, then the one thousand (1,000) foot property boundary requirement in subsection (2) of this section shall not be applicable; however, the applicant shall be required to meet any other setback requirements contained in subsection (2) of this section.
- (6) If requested, a merchant electric generating entity considering construction of a facility for the generation of electricity or a person acting on behalf of such an entity shall hold a public meeting in any county where acquisition of real estate or any interest in real estate is being considered for the facility. A request for such a meeting may be made by the commission, or by any city or county governmental entity, including a board of commissioners, planning and zoning, fiscal court, mayor, or county judge/executive. The meeting shall be held not more than thirty (30) days from the date of the request.
- (7) The purpose of the meeting under subsection (6) of this section is to fully inform landowners and other interested parties of the full extent of the project being considered, including the project time line. One (1) or more representatives of the entity with full knowledge of all aspects of the project shall be present and shall answer questions from the public.
- (8) Notice of the time, subject, and location of the meeting under subsection (6) of this section shall be posted in both a local newspaper, if any, and a newspaper of general circulation in the county. Notice shall also be placed on the Web sites of the unregulated entity, and any local governmental unit. Owners of real estate known to be included in the project and any person whose property adjoins at any point any property to be included in the project shall be notified personally by

mail. All notices must be mailed or posted at least two (2) weeks prior to the meeting.

(9) The merchant electric generating entity or a person acting on behalf of a merchant electric generating entity shall, on or before the date of the public meeting held under subsection (6) of this section, provide notice of all research, testing, or any other activities being planned or considered to:

(a) The Energy and Environment Cabinet;

(b) The Public Service Commission;

(c) The Transportation Cabinet;

(d) The Attorney General; and

(e) The Office of the Governor.

(10) A person that, on or before the effective date of this Act, has started acquiring interests in real estate for a project as described in subsection (6) of this section shall hold a meeting that complies with this section within thirty (30) days of the effective date of this Act.

(11) Subsections (6) to (10) of this section shall not apply to any facility or project that has already received a certificate of construction from the board.

→ Section 3. KRS 278.706 is amended to read as follows:

- (1) Any person seeking to obtain a construction certificate from the board to construct a merchant electric generating facility shall file an application at the office of the Public Service Commission.
- (2) A completed application shall include the following:
 - (a) The name, address, and telephone number of the person proposing to construct and own the merchant electric generating facility;
 - (b) A full description of the proposed site, including a map showing the distance of the proposed site from residential neighborhoods, the nearest residential structures, schools, and public and private parks that are located within a two

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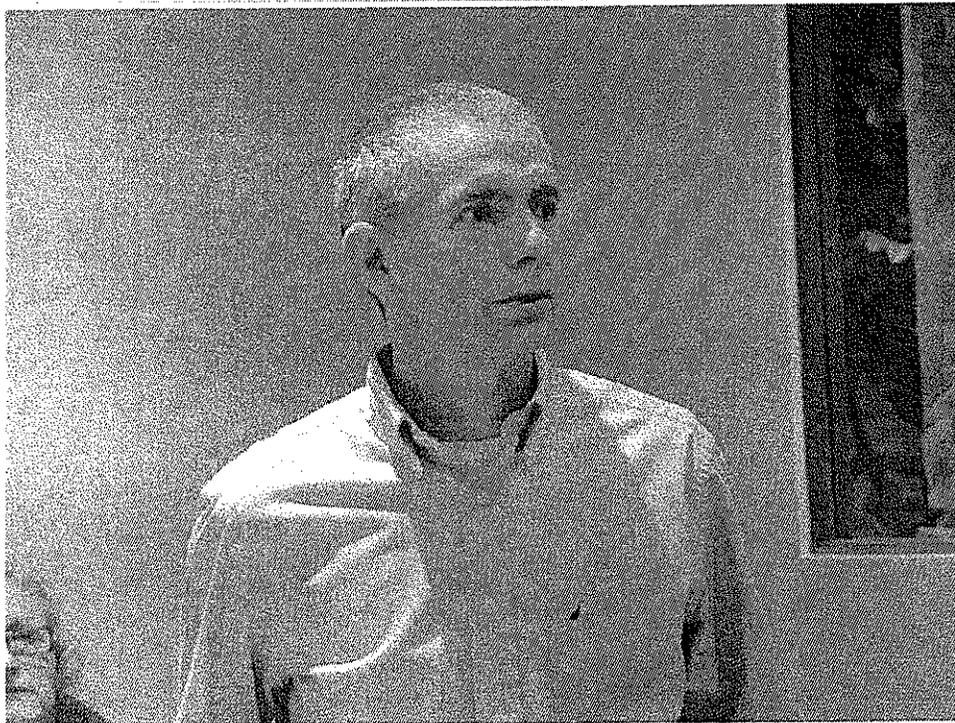
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Ellington residents allege conflict of interest over planned wind farm

Posted by Andrew Dielderich on March 2, 2016



Ellington Township resident Mike Patullo addresses the Tuscola County Board of Commissioners in February, 2016.

CARO – Residents of Ellington Township planned last night to ask township Supervisor Duane Lockwood to recuse himself from any further decisions regarding wind turbines in the community – and have threatened to file a lawsuit if it doesn't happen.

At 4:40 p.m. Tuesday, Lockwood told *The Advertiser* that the meeting wouldn't be cancelled, despite Michigan's Thumb region being under a winter storm warning and most of the area shut down for safety in light of a snowstorm projected mid-afternoon to drop up to 12 inches of snow. The meeting was held after press time.

Tuscola County Offices closed for today at 3 p.m. Tuesday and several schools already cancelled class for today around 5 p.m. Tuesday

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Comment

56°

CARO

light
humidity
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63° 64° 65° 55° 60°
THU FRI SAT SUN MON

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Mike Patullo, an Ellington Township resident who has been vocal about Ellington Township's wind turbine ordinances, said either he or one of the other residents planning to attend would ask Lockwood to no longer be involved in decisions regarding wind turbines because Lockwood has leased property to NextEra Energy Resources Inc.

NextEra is planning to build its next wind farm in Tuscola County – Tuscola III – in Ellington, Almer, and Fairgrove townships.

Lockwood confirmed having agreed to lease property to *The Advertiser* Monday.

"I have leases and that's my own business," Lockwood said.

Patullo said Lockwood should have made it clear long ago that he would make money by leasing land to NextEra – and he should have made it clear before being involved in changing Ellington Township ordinances with regard to wind turbine noise and setbacks, as was done last year.

"To do the right thing in my mind, he needs to recuse himself from anything to do with wind turbines – voting, discussions, public comment, anything," Patullo said.

Lockwood contends his roles as lessor and supervisor are two separate things.

He told *The Advertiser* Monday that any contact he has had with anyone from NextEra since 2013 has been limited to short, one-sentence responses over the phone.

"They call me up and say 'Can I get on the agenda?' and that's it," Lockwood said.

Lockwood says there are zero written communications – including anything written via email, facsimile machine, or mail delivered via U.S. Postal Service or other delivery service – between him and NextEra Energy Resources during the years 2013-2016.

As a result, Lockwood denied a request from *The Advertiser* through the Michigan Freedom of Information Act for any communications relating to the project, stating that "no document by that name or with that information exists."

However, minutes from past planning commission and regular board meetings in Ellington Township suggest communications between Lockwood and NextEra may have been more than one sentence long, said Patullo.

"That sounds kind of surprising to me," Patullo said. "You can see where he has been basically the spokesman for NextEra at all of the Ellington Township meetings. He came in and updated both the regular board and planning commission several times on what was going on."

The Advertiser has obtained minutes obtained through another FOIA to all Ellington Township board and planning commission meetings going back to 2013.

During the Feb. 5, 2015, regular Ellington Township board meeting, official minutes say, "Duane Lockwood stated it will be March before we see any site plans for the wind turbines. Escrow account needs to be setup with the Township in the amount of \$50,000 for the permits."

Minutes from the Dec. 8, 2015, Ellington Township board meeting read:

"Duane Lockwood gave an update on the wind farm. There will be no meeting in December for a general meeting for the public. Dave Hollander has met with all property owners, who are on the proposed sites of the windmills. Nextera (sic) is working one(sic) driveway issues, finishing up on substation. Nextera is shooting for a late January meeting open to the public. Nextera estimates up (to) 20 windmills in the Ellington Township. Duane Lockwood explained the process to the audience."

Patullo said there aren't any references to Lockwood identifying himself as a lessor or potential lessor to NextEra in any of the minutes dating back to 2013.

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His wife died in January. His house burned down on April 5. You can help this Sunday. bit.ly/1VEeocP



29 Apr

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"We think that someone who has a conflict of interest shouldn't be in that position," Patullo said. "We think it's blocking our due process."

"Our intention is to ask him to recuse himself because we think it's blocking our due process," Patullo said. "We're giving him one more chance before we make a big deal out of it."

"We're trying to do the right thing here without it getting really bad but we're running out of options here."

Joshua Nolan, an attorney representing the non-participating Ellington Township residents, said during a Feb. 17 meeting that legal action could be in the works in light of what some view as a conflict of interest.

"We've heard tonight about a conflict of interest and Mr. Lockwood, it's my understanding that you signed your lease in September of 2014," Nolan said. "You took that action with a conflict of interest ... and that is a valid basis to overturn the action taken by the township ... if you grant them (NextEra) a permit, your citizens will file a lawsuit."

After dropping his denial of *The Advertiser's* FOIA request off in person – and confirming he has agreed to lease land to NextEra – Monday, Lockwood left the office saying "no comment, no comment."

Andrew Dietderich is editor of The Tuscola County Advertiser and can be reached at andrew@tcadvertiser.com

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Official: Consumers Energy 'wanted to write' wind turbine laws

Posted by Andrew Dietderich on March 9, 2016

GAGETOWN— Consumers Energy "wanted to write" wind turbine laws when looking to Michigan's Thumb to build a wind farm, according to a top elected official from northern Tuscola County's Elmwood Township.

Chris Graff, supervisor, Elmwood Township, said township representatives were approached by representatives of Jackson-based Consumers Energy to craft wind ordinances as the company was looking at the Thumb region to build what would become Cross Winds Energy Park.

The approach Graff said was used by Consumers Energy is relevant now as questions have been raised by citizens about relationships between representatives from energy companies and government officials in Michigan's Thumb region.

"We had Consumers' a few years ago," Graff said. "And they wanted to write the (wind turbine-related) ordinance for us, which we didn't feel comfortable (with)."

Graff said the company "pretty much" wanted to write a draft of an ordinance, hand it to township officials, and have it be put in place.

Dan Bishop, director of media relations, Consumers Energy, provided a written statement via email when asked specifically about Graff's comments that the company "wanted to write" Elmwood Township ordinances.

"Consumers Energy is committed to working in a respectful manner with local elected representatives and residents. When we began the process of developing our Cross Winds Energy Park, we evaluated wind strength and other factors in several Tuscola County townships, including Elmwood Township, where we believed our second wind project in Michigan could be successfully located.

In the statement, Bishop points out that Consumers ended up building Cross Winds in Akron and Columbia townships. Consumers officials told The Advertiser last week that it has taken measurements in the area as part of plans for what could be another wind turbine park.

The statement concludes with:

"We maintain a respectful relationship with Elmwood Township elected representatives and residents. We are honored to share our subject matter expertise on energy issues and do so upon request and in a manner fully

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Comment

56°

CARO

Humidity: 26%
Wind: 5 mph @ 57°
11:02 AM EDT

63° 64° 65° 55° 60°
THU FRI SAT SUN MON

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respectful of final township authority. Assertions that we act in a contrary manner are simply incorrect."

Representatives of the group Ellington Township Concerned Citizens in nearby Ellington Township have alleged a conflict of interest between NextEra Energy Resources Inc. and Township supervisor Duane Lockwood.

NextEra Energy Resources (and/or a subsidiary) plans to build Tuscola III – a wind farm with a \$200 million price tag – in Ellington, Almer, and Fairgrove townships.

Lockwood is a leaseholder, but only recused himself from any township and wind turbine-related business on March 1, while official meeting minutes dating back more than a year show he was providing updates about the project on the public record.

"I've heard there's concerns about me being a leaseholder and issues dealing with wind energies," Lockwood said during the March 1 meeting. "I don't think it's an issue myself, but given the concerns I will recuse myself from dealing with wind energy issues from the board tonight."

Consumers Energy's approach to Elmwood Township is different than that used by NextEra Energy Resources in dealing with Ellington, according to Lockwood.

The Advertiser filed a request Feb. 23 through Michigan's Freedom of Information Act to obtain any communication between NextEra and Township Supervisor Duane Lockwood in his capacity as an elected official.

Lockwood denied the request saying there have been zero written communications between him in his capacity as a township official and NextEra.

Further, he said the only communication between him and NextEra has been one sentence statements where the company asked to get on agendas for Ellington Township board of trustees and planning commission meetings.

Andrew Dielderich is editor of The Advertiser and can be reached at andrew@tcadvertiser.com

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Emails show Ellington Twp. fast-tracked wind laws

Posted by Andrew Dieterich on April 9, 2016

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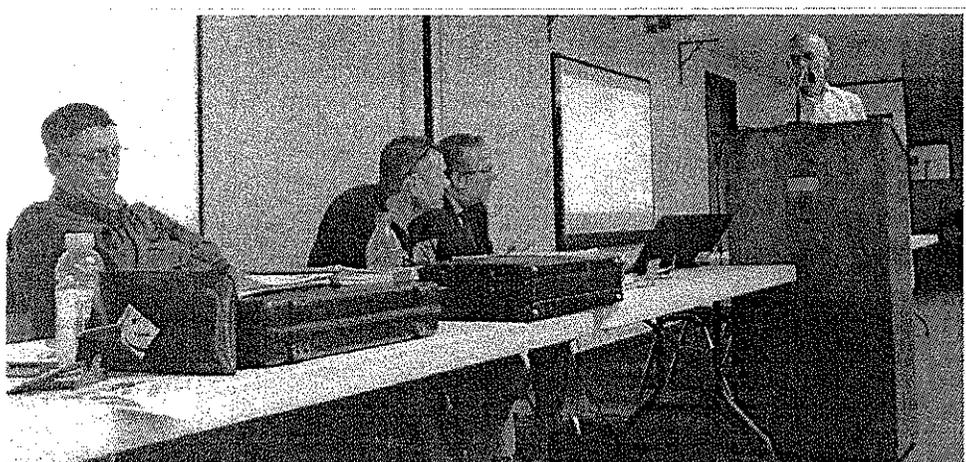
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Ellington Township resident Mike Patulo addresses the board of trustees about his frustrations, including the township's noise and setback ordinances during a February board meeting. The board said nothing to him. (Photo by Andrew Dieterich)

ELLINGTON TWP. — Ellington Township's contentious wind ordinance was fast-tracked into law with little public input and almost entirely based on recommendations from one Saginaw engineering firm using what the company calls its "wind development experience and knowledge."

That's according to emails obtained by The Advertiser through Michigan's Freedom of Information Act requesting all written communications between township officials and engineering firm Spicer Group from Jan. 1, 2013 to March 15, 2016 and regarding wind turbines and/or the project known as 'Tuscola Ill.' The documents can be found here.

The Advertiser filed the FOIA request to try and get a better understanding of how the ordinance actually came to be in light of many contentious meetings held during the last four months.

The records show it took just a little more than six months from the time Spicer submitted its "scope of work" to review the ordinance to the time it was voted into place by the township board. The emails show drastic changes, too, such as Spicer inexplicably recommending elimination of what some feel are crucial lines like, "The tower shall not be unreasonably injurious to the safety or market value of nearby properties."

Some say that change itself is a metaphor for why there's been such so much contention.

"A lot of people have been following what's been happening with the Flint water crisis and the word that keeps popping up is 'transparency' and there's just a lack of it here," said Norm Stephens, a member of the group known as the Ellington-Almer Concerned Citizens, who said he was stunned to see the change.

The ordinance review and adoption came as representatives of Juno Beach, Florida-based NextEra Energy Resources were negotiating leases for land to construct Tuscola III, a \$200 million wind turbine project the company has planned for Ellington, Almer, and Fairgrove townships. The company plans to launch operations for Tuscola III in 2017.

Duane Lockwood, supervisor, Ellington Township, was among those in negotiations with representatives of NextEra Energy Resources L.L.C. to lease land to the company, a fact with which some have taken issue.

"We were right," said Jim Tussey, also a member of the group. "It's clear that there are personal issues being pushed by a few large landowners and those people also happen to be in positions of authority."

Tussey said he and other members of the concerned citizens group believe it was that pressure that led township officials to quickly enact what the concerned citizens have called a weak ordinance. They say what was adopted in Ellington Township was more about how many turbines can fit into one space and less about health, safety and overall impact on the community.

"That pressure led them to not research the details of the ordinance...because they were promised that the details had been taken care of by the professionals and that the people would be protected," said Tussey.

The Advertiser tried to talk with Robert Eggers, principal, Spicer Group, after a March 12 Ellington Township Planning Commission meeting. After just a few questions about who pays Spicer and how much it has been paid for its work with the township, Eggers refused to answer and walked away.

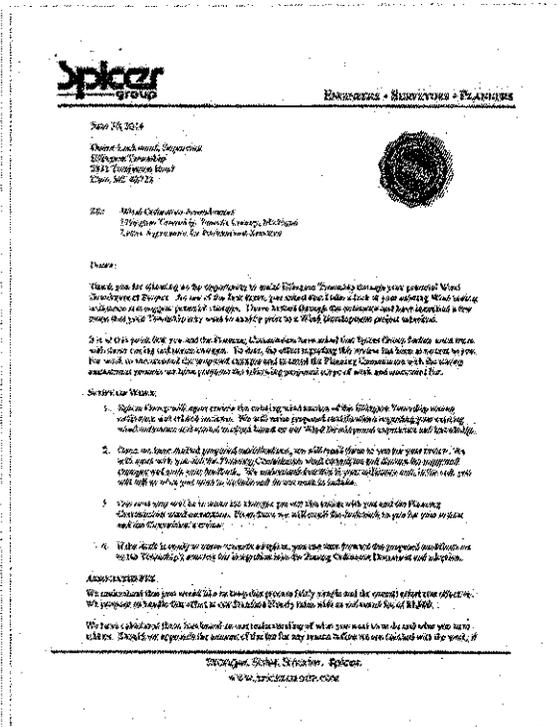
Lockwood, who has recused himself from any official activity at the board level, did not respond to a request for interview by press time.

Brian Garner, attorney for Ellington Township, insisted that "no one is trying to hide the ball here."

Officials from NextEra Energy have told The Advertiser that meeting with community leaders outside of open or public meetings is part of business. They said there are times when some of those leaders also are potential leaseholders.

For example, the emails show Lockwood was involved in private meetings with Spicer and NextEra representatives as the project continued evolving. That includes an Oct. 14, 2015 meeting in the Ellington Township Hall that consisted of a project overview, schedule, "township ordinance/ application package walkthrough," and next steps.

Bryan Garner, manager of communications at NextEra Energy Resources, said the company would not have been able to have more than 100 wind farms around the country and Canada if it weren't a good neighbor.



Ellington Township response to March 15, 2016, FOIA request from The Advertiser (Click image to read)

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"We are a trustworthy company," Garner told The Advertiser. "We have three core values at our company -- committed to excellence, doing the right thing, and treating people with respect and that permeates everything we do."

How Ellington got to now

Ellington Township's wind ordinance has been a point of contention for the last four months, largely after the group that has grown to become known as the Ellington-Almer Concerned Citizens became aware of it.

Mike Pattullo, of Ellington Township and group member, recently told the Tuscola County Board of Commissioners even that might not have happened if Lockwood hadn't mentioned the project when the two were part of a group putting up a Christmas tree in late 2015.

The group has consistently said it isn't against wind turbines -- only the township ordinance with respect to setbacks, or where wind turbines can be located in relation to other things.

Since early this year, the group has asked the Ellington Township Board of Trustees to put a moratorium in place and have the Ellington Township Planning Commission review the ordinance. The planning commission did hold several meetings on the subject but ultimately decided to not make any recommendation, effectively keeping the ordinance in place.

On Monday, however, the board of trustees sent the ordinance back to the planning commission once again -- only this time with more specific direction as to what aspects of the ordinance to review. The board also issued a four-month moratorium.

Emails from Spicer to the township are particularly telling about how the township's important wind ordinance came together fast during the second half of 2014.

A letter dated June 30, 2014 from Spicer Group addressed to Lockwood indicates "you asked that I take a look at your existing Wind zoning ordinance and suggest potential changes."

Minutes of meetings from the township board meeting held Aug. 14, 2014, show Lockwood indicating that Eggers, of Spicer, would attend a planning commission meeting set for Sept. 16, 2014.

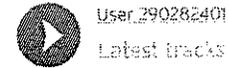
Minutes from the Sept. 16, 2014 planning commission meeting show that Eggers -- with several NextEra representatives in attendance -- presented a "draft copy of the proposed changes." The minutes show there wasn't much discussion about the changes.

A Sept. 18, 2014 email from Spicer to Ellington Township Planning Commission Chariman George Mika, however, followed and included 13 pages with "proposed changes." The email from Spicer says "Attached are the sections of your ordinance with the proposed revisions."

No context or explanation is given for the changes.

Some proposed revisions are minor -- such as changing references of "commercial windmills" to "wind energy conversion systems" while others are more significant.

For example, Spicer recommended deletion of an entire paragraph requiring, among other things, an



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January 14, 2014

The regular meeting of the Ellington Township Board was held January 14, 2014 at the Ellington Township Hall.

Present, were: Diane Lockwood, Mike Wagner, Diane Widler, Pat Price, Fred Burdwell and one visitor.

Mr. Lockwood called the meeting to order at 7:30 P.M. and called the agenda for the December 10, 2013 meeting, which were accepted as read.

The monthly treasurer's report followed, with as follows:

General Fund	\$257,118.42 plus \$8,905.99 in Savings
Fire Fund	\$224.54
Road Fund	\$64,184.50 in Checking
Water Fund	\$43,162.79 in Checking

Summary taxes collected to date are \$331,439.23; 40%
Water taxes collected to date are \$193,632.34; 41%

Diane Lockwood moved that the treasurer's report be returned into the minutes and Pat Price provided support, and the motion passed by a full vote.

The following bills were presented:

Cherry Hill	\$13,268
Tapler Hollowfield	\$225.43
Apex Software	\$165.00
Ford Hardware	\$56.58
Star Price	\$600.00
Cass City Gas & Oil	\$447.58
Diane Widler	\$412.94
Parsons Agency	\$231.47
Therapy Office Supply	\$24.59
Tuscola County Treasurer	\$694.35
Cass River Capital	\$175.00
Tuscola County Road Construction	\$6,957.15
Commuter Services on 12/7	\$99.00
DTF	\$49.23
Printer's Supplies	\$37.20

Following discussion, Diane Lockwood moved the above entries be returned to the General Fund. Support was provided by Diane Widler and the motion passed by a full vote.

1

Official minutes from Ellington Township Board of Trustees meetings (2014-2015) (Click on image to read all minutes)

applicant to "submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards."

Also deleted is a sentence that says "The tower shall not be unreasonably injurious to the safety or market value of nearby properties."

On Sept. 30, 2014 – 12 days after Spicer sent its proposed changes – the Tuscola County Register of Deeds recorded at least one lease agreement between Lockwood (Ellington Land Properties L.L.C.) and a subsidiary of NextEra Energy Resources.

Tussey said he doesn't believe three months is enough time to develop an ordinance tailored to a specific project and/or community.

"I think that's plenty of time to copy another ordinance from another community," Tussey said. "In any engineering work, you always have to present where your data came from and what is missing from all of the work I've seen from Spicer is any supporting data – they've simply said 'This is what we recommend.'"

On Jan. 13, 2015, Lockwood made the motion to put the township's current ordinance – and proposed changes – in place. The ordinance was approved.

Other emails raise further questions.

For example, official minutes of a June 9, 2015 township board meeting – obtained through a separate FOIA request – say "Duane Lockwood opened the meeting to the public; George Mika had questions regarding wind turbines." No other mention of wind or wind turbines exists.

However, emails show a lot more was happening behind the scenes at the same time.

A June 10, 2015 email exchange – one day after the township board meeting – is a detailed conversation between Mika and Eggers about setting up escrow accounts for decommissioning of wind turbines. Lockwood is cc'd (included) in nearly all of the emails.

"Do you know how many turbines they might place in Ellington Township? The amount of turbines helps determine the escrow amount. Without knowing, I think starting with around \$50,000 or \$60,000 is good," Eggers wrote to Mika.

"We understand that the total number for the project will be about 59 turbines to be split between Ellington and Almer townships. They have not identified how many will be placed in Ellington specifically. Maybe half??" Mika said in his reply.

A Sept. 17, 2015 email from George Mika, chairman, Ellington Township Planning Commission, to Eggers is typical: "Let me discuss with Duane and get back to you on timing. Doesn't this first meeting need to be advertised and open to the public?"

An email response to that wasn't provided. Township attorney Brian Garner says the response "may" have been in a phone call or in person.

Feeling encouraged

After months of attending various public meetings all over Michigan's Thumb region, Pattullo and other concerned citizens say they are starting to feel encouraged by the response of officials to citizens speaking up.

He told The Advertiser there's been a dramatic change in the way public officials are more open to considering all sides of the conversation when it comes to any issues regarding wind turbines. He wouldn't say who, but someone even proactively reached out to him via text message to let him know about Monday's special meeting in Ellington Township.

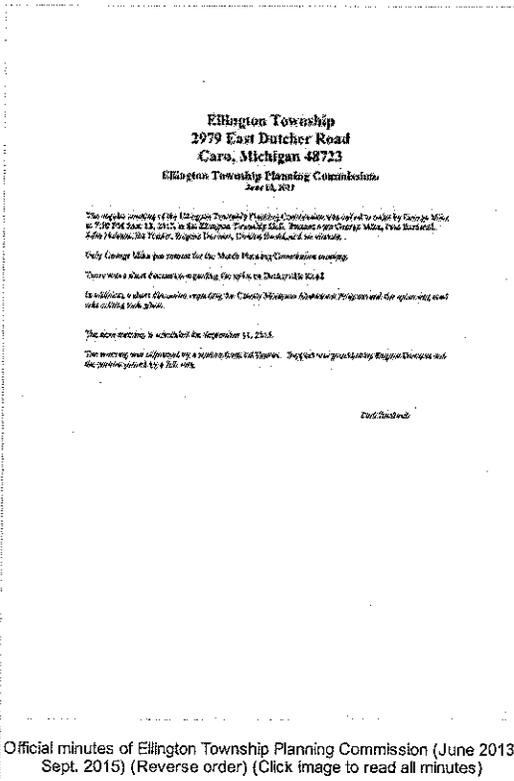
And Pattullo was among the first to thank the Ellington Township board when it voted to enact a four-month moratorium

at that meeting.

Pattullo said he feels the breaking of the ice occurred during the Ellington Township board's annual meeting, held the day before Easter.

"We just hope it continues," Pattullo said.

Andrew Dielderich is editor of The Advertiser and can be reached at andrew@tcadvertiser.com



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Posted by Andrew Dietderich on April 16, 2016

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Humidity: 70%
Wind: West 5-17
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ALMER TWP. — The Almer Township Board of Trustees voted Tuesday to not issue a moratorium against wind turbines, with one board member going so far as to accuse citizens of 'filibustering' to delay wind development as opposed to having legitimate concerns about health and safety.

The board voted 4-0, with two board members abstaining "due to some issues and concerns."

The vote means that while the Almer Township Planning Commission continues to review proposed revisions to the township's wind ordinance adopted in 2011, wind developers can apply for the permits they need to move forward with project.

And that's despite the fact that on April 6, the Almer Township Planning Commission voted 6-1 to recommend the township board put a moratorium in place while planning commission members continue reviewing the wind ordinance.

Some in attendance at Tuesday's meeting were not happy.

"I feel like you threw your own planning commission under the bus," said Mike Pattullo, an Ellington Township resident and member of the group known as the Ellington-Almer Townships Concerned Citizens. "They made a conscious decision 6-1 to ask you guys for a stay and you pretty much ignored them and said 'No, go back and do it under pressure, tough luck.'"



Almer and Ellington township officials are currently reviewing their respective wind ordinances in light of Juno Beach, Florida-based NextEra Energy Resources L.L.C. planning to construct its third wind farm in Tuscola County.

The wind farm – Tuscola III – represents a \$200 million investment. A specific plan has not been released, but the number of wind turbines planned to be part of Tuscola III have generally been between 50 and 60.

NextEra Energy Resources has filed applications for 60 turbines with the FAA, which will determine any potential hazards to aircraft. NextEra officials have said the applications aren't necessarily guaranteed to be locations of where turbines will be located – only that they could be placed. NextEra officials also have confirmed land surveys are underway for turbines.

Mark Trumbauer, project manager, NextEra Energy Resources, addressed the board and concerns that were expressed about the durability of wind turbines, how complaints about them are handled, and decommissioning (what happens to wind turbines when they're no longer used).

He also urged the board to not put a moratorium in place.

"A moratorium at this time, I don't think serves the community in a way that you intend or they intend it to do," Trumbauer said. "I think what we're doing is slowing down. It's no secret that we've been out here working. We've got landowners who have leased and have interest in the project. We want to move this project forward."

"The ordinance as proposed? Get those enacted. Push those through. Make the final steps," Trumbauer said. "Don't enact a moratorium tonight...let's just keep going forward."

Dan Ettinger, attorney for NextEra, had the last word from those in the audience before the board discussed the moratorium.

"I sent a detailed memo to Mr. (Brian) Garner, the township attorney...talking about the legality of passing a moratorium tonight, and so, I'll leave that to Mr. Garner."

It's unclear what he meant, though several people who heard the comment have told The Advertiser they considered it a veiled threat of legal action.

The Advertiser requested a copy of the "detailed memo" provided to the taxpayer-funded township attorney from

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Garner and the township's "official" listed email, but the request sent Thursday was ignored.

Jim Miklovic, supervisor, Almer Township, and Mike Putnam, trustee, Almer Township, recused themselves from board discussions "due to some issues and concerns regarding wind energy in the township."

They are the second and third area officials to recuse themselves from discussions or decisions regarding wind turbines.

The first was Duane Lockwood, supervisor, Ellington Township, who recused himself in February.

Patricia Witkovsky, of the Almer Township board, said during the meeting that she questioned if the planning commission can do enough research before the next meeting, which is scheduled for May 4.

She said she was "a little disturbed" by some aspects of the ordinance and wants the planning commission to not feel rushed.

"If it takes a moratorium, then that's what we should do," she said.

But Brian Schriber, the Almer Township board member who also serves on the planning commission – and voted against recommending a moratorium – said the planning commission "went through a bunch of stuff" about a year ago to develop revisions to the ordinance the group "felt was workable."

"We felt we had a good ordinance. We had nobody in contention of it," Schriber said. "And all of the sudden, out of nowhere, we have a lot of people under contention."

Witkovsky said more people have become aware and been paying closer attention as the project has been moving along.

"As they gather more information, they have more questions," she said. "And now it's to the point of questioning some of the things that are in the old ordinance...I'm hearing a lot of issues that should be dealt with."

Charlie Dennis, trustee, Almer Township board, said citizens were filibustering to delay wind development.

"I guess it kinda reminds me of the senators or congressmen filibustering until the program dies because of the time limit and I have a feeling that's kinda how I get this here that we're gonna keep filibustering until NextEra goes away or they hope they go away," Dennis said.

Andrew Dietderich is editor of The Advertiser and can be reached at andrew@tcadvertiser.com

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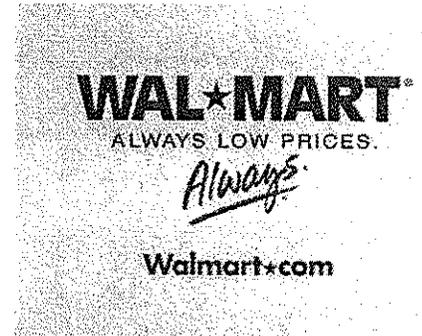
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Posted by Andrew Dieterich on March 23, 2016

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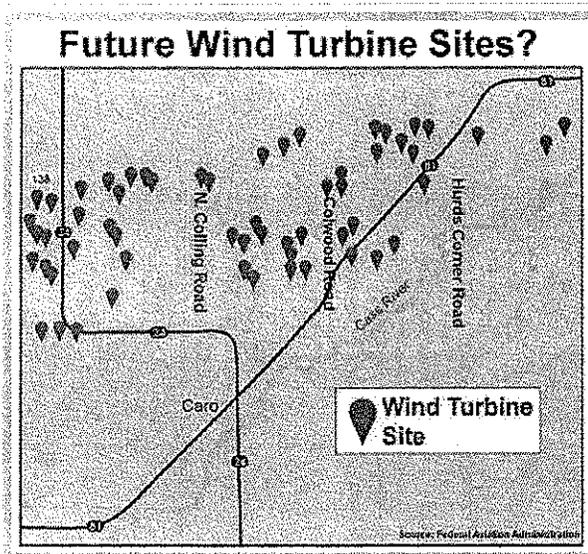
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CARO — NextEra Energy Resources L.L.C. continues pushing plans forward to install 61 turbines near Caro and Cass City as a part of a new \$200 million wind farm — despite citizens' concerns and unresolved issues in several Tuscola County townships.

The company filed applications March 15



with the U.S. Federal Aviation Administration for 61 turbines generally near Caro toward the Unionville-Sebewaing area and northeast toward Cass City (see map).

The applications were filed less than 24 hours after video and audio recordings of a March 14, 2016, Almer Township Planning Commission meeting, show a NextEra

representative saying the company couldn't provide details about specific locations because it was "still working on its plans."

Almer Township Planning Commission Chairperson Robert Braem asked the NextEra representative directly during the meeting about plans for the area. The question came as the commission was considering different factors in light of possibly amending current wind turbine-related ordinances.

"Do we have any sense of how many turbines?" recordings show Braem asking the NextEra rep.

The unidentified NextEra rep responded by saying, "I don't know if I can honestly answer that question, where we're at today. And that's an honest answer."

However, less than 24 hours later, the company filed applications for the 61 turbines that would be part of Tuscola III, a wind farm that the company has publicly tagged at north of \$200 million and located in parts of Almer, Ellington, and Fairgrove townships. (Story continues after video)

NextEra addresses question about plans for wind turbine...



The applications are specific, right down to the latitude and longitude coordinates of each of the 61 turbines that are each 499 feet tall.

Braem did not return a voicemail left yesterday by press time.

Mike Putnam, trustee, Almer Township Board of Trustees, told The Advertiser Tuesday that he is a leaseholder for the new wind farm, similar to Duane Lockwood, supervisor, Ellington Township.

Putnam said the company may have had a business reason for not being able to answer the board's question about detailed plans.

"Well, they're just like everyone else, they might not know until the next day," Putnam said. "Maybe the people that were here didn't know that until then, or weren't allowed to say that until then. Companies have rules amongst themselves of what they can disclose and what they can't disclose at certain times."

NextEra Energy Resources is a subsidiary of Juno Beach, Florida-based NextEra Energy Inc. (NYSE: NEE), which had net income of more than \$2.7 billion in 2015, according to the company's annual report. Of that NextEra Energy Resources accounted for almost \$1.1 billion

Ryan Pumford, project director, NextEra Energy Resources, did not respond to a voicemail asking specifically about

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the FAA applications.

Several area residents concerned about noise and setback ordinances relating to the project had mixed feelings about the applications being filed with the FAA.

"We are fortunate to have the (Caro) airport because without the FAA filings, we still wouldn't know about the plan," said Jim Tussey, of Almer Township.

Calls placed by The Advertiser to the FAA to get clarification on filing requirements for wind turbines near airports were not returned by press time.

However, all of the applications filed March 15 are available publicly by searching for "Michigan" on the organization's website at <http://1.usa.gov/1MI66pV1>

"I don't think NextEra ever stopped moving ahead with their plan," Tussey said. "They have confidence that they can get the townships to continue to roll over with increasingly lenient zoning."

Norm Stephens, of Almer Township, also said it's good for people who live in the vicinity of a wind turbine to get an idea of what the wind farm could look like.

"I guess I understand NextEra filing the applications with the FAA because they're trying to push this through," Stephens said. "My concern is the planning commission taking most, if not everything, that NextEra says as the gospel truth."

Almer Township is reviewing its current wind turbine-related ordinances with the planning commission set to hold a public hearing on the matter April 6. The commission is expected to then make a recommendation to the township board.

The Ellington Township Board of Trustees is set to discuss its ordinance regarding wind at its April 5 meeting.

Andrew Dietderich is editor of The Advertiser and can be reached at andrew@tcadvertiser.com

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Tom Stacy • 2 months ago

It is important that setbacks from nonparticipating landowners be measured from property lines and not from an interior feature of the non-participant's land. It is equally important that setbacks not be a fixed distance, but rather a multiple of total turbine height. Three times total height is roughly in line with wind turbine manufacturer safety guidelines for the safety of project employees, but are insufficient to prevent audible and sub-sonic noise/vibration issues for nearby inhabitants. But anything over 3X height makes it necessary for the developer to have a lease with most or all of the homeowners in the project "industrial zone," something developers say they cannot afford. It is certain, though, that smaller wind turbines are available which make a 3X height setback easy to comply with and offers some property rights protection for non-participating land owners.

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David • 2 months ago

NextEra is destroying the thumb area with these hideous wind turbines. I'm not opposed to clean energy but these things are eyesores.

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NEWS ON TUSCOLATODAY

Cass City parks and rec plan calls for \$2.1M in upgrades by 2020

1 comment • 3 months ago

Delanah — Save \$1M by keeping gravel road instead of paving it. Not worth half the cost of amenity improvements.

(Video) Piano 'peace': Akron lady, 93, finds solace on keys

1 comment • 2 months ago

Sandra and Dick Parto — Way to go Susie, we miss you and you surprised us by playing the piano. Wonderful!!! Sandra and Dick

Cass River revitalization ramping up in 2016

1 comment • 2 months ago

John G — The Saginaw Bay RC&D, the Frankenmuth Planning Commission, and the Cass River Greenway are doing a fantastic ...

Loaded gun found at Mayville High School

1 comment • a month ago

Johnny G — As a parent of a 9th grader I must say the administration did a fantastic job in the process of handling this. The ...

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Michigan residents and township officials decide more time is needed to do the wind ordinances right!

- **Elmwood Township---1 year moratorium**

"We thought it would be a good idea to take a time-out, reevaluate where we're at, and try to make an educated decision on what we had," ----Chris Graff, Board Supervisor

- **Marion Township---6 month moratorium**

"We were given the time to do this the right way and we need to move forward as a community," Block said. "We want to write an ordinance that respects both participation and non-participating land owners." ----Jon Block, PC member

- **Argyle---Won referendum**

Ted Hartke of Illinois told officials that his family was forced to abandon their house in Vermilion County, Illinois because the sound levels of the wind turbines 1,665 and 2,225 feet from their home and bedrooms were routinely louder than zoning ordinances allowed.

- **Meade---Won referendum**

The results show voters defeated a proposal 222-147 that would have allowed DTE to continue a project with up to 48 wind turbines in the township. **(60% voted against the wind turbines)**

- **Moore Township---Won referendum**

There were 246 no and 181 yes votes **(58% voted against the wind turbines)**

- **Wheatland Township---Won referendum**

Setbacks within Wheatland's amendment stipulated each turbine had to be away from the nearest residence, school, hospital, church, library or municipal limit at a distance of no less than two times its height or 1,320 feet, whichever is greater. ----the referendum voided the amendment --- **(105 yes votes and 60 no votes)**

- **Ellington Township---4 month moratorium**

The Board voted unanimously to direct the PC to revisit ordinance as to specs set to property lines--not to home.

- **Washington Township---6 month moratorium**

- **Bridgehampton Township---PC requested moratorium**

- **Almer Township---PC requested 6 month moratorium**

After additional research, the PC switched gears completely by recommending a 6 month moratorium with a 6 to 1 vote three weeks after voting 4 to 3 to pass a wind ordinance. The lone PC dissenter? His father owns wind leases. The Board, with three Board members/families owning wind leases, denied the moratorium.