

Codington County Planning Commission/Board of Adjustment Minutes

March 12, 2018

The Codington County Planning Commission/Board of Adjustment met for an ordinance review meeting on March 12, 2018 at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Bob Fox, Myron Johnson, Rodney Klatt, Brenda Hanten, Mel Ries, Mark O'Neill, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer).

Others present were John Wiles, Jon Henslin, Ruby Holborn, Nancy Henslin, John Hansen, M. Schumacher, David Lau, Dan Thyen, Jeane Stevens, Shad Stevens, Bruce Buhler, Sara Brink, Jim Comes, Josh Akers, Paul Johnson, Chad Appelhof, Mark Mauersberger, Tyler Wilhelm, Melissa Lynch, Elmer Kruger, Barb Waldron, Angel Spartz, Kristi Mogen, Patrick Lynch, Greg Wall, Dan Kaaz, Teresa Kaaz, Marjorie Tesch, Terence Pellman, Dale Ries, Mike Tassler, D. Fischer, Jerry Redlin, Diane Redlin, Dennis Garvey, Lee Gabel, Jon Schliesman, Leon Spartz, Charlotte Sturm, Kenneth Comes, George Holborn, Charles Appelhof, Rod Spartz, RJ Williams, Jeff Bryce, Mark Comes, John H. Johnson, Lynn E. Johnson, Joel Koustrup, Wade Bauer, and Becky Goens.

Chairman Fox brought the meeting to order at 6:00 pm. He advised the audience this is the second meeting regarding this topic. The first meeting included a presentation regarding a recent survey. This survey can be found on the codington.org website. At the conclusion of the first meeting, the board was listening to public testimony on tower setback requirements. Noise/sound level was also discussed. Anyone wishing to speak tonight is requested to make new points so as to not be redundant. All comments are to be directed to the board. A speaking time has been established of less than 3 minutes to allow everyone a chance to speak. It is the board's hope that the audience will be presenting more facts than opinions. Those choosing to address the board include:

1. Patrick Lynch reviewed six peer-reviewed journals regarding sound, health effects, and noise studies. His recommendation is a 2 mile setback with an option to approve a smaller setback as well as a 35 dBA sound level.
2. John Wiles, attorney representing the City of South Shore – indicates the category of municipalities is missing from the ordinance and should be included. South Shore is located within a “bow” and includes a recreational lake area. His recommendation is also a 2 mile setback to preserve aesthetics of the community and the lake.
3. George Holborn – Served three years on the Deuel County Zoning Board and wanted to present some wind tower problems regarding sleeplessness, dBA doesn't work, changes in power output and depowering, effects on daily lives causing abandonment of homes,

and medical studies on wind turbine impact. Until the studies can be confirmed, decisions should not be made regarding wind tower construction. "People before profit."

4. Marjorie Tesch – concerns about health hazards of children and the environment, and sleep disturbance. "Health cannot be bought."
5. Kristie Mogen – concerns with property value, health, setbacks, ecology, soil moisture, effects on vegetation and loss of land productivity, noise, tower vibration and possible effects on the aquifer and water quality, potential of high humidity effects on noise. She would like to see a 2-mile setback with a waiver option.
6. Ruby Holborn – Setbacks should be measured in miles and not feet. She encourages the board to do their own research. She would also like to see a 2-mile setback with a waiver option.
7. Greg Wall – this is an agriculture county and does not want to see any wind towers in the county. Transmission lines should be at least 1-1/2 times the height from public roads or adjacent landowner. Would like to see written repercussions to protect the county. He signed up for a wind tower in the mid-90's and shortly after, withdrew indicating he does not want them on his property. Will this affect bald eagle nesting or migrating birds? As a member of a volunteer fire department, do the tower erectors have safety protocols and professionals on hand during construction?
8. Jon Henslin – concerns regarding property values and would like to see property value guarantees.
9. Charlotte Sturm – Would not have constructed a new home on her 80 acre property had she known a wind tower project was forthcoming. She does not want to see wind towers obstructing her country view. Concerned also about noise as it is quiet in the country.
10. Daniel Kaaz – recited some accident reports in which he researched regarding tower collapse and ice throw damage. Concerns with setbacks and health effects.
11. Diane Redlin – does not want wind towers in the county. Who will take responsibility if there are adverse health effects and decreased property value?
12. Melissa Lynch – requested the board to do their own research rather than lean on a NextEra-hired professional to relay information. Would like to see the board err on the side of caution until proper, adequate research can be completed before any decisions are made. If allowed, she would like to see a minimum 2-mile setback.
13. Nancy Henslin – Consider a 2-mile setback with a waiver option.
14. Greg Wall – Would like to see a bond requirement included in the ordinance. What will happen down the road if the wind energy organization can no longer finance the operation or fulfill landowner obligations? (Decommissioning)

No one else chose to speak regarding setbacks or noise. Fox advised the audience that Codrington County Planning Board does enforce the rules. If the wind towers are proven to be emitting sound levels over the agreed-upon, signed levels, the tower will not be run. Any wind company that does not meet the agreed-to requirement will be held accountable. Sound is measured at the property line, not the closest structure.

Muller reviewed electromagnetic interference and suggested changes. No one spoke on this issue.

Lighting was also addressed and suggested changes. Four persons spoke on this topic. Names were not provided.

Turbine spacing was discussed with very little suggested changes. No one spoke on this topic.

Footprint minimization also included one minor suggested change.

Collector Lines and Feeder Lines were discussed together. The Highway Superintendent assisted with suggested changes and language. One audience member felt these lines should only be located on private property and not public property. Patrick Lynch and Elmer Kruger spoke on this topic.

Decommissioning/Restoration/Abandonment and the subcategories were discussed. Shad Stevens spoke on this topic. John Wiles also spoke regarding bond requirement.

Height from Ground Surface had not suggested changes. No one chose to speak on this topic.

Tower color, finish and design. No one chose to speak on this topic.

Noise was the next discussion but has already received much input from the audience. Only a slight change in wording was suggested. One man spoke but a name was not given. He had concerns about sleep interference. He would like to see a private party establish what the ambient noise level is currently. He would like to see a maximum of 10 dBA above the current ambient noise level be established. Marjorie Tesch spoke on the responsibility of the board and to rely on experts.

Flicker Analysis suggested changes was discussed. A member of the audience did not want to see 30 hours/year of flicker for a non-participant and feels the tower should be turned off during that time frame. Teresa Kaaz, Patrick Lynch, Ruby Holborn, and Charlotte Sturm spoke. Ruby Holborn does not feel shadow flicker should exist on non-participant property.

Next section addressed Permit Expiration. Jon Henslin spoke. Elmer Kruger would like to see terminology that allows the participant landowner release of the easement if construction does not commence within a certain time frame. Per Muller, the Board can only enforce the county's ordinance and cannot enforce agreements between landowners and developers as

that would be a civil matter. Miles Schumacher, attorney from Sioux Falls, states there is a statute regarding voiding of easements and leases if no development within a specified number of years occurs. Development in this case is defined as pouring a foundation.

Next topic was Information Required to Obtain a Permit. Patrick Lynch confirmed that maps of any wind tower locations be submitted to the Zoning Office with the building permit application.

Muller reviewed Definitions to be added (Article II). Public hearing closed.

Chairman Fox recommended a two minute break before proceeding.

It was discussed to consider setbacks from towns as that currently is not addressed in the ordinance. Towns would be described as South Shore, Henry, Kranzburg, Florence, Wallace, and Watertown. Board Member Johnson would like to see a one (1) mile setback from city limits of towns/municipalities. Other board members are in agreement and would also like to include Town Districts (i.e. Waverly, Grover, Kampeska) to be measured from the closest contiguous residence, business, school, or church.

Current ordinance indicates 1,000' setback from non-participating occupied residence, business, church or school. Board members agreed on a new setback of 1,500' with an additional 2.5' for each additional vertical foot more than 500' in height. For clarification, the setback would be measured from the residential structure.

Current ordinance states 50 dBA sound requirement to be measured from the property line of a non-participating residence. Following discussion, no change was suggested.

Regarding lighting, Chairman Fox indicated our ordinance should include the latest technology approved by FAA. This will be included in new ordinance draft.

Regarding Collector Lines, they are buried at a depth of 4 feet per the wind energy professionals. These lines will be marked should a landowner wish to tile his property. Any easement will not restrict tiling. Collector lines are also located based upon negotiations with the landowner.

Regarding decommissioning a Letter of Credit or other form of financial assurance needs to be provided after the fifth (5th) year of completion of project. Board member Johnson wants to be certain the landowner or the county does not end up with the financial burden or legal responsibility of decommissioning. Start to finish estimated time frame for a wind farm project is 8 to 12 months.

Flicker Analysis was discussed among board members. Receptors are occupied residences, schools, churches, or businesses within a one mile radius of each turbine. Flicker Analysis is based on the receptor being a glass house. It does not filter in trees, blinds, walls with no windows, etc. There are no additional changes other than what was provided in the

draft.

Item d under Information Required to Obtain a Permit will be corrected by adding “is required prior to any issuance of building permits.”

With these changes, another draft will be prepared. Another public hearing will be held at a future date with a public notice in *The Watertown Public Opinion*. Anyone wishing to receive notification of the hearing date must enter their contact information on the sign-in sheet. Following the Planning Commission’s public hearing, this ordinance draft would be heard by the Board of County Commissioners for a first and second reading.

Muller reiterated your complete address, including town and/or email, must be included on the sign-in sheet. Any amendments made to the draft at the future meeting will need to be put into a motion to amend and voted on accordingly by the Planning Commission Board.

The draft will also include a change to item 15.c whereas the map provided will include said structures within one mile of each proposed turbine.

Motion to adjourn made by Johnson, second by Ries. Motion passed unanimously. Meeting adjourned at 11:05 p.m.

Respectfully Submitted,

Becky Goens, Secretary