

ROLL CALL

Harry Baumgartner, Jr.	Jerome Markley
Angie Dial	Keith Masterson
Jarrold Hahn	Mike Morrissey
Bill Horan	Tim Rohr
Richard Kolkman	John Schuhmacher
Finley Lane	

Michael Lautzenheiser, Jr., Director

The March 1, 2012 meeting of the Area Plan Commission was called to order at 7:45 p.m. by President Jerome Markley. Ten members were present for roll call. Mike Morrissey was absent.

APPROVAL OF MINUTES:

Jarrold Hahn made a motion to approve the minutes from the February 2, 2012 meeting; Bill Horan seconded the motion, the motion carried with a vote of 10-0.

OLD ITEMS:

Continued from the December 8, 2011 meeting

Andy Antrim, attorney representing the Wells County Area Plan Commission, discussed the purpose of the meeting. He stated when the WECS ordinance was added and amended into the ordinance. He also discussed the agenda and the order of the meeting.

THESE WERE DISCUSSED TOGETHER

A11-12-27 CHESTER TWP & LIBERY TWP Multiple Locations Wells County Wind, LLC (APEX) requesting development plan approval for Phase 1 of a Large WECS project with a minimum of 111.6 MW consisting of 62 – 1.8 MW wind turbines. The multiple properties are zoned A-1.

A11-12-28 CHESTER TWP & NOTTINGHAM TWP Multiple Locations Wells County Wind, LLC (APEX) requesting development plan approval for Phase 2 of a Large WECS project with a minimum of 100.8 MW consisting of 56 – 1.8 MW wind turbines. The multiple properties are zoned A-1.

Kent Dougherty and Rob Propes represented Apex Wind Energy. Kent Dougherty stated the significant revision to the project layout in response to the community’s concerns. He noted that these changes did not have to be made, but were made to try and be good neighbors in the community. There was a 28% total decrease in the project. 33 turbines were removed from the project, bringing the total wind turbines for the project to 86. Phase 1 was decreased by 25% and phase 2 was decreased by 30%. The average minimum distance from all houses to turbines is 1,420’ft, which exceeds the required setback by 42%. The average minimum distance from non-participating houses to turbines is 1,614’ft, which exceeds the required setback by 61%. He also stated that they were also able to significantly reduce the impact from shadow flicker.

Kent Dougherty advised the board that local utilities are using wind energy. AEP, the parent company of Indiana Michigan Power (IMP), is currently purchasing 1,908 megawatts of wind power. The total includes 5 power purchase agreements from the Fowler Ridge Wind Farm in Benton County, Indiana. IMP also announced, in May 2011, that they would purchase 100 megawatts from the Eon Wind Energy project located in Grant, Tipton and Madison Counties in Indiana. He also stated that Wabash Valley Power Association and Hoosier Energy currently purchase 308.4 Megawatts of wind power from three projects in Iowa and Illinois.

Mr. Dougherty commented on the strong national and state support of wind power. Indiana State Bill 251 calls for 10% of the state's electricity to come from renewable sources by 2025. 77% of Indiana voters supported this bill. He also advised that wind energy is bringing jobs to the State of Indiana. There are 166 Indiana companies contributing to the wind industry in some way.

Matt Eckerle, Wells County Accountant from H.J. Umbaugh & Associates, stated the reason that the company was hired by the county was to provide an analysis of the property taxes impact of the proposed wind turbine project on Wells County. He provided a summary of the basis for all of the assumptions in the development of the analysis. He provided a graph of the estimated annual property taxes and abatement savings for the proposed Apex wind farm. He stated a disclaimer that these property tax revenues do not necessarily represent new revenue to the taxing units within Wells County. The abatements decrease by 10% each year until they reach zero in the year 2025. Correspondently, the property tax payments will be increasing proportionally over that period of time. The reason for the abatements being higher, at the beginning of the time frame, than what the estimated property taxes being received, at the end of the time period, is due to depreciation. For property tax purposes, the asset cannot be depreciated down to zero. The lowest that an asset, in Indiana, can be depreciated is to 30%. After the 10 year property tax abatement falls off, the estimated annual taxes paid by the wind farm would be \$885,000. During the life of the abatement, it is estimated that the company would save just under \$6.1 million.

Mr. Eckerle also provided a graph of the estimated property tax rate impact from the proposed Apex wind farm. The graph concentrated on homeowners in Chester, Liberty, and Nottingham Townships. He discussed how property taxes in Indiana are calculated. As the assessed value grows, the tax rates will decrease. This will be most noticeable in the three townships mentioned, but will also affect the tax rates on the county as a whole. The three townships mentioned tax rates by 2026 will have decreased by about \$0.12 to \$0.13 per \$100 of assessed value. He then presented a chart on the estimated property tax reductions from the proposed Apex wind farm. The chart assumes the standard deduction, the supplemental homestead deduction and the mortgage deduction for a residential property. Based off of the 2000 US Census, the median home value for Wells County was \$87,900, with that assumption, the property tax reduction in Chester Township would be \$31, Liberty Township would be \$33 and Nottingham Township would be \$32. The reduction in property taxes also spread to the agricultural land and businesses as well. The final chart that Mr. Eckerle presented was the estimated additional property tax revenues from the proposed Apex wind farm. It stated the estimated potential new money for the Chester and Liberty Township Fire Departments, the Southern Wells Schools capital projects and the Southern Wells Schools referendum. Southern Wells Schools capital projects net change from 2015 – 2026 would be \$242,300 and the cumulative change from 2015 – 2026 would be almost \$1.5 million.

Jim VanWinkle, County Council Representative involved in the negotiation process with the wind companies, listed the agreements that are made between the county and the wind companies as the road and drainage, decommission, and the economic development agreements. Mr. VanWinkle discussed the economic development agreement that was decided upon between Wells County and Wind Capital Group, which was due to the fact that it should be similar to Apex's, whose agreement negotiations are not complete. The economic development agreement is linked with the road and drainage agreement in that both parties will do their utmost to cooperate. The company will make economic development payments to the county. Wind Capital will pay the amount of \$12,000 per megawatt. This amount will be paid in four equal payments over a three year period. All of the payments are binding, even if Wind Capital Group is bought out by another company. The recommended use for the funds would be first, that a substantial amount of the funds be used as a revolving loan with a low interest rate for county governmental entities for capital projects. The second recommended use for the funds would be to that 50% of the economic development payments be available to the county townships that have turbines within the township. The amount available for each township will be determined based off of the number of turbines in that township. The third recommendation is that the Town of Poneto, the only incorporated town within the project area, receives a one-time grant of \$120,000 for economic development. All use of this fund by Poneto must be reviewed and approved by the County Commissioners and the County Council.

Scott Mossburg, County Commissioner involved in the negotiation process with the wind companies, discussed the road and drainage agreement along with the decommission agreement. The drainage part of the agreement stated that the company will take care of any damage done to the drains and there is a two year commitment. Bridges will also be addressed in this agreement, where the condition of the bridges will be restored to as good as or better condition than what they were before the project began. The road part of the agreement has penalties in it, which state that if the roads are not kept up during construction to a travelable level that the company will incur penalties. There will be times that roads are closed, but the proper agencies will be notified before this occurs. Once the project has been completed, the wind company will chip and seal all gravel roads that they traveled on, along with making the paved roads back to an acceptable condition. Mr. Mossburg advised that Barnes & Thornburg are the legal counsel for Wells County on the wind projects. Counsel is hired by the county, but is paid for by the wind companies. He discussed the decommission agreement, which stated that a letter of credit is needed. A letter of credit says that a bank will guaranty funds to decommission the wind project. The ordinance states that a wind farm is no longer operational after one year of setting idle. The agreement also says that 60 days before the letter of credit is terminated that the county can request the funds for the decommission of the project. He stated that a WECS is the only development plan that needs to have a decommission agreement with the county.

Mike Row, Executive Director of Economic Development for the Wells County Chamber of Commerce & Economic Development, noted that his presentation does not indicate support nor oppose the Apex wind farm project. He stated that the Wells County Chamber of Commerce & Economic Development is not receiving any economic development agreement money. He advised that any change in the project can change the final economic impact. This Local Economic Impact Study was conducted in conjunction with the Community Research Institute of IPFW. The projected earnings are based on the new jobs creation numbers that were provided by

Apex. The projected local economic impact from the projected earnings, of this project, range from a minimum of \$920,169 to a maximum of \$1,315,829.

Mr. Row stated that the number of new jobs, direct, indirect or induced, that are projected to be added to Wells County by this project total 40. He noted that the job projection is based on the post construction/operational stage of the project and not the construction phase. The projected local economic impact of wind farm payments to landowners study assumes \$1.3 million would be received annually by Wells County wind farm participants. After taxes, this will inject an additional \$1.061 million in income into the Wells County economy. With the increase in income, Mr. Row stated two scenarios for growth in Wells County. If 80% of the additional income is spent in Wells County, then there is the potential for 53 new full and part-time jobs. Where, if 50% of the addition income is spent within the county then there is potential for 33 new full and part-time jobs.

Connie Neining, Executive Director of Economic Development in White County, addressed the issue of why wind farms would want to locate to Indiana. She stated that Indiana was in between two grid system. She advised that Benton and White Counties are the only counties with operational wind farms in Indiana and they produce about 1,337 megawatts. She then provided the farming and population statistics on Benton and White Counties. Ms. Neining discussed how White County came up with their wind turbine ordinance and their decommission agreement with the wind company. She then stated that Benton County has 495 turbines producing 836 megawatts and White County has 303 turbines producing 501 megawatts. She addressed that production not only depended on the wind but also demand for the energy. She proceeded to compare the amount of income farmers receive from the wind companies verses the amount of income they receive from farming "normal" crops.

Ms. Neining discussed the benefits that White County has received due to the wind farm project in their county. White County incurred \$1.1 billion in capital investment over the last three years just for wind farms. Benton County's capital investment for wind farms was \$1.5 billion. The White County tax rate before the wind farm was about \$1.35-\$1.38 per \$100 of assessed value and after the wind farm the tax rate is about \$0.90 per \$100 of assessed value. She did mention that there is higher class wind in the Benton County and White County area due to a wind tunnel. She also discussed other benefits outside of their county that the wind farm has created. She also stated that due to the wind farms, tourism has increased in White County.

Ms. Neining advised the board that there has not been any documented health issues due to the wind turbines. She has heard individuals voice concerns about vibration, noise and shadow flicker (shadow movement). There was also an issue with antenna television reception due to the turbines and the wind company remedied the problem with either cable or a satellite dish. She then commented on property values and the fact that the housing market has been difficult due to the economic recession and is unsure if the turbines have any addition effect on that. She did state that there was not a mass exodus of people when the turbines were going up.

Pone Vongphachanh, Government Affairs Director of Upstate Alliance of Realtors, stated that the organization represents 1,200 members in six counties in Northeast Indiana. The Upstate Alliance has not taken a stand on this matter. They strictly educate on the matter of wind turbines. There are several studies that have been conducted on the impact of wind turbines on

property values and those are currently in the process of review. She stated that there is a direct correlation between real estate guidance and perception. For example, if a community thinks the housing bubble has burst, then they will have a different perception on the value of properties. She quoted from a study conducted for Calumet County on the effect wind turbines had on real estate values in two Wisconsin counties. Based on the study for Calumet, they did find that wind turbines did negatively affect the real estate value in that area. However, a study done by Berkley National Laboratory stated that there was no negative affect on the real estate value. Ms. Vongphachanh advised that their study is still in the collection stage. She also presented the board with a packet of information.

Marilyn Maddox, Wells County Concerned Citizens, stated the purpose of the non-profit organization, which is preserving and protecting the rural community and the health and well-being of its citizens. She described the mission statement of the organization, which is to hold the local government accountable to the objectives stated in the zoning ordinance preamble. She then recited part of the zoning ordinance preamble. The Wells County Concerned Citizens have over 1,200 signatures on their petition. She discussed the process of collecting the signatures and also stated the reasons that some individuals did not sign the petition (fear or had signed a lease with the wind company). She then discussed the article that was in the Bluffton News-Banner.

Milo Schaffner, Hoaglin Township trustee from Van Wert County, Ohio, stated that there are three townships in Van Wert County that the wind turbine farm is in. He advised that there was only one township, Union Township, which signed the road use agreement. The agreement stated that the wind company would bring the conditions of the road back to satisfaction. The agreement stated that this could be done through patching the road. Mr. Schaffner stated that the roads were not fixed to the townships standard. He also advised that during the construction process of the turbines, many tiles were broken and have yet to be repaired. He also addressed an issue that their county has had with stakes and poles being on land that was not leased and the wind company not removing these items from the non-participating properties. There was also an issue with the wind company building too close to a gas line. The wind company ignored the notification from the gas company and built anyway. Their county board had the wind company shut that part of the project down and remove all of the concrete and equipment, which has destroyed that farm field.

Mr. Schaffner then stated the conditions at his house, which is about a mile away from the nearest turbine. He advised the board that at times the turbines sound like jets and that vibrates the house. He said that it was not uncommon to hear the noise of the turbines over the television. There was a fellow township trustee, whom was for the wind turbine project, that lives 3600'ft away from a turbine and it keeps him awake in the middle of the night. He stated that the turbines are the loudest between around 10p.m. and 7a.m.

William Morris, Wells County Concerned Citizens, gave an introduction to Richard James, where he listed Mr. James credentials as a mechanical engineer with over 40 years of experience in applied acoustical engineering. Mr. Morris also gave a summary of Mr. James' work with advising government groups on wind turbine projects.

Richard (Rick) James, Principal Consultant with E-Coustic Solutions from Okemos, Michigan, stated some additional background information on his work within major industries. He

discussed the areas of the country where he has spoken about wind turbine projects. He stated that of those wind turbine projects, there were a few that were good because they were in low residential areas. He discussed research that he conducted that was published in peer reviewed journals and professional conferences. Mr. James discussed research that the World Health Organization did on health and noise. The study was conducted between 2000 and 2009 on how individuals reacted to noise. He advised that due to this study, it is the reason why there are sound barriers between highways and housing developments. Adverse health effects due to noise at 50 decibels will affect the elderly, children and individuals who already have health issues involving vestibular function. The World Health Organization advised that for noise, with a large proportion of low frequency sounds that 30 decibels is recommended. The 1999 study by the World Health Organization stated that nausea and cardiovascular diseases can be caused by low frequency vibrations and sound. These low frequency vibrations also have an affected on airport designs. He advised that low frequency noise is an immediate concern.

Rick James then discussed noise pollution, which is when there is excess noise over the ambient sound level. If the noise increases by 5 decibels above the ambient level, individuals are still fine with the sound level. With a 10 decibels increase, individuals become annoyed by the noise and at 15 decibels people are highly annoyed. What will occur to the people of the community when this project comes in which will be 28 decibels above the ambient sound level?

Mr. James advised that since the 1980s, NASA has been doing research on wind turbine noise and has concluded that the primary sound produced by wind turbines is infra sound and low frequency sound. Infra sound is in the range from zero to 10 hertz. He stated that wind turbine noise travels farther than other sounds, which it can be heard from miles away. This noise will be heard outside, but would be a significant indoor noise problem due to room reverberation. The NASA study also states that the threshold of hearing can be up to 10 times more sensitive to the dominant components of low frequency impulsive noise. He also advised the board that Apex's sound models are inaccurate and flawed. He stated that there was not enough information on the study that Apex did to base a decision on.

Mr. James compared the health risks of work on turboprop jet engines and "Sick Building" syndrome. Both have caused a physical response due to infra and low frequency sounds, which is similar to the reported symptoms of "Wind Turbine" syndrome. He then critiqued the background sound study that was done by Wells County. He stated that the study was done only during windy days, which does not truly determine the background sound. These sound levels could be conducive of night time sound levels, however, with the device used the levels for night time sound would still be read as higher. He also said that the device used to collect the data was an inferior product for the type of study that was being done. He advised that the devices readings were higher than they should have been due to the fact that the product picks up its own noise in the readings.

Then, Mr. James proceeded to show the board slides of photos and graphs and discuss them. The first photo was of wind turbines taken from the air above them to show the wake of the air that was disrupted by the turbines motion. He then listed wind turbine complaints attributed to sound, both audible and non-auditory. The non-auditory complaint listed was body sensations and building response. He discussed the difference in the sound levels of the turbines during the day compared to the sound levels at night. The levels at night are higher due to the cooler calm

ground level and more windy conditions at the hub of the turbine. Next, Mr. James discussed a graph about the high levels of infra and low frequency sound, which was based off of 1.5 megawatt output. The next chart was on GE's 1.5 megawatt turbine, which showed that the sound was clearly audible indoors. Mr. James then discussed two charts that had to do with the amplitude modulation of wind turbine noise both outdoors and indoors. He then showed a copy of the Apex sound map and reiterated that the results were not accurate. He stated that the sound analysis was done using the GE wind turbines, which are not the turbines that are going to be used for the project. Plus, he noted that the decibel level at the substation was not mentioned. The next chart presented was one on a year-long study done on the sound levels at the Mars Hill, Maine wind farm from a distance of 2,000'-3,000'ft. Mr. James then went into talking about the annoyance of common noises verses wind turbines. He stated that at 45 decibels, 20% of the people in the study were very annoyed. At the very annoyed level is where people take action.

Rick James proceeded to comment on the turbine in White County. He stated that the reaction of the county was take one year after the turbines were up and that 60% stated that they would not do the wind turbine project again. He advised that some of those 60% were individuals, who signed a lease with the wind company. 33% of the individuals stated that since the turbines have been up that they have suffered health problems. Mr. James advised that there was a health study done in Spain that found some individuals living near wind turbines had tissue near their heart that had thickened. He also discussed the findings from the Massachusetts University study peer review. He then listed names of doctors that were linking pathologies of vestibular, cardio, and cellular organs to wind turbine sound emissions. He also listed names of doctors who wrote reports in favor of wind turbines and now are no longer standing by their results in court.

Mr. James stated that the wind turbine ordinance had weaknesses. The first one being that the sound level should be taken from the property line rather than at the house. Secondly, the fact that there is no violation listed in the ordinance if the wind company does not comply with the regulations. Lastly, he stated that turbines within 1.25 miles of a house will cause health issues for the inhabitants.

Alan Lance, Wells County Concerned Citizens and pilot, stated that he opposed the project due to the negative impact the wind turbines would have on the ability to aerial spray chemicals onto farm fields. He provided an aerial map of the Fort Wayne airport and described how plane go over Bluffton to land and take off. He advised the board that the Fort Wayne airport would not allow wind turbines in the northern part of the county due the possible dangers that it would cause to planes coming in or taking off. Mr. Lance had a photo to show the size of the Ag spray plane in comparison to the wind turbine. He stated that an Ag spray plane would only get as near to a turbine as a quarter of a mile. Then he proceeded to describe how an Ag plane sprays a farm field. He provided the board a letter from Jack Olds, another aerial spray pilot, along with a diagram of how he sprays a field and the changes that would need to occur with turbines in the area. He also provided the board with a letter from David Eby, AgriFlite Services, Inc. out of Wakarusa, Indiana, about aerial application issues in wind farms.

Mr. Lance went on to discuss MET towers and the issues with portable MET towers and Ag planes. He advised that with the MET tower and wind turbines, if there were a plane accident in the area a medical helicopter would not be able to land close enough to the area. He gave the statistics on pilot deaths related to accidents with wind turbines as 8% annually. He stated that if

the placement of the turbines were in a line, then it would be safer for the pilots and easier to spray the farms.

Mr. Lance compared the cost of aerial application by a plane verses a helicopter and stated that application by a helicopter was at least 50% more. He went on to discuss the Illinois Agricultural Aviation Association and stated that they lobby against projects like the one proposed. He stated that the association was part of the larger NAAA (National Agricultural Aviation Association), which would include Indiana. The NAAA would discuss how to create a wind turbine ordinance with a government body, which would be beneficial and cause safety to aerial sprayers. He provided the board with the NAAA's tower safety guidelines. He also went into the short term gains of the wind farm verses the long term gains. He also commented on the fact that a wind turbine farm is not agricultural, but is industrial and does not belong on agricultural land.

Michael Mossburg, Wells County Concerned Citizens, asked that the board vote no to the project due to health risk and he asked for a property value guarantee for the homes affected by the proposed wind farm.

Tim Stepp, Wells County Concerned Citizens, advised that there are advances in the wind industry and a growth in vertical axis turbines. He stated that 30'ft towers with vertical axis could produce more energy than the larger horizontal axis turbines that the proposed project would use. These smaller turbines would have virtually no shadow flicker and the noise would be drastically less than the larger turbines. The cost of the project would be much less due to the mass production capability for the smaller turbines. He provided studies done by Cal-Tech and Japan on these smaller wind turbines.

Mr. Stepp also advised that advances in floating wind farms and off-shore wind operation will eventually make land wind farms obsolete. He stated that Michigan has lost money due to old and outdated turbines because the legislation has allowed accelerated depreciation of the turbines to zero.

Pat Hess, attorney with Beckman Lawson LLP out of Fort Wayne representing the Wells County Concerned Citizens, advised the board that Apex has failed to do the required analysis and proper planning to avoid a negative impact on the community. He stated that the petition was incomplete and additional information was filed late, which prejudices the rights of the people that oppose the project. He also advised that the layout of the project was poorly planned and according to the documents, there are 387 non-participating homes that would be subject to the effects of the wind turbines. He then listed what was not contained in the petition, which included no bird and wildlife study, no road use plan, no historical/archeological study of the area, no environmental impact study, no decommission plan, no study on the effects of telecommunication, no drainage impact study, and no detail concerning construction/staging.

Mr. Hess proceeded to list where the application failed according to Article 15 of the ordinance. One of the areas of the ordinance that was not met was the signatures of the land owners. He advised that the memorandum leases that were filed did not satisfy that requirement. He also stated that Article 14 of the development plan was not met and then listed the points where the petition did not meet Article 14. He advised that the noise and shadow flicker studies were done

after the placement of the turbines were determined and not before, which would have minimized the impact on non-participating homes.

Mr. Hess continued to discuss the failure in the filing based off of the ordinance. He listed the dates that the petition was filed and the dates of when the maps were filed. He stated that the maps were not submitted with the initial petitions. He also noted that all of the shadow flicker studies were done by Apex rather than an impartial third party. Also, the shadow flicker study was initially done with discounts and a worst case scenario was not submitted until after it was demanded. He also stated that the newest shadow flicker maps and revised application that were submitted on February 29, 2012, were for a different style and type of turbine with more megawatts than what the original application stated. He did mention that on the original filing, the petition stated that the initial turbine type was the current plan, but the turbine type could be subject to change. The new turbine would be 2.3 megawatt, which is substantially larger than the initial proposed turbine of 1.8 megawatt. Mr. Hess also advised that the initial petition was misleading and inaccurate due to the fact that studies (shadow flicker) were done based off of a turbine that Apex was not planning on using. With the new larger turbines, the shadow flicker mitigation techniques that Michael Lautzenheiser, Jr. suggested were due to fail.

Pat Hess advised that the shadow flicker maps did not cover enough of the area impacted by the turbines. He stated that 387 non-participating homes and 64 participating homes are in the site plan, but there were many more homes within a mile of the turbines that are not shown. He also stated that these homes within a mile of the turbines that are not shown on the map would also be impacted by the noise of the turbines. Then, he went on to describe how the noise analysis did not provide enough information about the study that was done nor did it indicate who performed the study. He then went into how with the new turbine, the petition does not have the required approval from the FAA due to the height increase from the 461'ft to 487'ft, which were what the company originally filed with the FAA to the new turbine height of 493.76'ft, which has no filing with the FAA.

Finally, Mr. Hess stated that there was not proper notice provided under Indiana statutes. Under Indiana Code 36-7-4-604, notice to all interested parties needs to be given at least 10 days before the date of the hearing. This includes parties in bordering counties up to 1/8 of a mile into the adjacent county. He stated that there was no evidence that the landowners, in the adjacent counties, were notified. No timely and meaningful notice was given. He advised that with the last part of the plans just received the day before, it is prejudice to the Wells County Concerned Citizens. He stated that this conflict could have been avoided, if well-reasoned siting of the turbines would have occurred. If noise, shadow flicker and environmental studies were done prior to turbine placement, then the over 400 non-participating homes would not be impacted. Due to all of the failures to comply with the county ordinance, Mr. Hess stated that the proposed application should be denied. He provided the board with his written comments along with a motion to dismiss the petition.

Ted Claghorn addressed his opposition to the proposed project based on the Constitution of the United States of America. He stated that the rights of the citizens are sacred. He does not believe that the project should go through just because of the benefits of the collective and at the cost of citizens' rights. He expressed his dissatisfaction with the overlap of the setback radius because it would prohibit construction on non-participating land, along with the results of the shadow

flicker on non-participating properties. These are violations of property owners' rights. This will cause conflict between neighbors. He also stated that there is a double standard from the board.

Andrea Murray stated that she was neutral on the proposed turbine project. She provided the board with information about a trip the Southern Wells FFA took to Ohio to the wind turbine farm and discussed the impact that made on her. She also addressed her concerns on the issue of health problems. She stated that wind energy is not as green as it could be and she does not think that it would help preserve farm land. She added that she was in favor of the additional money to help the schools and the new jobs that it would create, but she advised the board to vote for what the people of the community wanted.

Craig Bennigar questioned the board on if there would be a vote tonight and if the board realized how many people are for or against the project in the community. He also questioned putting the project to a vote within the community. The board advised that the community vote was not an option and that the board was planning on having a vote on the project that night.

Marilyn Boxell stated that there are 19 towers in phase 1 that the setbacks cross property lines on to non-participating land. She advised that due to those setbacks her property is now divided in half. If they want to build a new home, the setback will now affect their choice of location on their property.

Chris Smith addressed his issue with tax abatements. He wanted to know if the money from previous projects has been received by the county and who is held accountable, if the county does not receive the money.

Tara Fredrickson stated that wind farms have been killing bats and birds. It is unlawful to take the life of an Indiana Bat stated in the Endangered Species Act. She stated that there was no evidence of a 30 day scope of the area. She was not able to find any permit or record of this being done. She then stated the benefits of having bats in the area.

Mark Gates commented on the property values study. He advised that the study was not effective because it used sales within a 10 mile radius of the wind farm. He stated that 15 turbines would be within one mile of his house. He commented on the reason he moved to the community and why he wants to stay in the area.

Richard Baumgartner commented on the possible new jobs. He stated that the 40 new jobs were not guaranteed. He also advised the board to listen to what the community wanted.

Susan Durham, lives near the Stepps, said that she was not aware of how close the turbines would be to her home. She stated that she does not want to have to put blinds up or keep her windows closed due to the noise. She added that she does not want this to infringe on her personal space. She too advised the board to do what the community wants.

Lyndal Gaiser shouted her displeasure about the project from the stands.

Chuck Brooks, former APC board member, said that the information provided should put doubt in the board members' minds. He stated that the agricultural integrity of the southern part of the county has to be preserved.

Emmett Dollier, Jackson Township resident, addressed the audience. He commented that the farming community should be used for farming only and that the turbines were industrial and did not need to be placed in the area. He also stated his displeasure for the tax abatements on businesses. He advised the board that the setbacks were infringing on neighbors' rights to build.

Paul Bonham, county commissioner, stated that there were no objections filed when the petition was initially filed. He advised that as the meetings for the project proceeded, he had major concerns with the setback restrictions and the hampering of the land owners rights to build on their land.

Jim Berger commented on how it felt like the community was being on trial. He also questioned if it would be an up or down vote. He stated that he does not remember hearing anything about new people moving into areas that have wind farms. He also commented that the number of jobs coming into the county is insignificant. He asked that the board vote no on the project.

Tim Stepp spoke again about concerns that were brought to his attention. He commented about the issue of Doppler radar interference caused by the wind turbines. He also questioned the distance that the turbines can be setback from the road, which is 1.1 times the height of the turbine. He advised that ice can be cast up to 1.5 times the height of the turbine. Therefore, this could cause ice to be thrown on roads and cause car accidents.

Kent Dougherty, Apex Wind Energy, stated that there were several issues to address, but deferred to the board for questions. He discussed the petitions compliance with the WECS ordinance. He also stated that the vote will not only affect the Apex project, but the WECS ordinance.

Jerome Markley closed the public hearing for comments from the audience.

Jarrold Hahn questioned if the filing requirements were met.

Michael Lautzenheiser, Jr. stated that procedural side, as far as the filing is concerned, has been met. There are signed leases that the company has to meet the signature requirement.

Mr. Dougherty stated that the new filing with the FAA has not been filed yet, but would be filed before the permits were pulled. He also advised that the fish and wild-life study was done in the summer of 2010 at seven eco-location sites. The US Fish and Wild-life service and Indiana Department of Natural Resources stated their concerns about habitats along the Salamonie River. Therefore, there is approximately a one and a half mile setback from that. He also stated that wetland studies were completed, but some of the reports have not been finished yet. Mr. Dougherty advised the board that the most recent shadow flicker study was done with the height of the new turbine along with the radius of the new turbine's hub.

David Warshauer, attorney with Barnes & Thornburg, LLP out of Indianapolis, stated that the section of the ordinance that Mr. Hess sited, as far as providing notice, was for approval of

zoning ordinances and not approval of development plans. He stated that the provision Mr. Hess cited was not relevant to this project.

Michael Lautzenheiser, Jr. stated that the Plan Commission's office's opinion is that the best way to verify that the petition met the requirements was to go through the ordinance line by line. He advised that the description for the new turbine was received the day before, which would meet the requirements of section 15.1(A).

David Warshauer advised that he is not aware of any specific date that the description has to be in by, just that it would have to be turned in with sufficient time for review and determine if it meets the standards of the ordinance.

Mr. Lautzenheiser went on to the next section which deals with setbacks. He advised that turbine number 10, located in phase 1, does not meet the 1.1 times the height of the turbine setback from any non-participating property line. If a setback waiver is not obtained before the permitting process, then the turbine will be removed from the project. He stated that the public road right of way setback had been met. The 1000'ft setback to a residential dwelling was met by all turbines, except for turbine number 43, which is located 600'ft± from an old dilapidated farm house located at 4643 W 700 S. This issue could be resolved easily by having the dwelling removed, or have the turbine moved or removed.

Kent Dougherty stated that the house has not been lived in or kept up for around 27 years and it would be at the land owner's discretion to remove the house. If the house is not razed, then the turbine would be removed from the project.

Mr. Lautzenheiser continued verifying that the setbacks were met. There were no issues with the boundaries to the cities and towns, the guy wires or the color or finish of the turbines. The braking systems, climb prevention with locking doors, and 25'ft blade clearance from the ground would all be met. FAA lighting rules will be followed and will not be exceeded, with light shades on the towers if the FAA approves. Mr. Dougherty reaffirmed that the proof of approval from other local, state, and federal agencies would be provided to the Plan Commission's office prior to permits being obtained. The proper hazard signage will be posted, along with signs that contain emergency contact numbers. All electrical components, including communication cables, will be located underground. Mr. Dougherty reaffirmed that the noise level to the nearest dwelling will meet the ordinance's sound level maximum of 50DbA. Mr. Dougherty also stated that the shadow flicker on existing residential dwellings will be minimized. No additional signage, except for the manufacturers' information, will be posted on the turbine itself. Mr. Dougherty advised that if there is an interference complaint, the company will review the grievance and respond to alleviate the issue. Materials handling, storage and disposal will be handled properly and removed promptly after construction. Mr. Dougherty stated that Apex will file a decommission agreement, road and drainage agreement, and economic development agreement with the Wells County Council and Commissioners.

Andy Antrim advised that the ordinance, presently, does not have the ability to differentiate between daytime and nighttime noise decibel levels. If the different levels were to be added now, it would be modifying the ordinance.

Mr. Lautzenheiser stated that through strenuous research on shadow flicker requirements that do exist, mainly in European countries, it is the Plan Commission's office's opinion that this project does not meet the shadow flicker minimizing standards as it currently exists. This is based on German court cases that 30 hours per year, in the worst case scenario, is the maximum shadow flicker a dwelling should receive. There are 200+ homes in the project are over the maximum threshold. It is the director's opinion that this does not meet the requirements as stated in the ordinance. Therefore, changes would have to be made to alleviate the impact. This could be done through curtailment of turbines.

Bill Horan agrees that the shadow flicker issue needs to be minimized. With so many of the homes in the 30hrs/yr. worst case, he believes that greater measures need to be taken to reduce this number. There are 12 non-participating residences that would experience 15 hours of shadow flicker, in the real world scenario, and he would recommend that Apex give those homes the same conditions as homes that are participating.

Michael Lautzenheiser, Jr. stated that 204 homes, in the worst case scenario, have 30 hours per year or more of shadow flicker. Since these are not real world models, mitigation time would be much less.

Kent Dougherty advised that, in the worst case scenario, homes with 15 hours per year of shadow flicker would not be mitigated and no turbine curtailment would be done. This is due to the fact that 15 hours is well within the benchmark standards.

The board questioned what mitigation techniques were available to homes under the lease and if there was a specific number of hours that would trigger mitigation.

Mr. Dougherty stated that he could not divulge the specific information stated in the lease agreement. He did say that if there were an issue, Apex would have to take measures to alleviate it.

Jarrod Hahn questioned the amount of mitigation needed for the 30 hours worst case scenario verses an operational zero shadow flicker. With 8.9 hours real world, what would be the difference to go down to zero? Could the mitigation be timed with the regular maintenance of a turbine? If this were the case, it may not cut into production. However, Mr. Dougherty stated that they were not prepared to, currently, put that as an offer.

Mr. Lautzenheiser performed the math on a turbine, while it is in operation. Using the real world scenario, if it makes \$110 per hour, the difference between operational zero for the non-participants to the entire project would be \$60,000 total. The total cost would be \$254,919.96. For the 387 non-participating homes in the project site, it would cost \$191,850 to make those operational zero.

Mr. Dougherty stated that the first options to reduce shadow flicker for participating and non-participating homes would be to plant trees, provide blackout blinds or awnings. The last resort would be curtailment and that solution would be up to the board to determine how many hours of shadow flicker a non-participating home receives in order to have that as a solution. This would

be due to the fact that Apex would not be minimizing the shadow flicker and therefore in violation of the permit.

Andy Antrim stated that there is, currently, no enforcement mechanism in the ordinance. It would have to be part of a condition that Apex would have to accept.

Jarrold Hahn discussed items that he would like to see added to the road use and drainage agreement, which is still in negotiations. He also stated that he would like this be a condition if there were a vote that night. Mr. Warshauer advised that it could be in the motion.

Jerome Markley addressed the motion options available to the board and stated that there would be a vote that night. He commented that the standard amount of time for shadow flicker would have to be addressed as a condition.

Board members then broke off into groups to discuss options and possible conditions.

Conditions:

1. Tile Repair Bond

Based upon tile repair map that was presented by Apex Wind aka Wells County Wind LLC., a Bond, Letter of Credit or other Surety in the amount of 100% (percent) of the estimated cost of all repairs and replacements in force before construction begins, and until repairs are completed and approved by the Wells County Surveyor, his/her agent, or an inspector hired by Wells County. Also a Bond, Letter of Credit, or other Surety for a period of 3 additional years, after repairs are completed, in the amount of 20% (percent) of the original estimated of cost. Costs shall be determined in the following manner: Estimates from a licensed P. E. from both Wells County, and Apex Wind aka Wells County Wind LLC. If the estimates are within 10% (percent) of each other, the average shall be taken. If the estimates are more than 10% (present) different a third party engineer selected by both Apex Wind aka Wells County Wind LLC. and Wells County with their estimated averaged with the next closest estimate.

2. Shadow Flicker

A. The effected non-participating residence owner must contact our office to set up a meeting to verify their impact level as stated within the worst case scenario shadow flicker model.

B. Once the impact level is determined for the non-participating residence, the mitigation options will be discussed. This process can only be utilized once.

i. If ≥ 30 hrs worst case

a. Turbine Curtailment Scheduling (OR)

b. Blackout Blinds (*)

c. Awnings (*)

d. Tree Planting (*)

* These could be done in conjunction with one another

- ii. If \geq 15hrs worst case
 - a. Blackout Blinds (*)
 - b. Awnings (*)
 - c. Tree Planting (*)
 - * These could be done in conjunction with one another
- C. Upon the non-participating residence owner agreeing on one of the mitigation options, the request will be sent to the owner of the project.
- D. The owner of the project must respond to the request within 15 days of receiving the letter with an implementation plan. If the owner of the project and the owner of the letter non-participating residence mutually agree during this time period to make the owner of the residence a participant in the project this process ends.
- E. The owner of the project must implement the chosen mitigation option within 30 days of sending in their implementation plan unless the non-participating residence owner and the company mutually agree on a longer implementation timeline.
- F. A failure to follow this process will be considered a violation and will be handled in conjunction with the Wells County Area Plan Commission's violation procedures.
- 3. Turbine 10 does not meet the setback requirements for property lines and would need to get a signed setback waiver. If the waiver is not obtained prior to permitting, the turbine will be removed from the project.
- 4. Turbine 43 does not meet the setback requirements for dwellings. The issue would need to be resolved prior to permitting or the turbine will be removed from the project.

Motion to Approve: John Schuhmacher

Second: Finley Lane

Vote: 6 in favor: Angie Dial, Bill Horan, Finley Lane, Jerome Markley, Keith Masterson, and John Schuhmacher

4 against: Harry Baumgartner, Jr., Jarrod Hahn, Richard Kolkman, and Tim Rohr

OTHER BUSINESS:

ADVISORY:

Tim Rohr made a motion to adjourn the meeting. Jarrod Hahn seconded the motion and the motion passed with a vote of 10-0. The March 1, 2012 Area Plan Commission meeting adjourned at 1:08 a.m. on March 2, 2012.

ATTEST: Michael W. Lautzenheiser Jr.
Michael Lautzenheiser Jr., Secretary

Jerome Markley, President
Michael D. Morrissey
VP