

Back to court for drilling

By: AMANDA CREGAN The Intelligencer

The zoning hearing board, which approved natural gas drilling in the township, will not have the final word.

The fight is not over in Nockamixon.

Township officials are getting ready to petition Bucks County Court to overturn Monday night's zoning board decision that sided with natural gas drillers hoping to break ground in Upper Bucks.

Since the three men who made the decision each hold gas leases and could profit from their own ruling, Nockamixon solicitor Jordan Yeager says they should have never moved forward with the hearings.

In a 2-1 vote, the board agreed with gas drilling company Arbor Resources that township laws are trumped by the state.

The board voted as Yeager expected.

"I'm not surprised," said the Doylestown-based attorney on Tuesday. "I've never expected that the zoning hearing board would be anything other than a step along the way."

The board's decision was crushing for Supervisor Chairwoman Nancy Janyszeski, who maintains the township has the right to protect Nockamixon from potential pollution and groundwater overuse and contamination.

She says the zoning hearing board is leaving behind a poor legacy for future generations.

"I keep saying that Nockamixon deserves respect, but I would ask how can we expect anyone to respect us when our residents don't really put the township first? We are the home of the Revere chemical plant, the Hidden Valley landfill, Cabot Industries and their toxins and the DeRewal (Revere Chemical) dumping ground. These things and places didn't happen by themselves. They were allowed to happen by the powers that be at the time. I keep thinking how the members of the zoning hearing board were all about how long they have lived here - how many generations of their family lived here. Well then, isn't that just interesting that this is their legacy."

Lance Arbor (not connected to the gas drilling company) was the only zoning board member to vote against the gas drilling case.

"I didn't vote my pocketbook, that's for sure," he said Tuesday. "The other two guys, they both have a lot of acres, and I really don't."

He said he's having second thoughts about the lease he signed with the gas company.

"If I had known then when I signed up what I know now, I don't know that I would have signed, but in the end, everyone's got to do what's best for himself."

Nearly 250 homeowners in Nockamixon - about 19 percent of the township's nearly 1,300 homes - have signed leases. Residents received upfront cash and a promise of payment should the rock thousands of feet below their properties yield gas.

But oil rigs are not on their way. The battle in court to open up natural gas wells is expected to be lengthy.

In its challenge to the validity of township ordinances that regulate gas drilling, Michigan-based drilling company Arbor Resources made its first stop in Bucks County Court last year.

Judge Clyde Waite ruled in September that Arbor must first take its case to the Nockamixon Zoning Hearing Board.

Zoning hearing boards operate as quasi-judicial boards and are not under the authority of municipal supervisors.

Arbor filed its case with the board and in a state appeals court.

The other two members, who do not hold gas leases, were absent from the initial hearing in November.

Nockamixon attorney Yeager says board members should have recused themselves and handed the matter over; instead, they promised to hear the case with an oath of objectivity.

"There was no reason for the board to hear it this way," he said.

If the board members had decided to recuse themselves from the hearings because of their conflict of interest, Arbor's case would have been automatically

denied, according to zoning hearing board solicitor Peter Harrison.

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February 11, 2009