

MINUTES OF THE KNOX COUNTY PLANNING COMMISSION

May 14, 2024

Call to order: The May 14, 2024, meeting of the Knox County Planning Commission was called to order by Chairman Dean Wilken at 7:34 p.m. at the Center Town Hall.

Announcement of Open Meeting Act: Chairman Wilken announced where the Open Meetings Act is posted.

Roll Call: Members present: Jim Kotrous, Keith Neilsen, David Arens, Greg Kuhlman, Neil Clausen, Doug DeShazer, Dean Wilken and Robert Larsen. Also present was Zoning Administrator Kelsy Jelinek, Deputy County Attorney Hanna Knox Jessen, Michael Kumm of Wausa, representatives from National Grid Renewables and many members of the public. Robert Ganz was absent.

Approve Agenda & Public Notice in the Wausa Gazette, Crofton Journal and Niobrara Tribune
Kotrous moved, Deshazer seconded to approve the agenda and public notice which was published in the Wausa Gazette, Crofton Journal and Niobrara Tribune. Roll call vote showed all present in favor Ayes: Jim Kotrous, Keith Neilsen, David Arens, Greg Kuhlman, Neil Clausen, Doug DeShazer and Dean Wilken. Absent: Robert Ganz

Approve the Minutes from the April 9, 2024 Meeting. Kotrous moved, Kuhlman seconded to approve the minutes from April 9, 2024. Roll call vote showed all present in favor Ayes: Jim Kotrous, Keith Neilsen, David Arens, Greg Kuhlman, Neil Clausen, Doug DeShazer, Robert Larsen and Dean Wilken Absent: Robert Ganz

Ex Parte Communications: Board members stated that several had been contacted regarding the topics of the proposed amendments and wind towers in general.

Old Business: None

New Business:

Zoning Administrator Jelinek gave a brief explanation of Resolution #2021-45 that was approved in November 2021, which contradicts a few zoning regulations that were approved in the updated regulations passed in November of 2023 that need to be corrected by Keith Marvin the Planning Consultant. The Resolution states the tract to be used as an RV park or campground shall not be less than two acres, whereas the new regulations state three acres in area. The minimum dimensions of a recreational vehicle, trailer or camp site shall be 25 feet wide by 40 feet long, whereas the new regulations state 30 feet wide by 60 feet long. Also, in the new zoning regulations state in 10-F that "No porches, lean-tos, or additions shall be

constructed onto any of these recreational dwellings. However, Resolution #2021-45 approved external amenities with conditions. Administrator Jelinek asked if the board would consider adding to this section "All items will be considered by design for approval." Public hearing correcting Knox County Zoning Regulation Section 8.04 Recreational Vehicle Parks to agree with Resolution #2021-45. Nobody from the public was in attendance to make comments on this. Public hearing was opened at 7:38 p.m. and closed at 7:39 p.m.

A motion was made by Kotrous and seconded by Kuhlman to recommend to the Board of Supervisors that the tract to be used as an RV park or campground shall not be less than two acres, the minimum dimensions of the recreational vehicle, trailer or camp site shall be 30 feet wide, however the length could be up to the RV campground owner. Changes will also be made to correct the external amenities with conditions to match Resolution #2021-45 adding "All items will be considered by design for approval." This motion is made based on our Comprehensive Plan and Resolution #2021-45 to correct the Knox County Zoning Regulations. Roll call vote showed all present in favor Ayes: Jim Kotrous, Keith Neilsen, David Arens, Greg Kuhlman, Neil Clausen, Doug DeShazer, Robert Larsen and Dean Wilken Absent: Robert Ganz

Administrator Jelinek gave an overview of the Wausa Wind Watchers Proposed Amendment application reading each of the 12 proposed amendments individually for the public.

Michael Kumm spoke on behalf of the Wausa Wind Watchers group by reading part of the Knox County Comprehensive Plan. He mentioned the long term goals of Knox County to maintain the families that currently live here and continue to grow by attracting people from outside of Knox County. Michael stated that recreational and tourism are a large draw in Knox County, which would both be affected by a large development such as this wind project. People that currently live here should still feel that they are being protected by a reasonable standard of living. Michael stated that the quality of life of people that live within the current wind projects in the county have been affected. 600 megawatts dwarfs any project that was currently presented in Knox County. Michael stated that as a stakeholder in the county, he has concerns about pollution on wetlands and other water sources for his livestock. There is no profit incentive in a wetland, but there is in a decreased setback to add more towers. The federal subsidies and credits make wind towers a very lucrative endeavor. Michael Kumm spoke on the nameplate tax which strongly decreased the amount that the county and Bloomfield school was expected to receive. Removal of wind generation from normal taxation was more than significant. Outside entities don't have the vested in the growth of Knox County. Michael stated that as a county, our vested interest needs to be in our people.

Opened public hearing at 8:00 p.m. closed public hearing at 9:43 p.m. Public hearing regarding proposed amendments to 8.08.06, Commercial/Utility Grade Wind Energy Systems including setbacks to property lines, setbacks to dwelling units owned by non-participating landowners,

setbacks to wetlands, USFW Types III, IV and V, setbacks to Meteorological Towers, shadow flicker, ADLS, Discontinuation and Decommissioning plan including cost and restoration, noise, clustering, site insurance and height. Thirty-nine attendees made public comments to the Planning Commission board regarding the proposed amendments. A list is kept on record in the Zoning office.

Hanna Knox Jensen, Deputy County Attorney, made comments on recommendations from Keith Marvin Planning Commission stating that he has some concerns with some of the proposed amendments with how stringent they are. Keith wants the Planning Commission to be cognoscente of the amendments which are changing measurements or numbers asking for justification of change (health, safety, or environmental). Marvin is okay with ADLS. He would not recommend an escrow account, but instead would recommend a letter of credit or surety bond.

Hanna stated that our Comprehensive Plan and goals of the Comprehensive plan is generally pro-renewable energy. A lot of the proposed amendments affect private landowners' private interests in entering a private contract with another private party. These changes would set precedence for the board if adopted, especially if taken as a whole. The board should be determining what is the goal and affect by changing the amendments. If the goal is safety, health and environment, then they should recommend approval. However, if the board based on the testimony, determines the proposed amendments might be an attempt to eliminate a project, then it should recommend denial. Landowners have entered into these agreements based on our regulations as they are set. If the commission determines that the purpose is to frustrate the plans of active development, then they should submit a recommendation of denial to the Board of Supervisors.

Jimmy Kotrous made a motion to table all proposed amendments. Keith Nielsen seconds the motion. All present in favor. Roll call vote showed all present in favor Ayes: Jim Kotrous, Keith Neilsen, David Arens, Greg Kuhlman, Neil Clausen, Doug DeShazer, Robert Larsen and Dean Wilken Absent: Robert Ganz

Proposed amendment 1: In Setbacks chart on page 149 of Knox County Zoning Regulations, change Dwelling Units owned by non-participating landowners from 2,000 ft.*** to 2 miles (10,560') from property line.

Proposed amendment 2: In Setbacks chart on page 149 of Knox County Zoning Regulations, change Property Lines setback from "Diameter plus applicable building setback; however, setback may be less when two adjoining property owners are within the aggregate project." to "Property lines of non-participating land of 2 miles (10,560') from property line.

Proposed amendment 3: In Setbacks chart on page 149 of Knox County Zoning Regulations, change Meteorological Tower setback from "600 ft. or a distance established by any state or Federal agency." To 1.1 times the total height in all categories.

Proposed amendment 4: In Section 8.08.03 Definitions of Knox County Zoning Regulations, add "Shadow/Flicker" shall mean the shadow cast by the rotating blades of a wind turbine which moves with the blades.

Proposed amendment 5: In Section 8.08.07 of Knox County Zoning Regulations, Special Safety and Design Standards and Additional Requirements add "Projections of the 'shadow flicker' on any existing structures located off the property on which the WECS will be constructed and shall include the extent and duration of the shadow flicker on these existing structures. Applicant shall submit a modeling report prepared by a qualified third party establishing that no occupied residence will experience more than thirty (30) hours per year or more than thirty (30) minutes per day of shadow flicker at the nearest external wall of residence based on 'real world' or 'adjusted case' assessment modeling. The owner or resident of an occupied residence may waive the shadow flicker limits, which must be on File with the Knox County Register of Deeds and included with the application."

Proposed amendment 6: In Section 8.08.07 of Knox County Zoning Regulations, Special Safety and Design Standards and Additional Requirements, add "All WECS, Commercial Scale Wind Systems or Turbines shall use Aircraft Detection Lighting Systems."

Proposed amendment 7: In Section 8.08.07.10 of Knox County Regulations, Special Safety and Design Standards and Additional Requirements – Discontinuation and Decommissioning, include: "Cash Escrow account deposited in a Knox County fund, The amount deposited shall be 120% of the decommissioning cost estimate. The Decommissioning plan must be updated every five years and the financial resources must be updated to account for any new decommissioning cost. All decommissioned sites, including access roads shall be restored to conditions consistent with surrounding land unless the landowners want the road to remain. The restoration shall be maintained for 5 years after initial restoration is complete."

Proposed amendment 8: In Section 8.08.07.10 of Knox County Regulations, Special Safety and Design Standards and Additional Requirements – Discontinuation and Decommissioning, include: "All WECS and accessory facilities shall be removed to six feet below original grade within 180 days of the discontinuation of use. When decommissioned all elements of the WECS must be removed from the site and disposed of in an approved landfill or recycling location. This is required before the permit is approved to guarantee removal and restoration upon discontinuation, decommissioning or abandonment.

Proposed amendment 9: In Section 8.08.07.10 of Knox County Regulations, Special Safety and Design Standards and Additional Requirements – Noise, change: No Commercial/Utility Grade Wind Energy Conversion Systems (WECS) shall exceed 50 dBA to 40 dBA at the nearest structure occupied by humans. Exception: A Commercial/Utility Grade Wind Energy Conversion System may exceed 40 dBA during period of severe weather as defined by the US Weather Service. Knox County Zoning Regulations WECS noise standards are 50 dBA, the applicant is asking to change that to 40 dBA

Proposed amendment 10: In Section 8.08.07.10 of Knox County Regulations, Special Safety and Design Standards and Additional Requirements: Add "Clustering – Each CWES, Commercial Scale Wind System or Turbine shall be separated from any other Commercial Scale Wind System or Turbine by 2640 feet."

Proposed amendment 11: In Section 8.08.07.10 of Knox County Regulations, Special Safety and Design Standards and Additional Requirements: Add "Site Insurance: Each WECS, Commercial Wind System or Turbine must maintain liability insurance of \$5,000,000 per tower while it is construction and operation. Annual proof of such insurance shall be provided to the County Board of Commissioners."

Proposed amendment 12: In Section 8.08.07.10 of Knox County Regulations, Special Safety and Design Standards and Additional Requirements: Height "The maximum total height of any Wind Turbine/WECS shall be 600 feet from original grade."

Administrator Jelinek gave a brief overview of Michael Kumm's application. Mr. Kumm then presented his application. Public hearing regarding a proposed amendment change to request a change of Commercial/Utility Grade Wind Energy Systems from zoning districts AGT and AGP to industrial.

Open public hearing at 9:57 p.m. Closed public hearing at 10:09 p.m.

Jimmy Kotrous makes motion to table, Kuhlman seconds. All present in favor. Roll call vote showed all present in favor Ayes: Jim Kotrous, Keith Neilsen, David Arens, Greg Kuhlman, Neil Clausen, Doug DeShazer, Robert Larsen and Dean Wilken Absent: Robert Ganz

National Grid Renewables presentation. Sean Lawler spoke briefly to the Planning Commission board asking them to take all comments seriously and thanks them for their time.

Discuss, consider & take all necessary action on Knox County Zoning Regulation Commercial/Utility Grade Wind Energy Systems setbacks, regulations, or moratoriums.

Public Comments: None

Zoning Administrator's Report: The April Permit Reports were reviewed.

Next Meeting: The next meeting is scheduled for Tuesday, June 11th at 7:30 p.m.

Adjournment: The meeting was adjourned at 10:14 p.m. by Chairman Wilken.

Kelsy Jelinek, Zoning Administrator

Approved by Planning Commission: June 11, 2024

Placed on File with Board of Supervisors: August 21, 2024