



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE
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Minutes for the meeting of Grant County Board of Adjustment

Members present: Tom Adler Tom Pillatzki Nancy Johnson Bob Spartz Mark Leddy Richard Hansen Mike Mach at 4:43pm

Alternates present: Jeff McCulloch Don Weber

Members absent:

Others present: Todd Kays-Staff, Luke Muller-Staff, Amber Christenson, Linda Lindgren, Wayne Borgheiinck, Karen Kasperson, Steve Greber, Kristi Mogen, Garry Ehlebracht, Chris Ollson, David Lau, Tim Lindgren, Teresa Kaaz, Jon Henslin, Brittany Bruce, James Jackman, Ruby Holborn, Goerge Holbron, Kevin Owen, Jamie Gentile, Jay Haley, Miles Schumacher, Ron Schmaeling, Amy Tuttle, Ryan Pekelder, Brian Riniker, Kevin Krakow, Bill Street, Allen Robish, Jerry Bury, Nichole Bury, Tyler Wilhelm, Nancy Henslin, Joel Koustrup, Kris Pekelder, Johnny Mennly, Danell Herzig

Meeting Date: **November 13, 2018** Meeting Time: **4:00 P.M.** Court House Basement

1. Call Meeting of the Board of Adjustment to Order by Chair Johnson at 4:30 pm
2. Items to be added to agenda by Board Members or Staff- Chair Johnson proposed adding "Disclosure of Conflicts/Ex Parte Communication and Abstention" per adopted bylaws to item 5 b.
3. Invitation for citizens to schedule time on the Board of Adjustment Agenda for an item not listed. (5 minutes maximum time). None
4. Approval of Agenda
5. Approval of Minutes Motion by Spartz second by Adler
 - a. July 14, 2018
 - b. Disclosure of Conflicts/Ex Parte Communication and Abstention
6. Conditional Use Permit pursuant to Section 1101.03.22 Conditional Uses – Wind Energy System. The applicants Crowned Ridge Wind, LLC and Crowned Ridge Wind II, LLC, are requesting to operate a Wind Energy System with up to 32 wind turbines, associated electrical transmission lines, and maintenance structures on certain property situated in Mazeppa, Stockholm and Troy Townships

Johnson made a statement of opinion from State's Attorney and recused herself from this agenda item and left the building.

Hansen made a statement of opinion from State's Attorney and recused himself from this agenda item and left the building.

Kays asked if any Board Member had ex parte communications or felt they were predisposed which would lead to unfair or inequitable treatment of the applicant. No Board member stated the need for recusal.

Pillatzki called for a motion to approve the CUP permit for Crowned Ridge I & II, LLC as presented. Motion by Leddy second by Adler to approve.

Luke Muller, Staff, presented the staff report. Muller presented the expectations of the ordinance and stated that the CUP has met all requirements.

Applicant was provided 10 minutes to present the application. Tyler Wilhelm, project developer, gave an overview of the project,

Pillatzki opened the public hearing to proponent testimony by stating 3 minutes would be given to anyone who had signed up on the list to address the board.

Kays, acting as Parliamentarian, called the names of individuals identifying themselves as project proponent:

Karen Kaspersen- 17257 460th Ave Watertown- spoke in support.

The following marked an intent to address the board as a proponent during the public hearing. When their name was called, they stated "No Comment" or were there to answer questions of the applicant. They included: Kris Pekelder, Danell Herzig, Jamie Gentile, Jerry Bury, Nicole Bury, Ron Schmaeling, Ryan Pekelder, Tyler Wilhelm. Chris Ollson, Jay Haley.

Pillatzki then called for anyone who wished to address the board but had not signed up to appear for 1 minute of testimony. No one appeared.

Pillatzki called for opponent testimony Kays: called the names of individuals identifying themselves as project opponent:

Amy Tuttle 16175 Troy Ave stated her residence is not on the map

Alan Robish 47278 151st St Strandburg- states that safety of turbines too close, throwing ice and blade failures is his issue.

Kevin Krakow 16462 470th Strandburg states that he is a non-participant that likes his spaces. Who is Next Era- out of state- this board has turned down other out-of-staters because they weren't from here and why is this different? Wants 1-mile setback from property line.

Bill Street-15761 477th Ave states his main concern is the turbines and suggests a ¼ mi setback with waiver for non-participating.

Tim Lindgren- 16050 464th Ave South Shore wants 3 miles from nests with a waiver.

Teresa Kaaz- 15610 459th Ave South Shore wants permit denied

Ruby Holborn- 2008 S Silverthorn Ave Sioux Falls spoke in opposition to the project stating that wind development will negatively impact county population just like Lincoln County, MN.

George Holborn- 2008 Silverthorn Ave Sioux Falls wants a 2-mile setback with a waiver for solution.

Kevin Owen-46845 SD Hwy 20 Stockholm spoke against the project, believing it would impact his property value and had board procedural concerns.

Amber Christenson- 16217 466th Ave Strandburg feels the industry is not generally compatible with residential, ordinance revised for reason- it is old and outdated, approval would be criminal, deny until redesign of ordinance.

Linda Lindgren- 16050 464th Ave South Shore spoke against the project based upon procedural concerns and lack of County expertise in this matter.

Wayne Borgheiinck- 129 2nd St spoke against the based upon negative mental and physical health impacts.

Steven Greber 17165 468th Ave Goodwin spoke against the project based upon free market economics.

Kristi Mogen 15160 471st Ave Twin Brooks requests that the applicant wait until WES ordinance is updated. Noted that it should be denied based upon impacts to health, safety and welfare and lack of expertise of the County.

Gary Ehlebracht- 17539 468th Ave Goodwin Requests the board to review the impact to E911, helicopter services for ceiling height for flight, regular issue according to Tippin Air.

Jon Henslin- 1020 Lake Alice Dr Clear Lake drew attention to p12 wording which Kays states has been corrected. Asked whether the permit would meet purpose and intent and mission of the ordinance. He also wanted written finding addressing economics, noise, glare, etc.

Anyone who arrived late but did not sign in was given 3 minutes to address the Board:

Diana Bren- 302 W Robert Ave Strandburg inquired about shallow aquifer, animals' wells and specialists.

Pillatzki asks if there is anyone else that wishes to address to board as opponents that didn't take the time to sign in but were here could have 1 minute. No one appeared.

Pillatzki, closed the public hearing and called for a five-minute recess. The Board reconvened with the Applicant present to address questions raised during the public hearing. Kays asked questions of the Applicant on behalf of the Board.

Board discussion. Pillatzki asked Staff to read questions to establish the findings of fact for the motion. Board found that the application met the Standard Findings approved in the Board's Bylaws. Board agreed that the applicant satisfied the questions asked by Staff provided that the following be added:

1. Applicant would comply with proposed WES rules relating to setbacks, noise, flicker, and decommissioning. Said rules had been discussed by the Planning Commission for several months and were anticipated to begin the adoption process later this year. Motion by Leddy second by Spartz, Motion carried unanimously.
2. Motion by Spartz and second by Mach for haul road agreement to be executed not less than 30 days prior to construction. Motion approved unanimously.
3. Motion by Spartz and second by Mach to have Haul Road Agreement language to include provision that the adjoining landowners be notified of road closures at least 2 days prior to road closure. Motion approved unanimously.
4. Motion by Spartz second by Adler to accept the Conditions identified in the Staff Report. Motion approved unanimously.
5. Motion by Pillatzki, seconded by Adler to change noise threshold to 40dBa for non-participating residence. Spartz offers substitute motion, seconded by Weber to change noise threshold to 40dBa for non-participating residence unless neighbors authorize greater sound level in form of a waiver. Leddy finds no basis in changing the noise requirements in any past meetings. Roll call vote called- Leddy no, Adler no, Mach no, McCulloch no, Weber no, Spartz yes and Pillatzki yes. Motion Fails. Substitute motion having failed, discussion is open on original Pillatzki motion to change noise threshold to 40dBA for non-participating residences. Pillatzki withdraws motion.
6. Pillatzki makes a motion for a $\frac{3}{4}$ mile setback with a waiver for non-participating. Second by Spartz. Leddy points out there is not consistent to what the board had been discussing. Roll call: Leddy no, Adler no, Mach no, McCulloch yes, Weber yes, Spartz yes, Pillatzki yes motion approved 4 -3. Leddy reasserts that the $\frac{3}{4}$ is inconsistent with previous discussions and previous findings. Mach agrees. Clarity roll call was taken from each member to ensure understanding that this motion meant the 1,500 ft setback would be replaced with $\frac{3}{4}$ mile setback – McCulloch, Weber, Spartz and Pillatzki stated yes.
7. Weber offers a motion for deferring action on the application to after the second reading and County Commission adoption of the ordinance proposal. Seconded by from Leddy. Discussion ensued. Parliamentarian Kays noted that the proper motion is to postpone and not to defer. Pillatzki called a vote on the postponement until after the commissioners adopt the ordinance and roll call vote was taken: Leddy yes, Adler yes, Mach yes, McCulloch no, Weber yes, Spartz no, Pillatzki no. Motion passes 4-3.
7. Open address to the Board of Adjustment-none
8. Matters for Board discussion/ staff report- none
9. Next meeting: 2nd Monday of each month, unless otherwise scheduled and published.
10. Executive Session (if necessary) none
11. Adjourn as the Grant County Board of Adjustment Motion by Weber second by McCulloch passes 7-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County