



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE

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Minutes for the meeting of Grant County Planning Commission

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

Alternates present: Don Weber Jeff McCulloch

Members absent:

Others present: Teresa Kaaz Amber Christensen Wayne Borgheinck Kristi Mogen Garry Ehlebracht Jennifer Zirbel

Meeting Date: **Monday, September 17, 2018** **Meeting Time: 4:00 P.M.** **Court Room**

1. **Call Meeting of the Planning Commission to Order** at 4:03 pm by Chair Johnson
2. Items to be added to agenda by Board Members or Staff- no additions
3. Invitation to address the Planning Commission- Amber Christiansen- emailing/WES Kristi Mogen- WES Theresa Kaaz-WES Wayne Bogheiinck-WES Garry Ehlebracht-WES
4. Approval of Agenda Motion by Adler second by Spartz carries 7-0.
5. Approval of Minutes:
 - a. Wind Energy Tour: Tuesday, August 28, 2018 Motion by Hansen second by Adler carries 7-0.
 - b. Monday August 13, 2018 Motion by Mach second by Hansen carries 7-0.
6. Plats- presentation of each plat by Zoning Officer Atyeo-Gortmaker.
 - a. Zirbel Farms LLC, owners, request the plat of SE1/4 of Section 4, Township 121 North, Range 52 in the former Sisseton Wahpeton Indian Reservation to Lot 1 of Zirbel Addition in the County of Grant, South Dakota (Blooming Valley Township) Motion by Pillatzki second by Leddy carries 7-0. Discussion included the question of longevity of ownership and the planar number accuracy for the bearings.
7. Wind Energy Ordinance Review – Planning Commission work session on Grant County Wind Energy System Zoning Regulations. (This is not a public forum. Discussion during the work session will be restricted to the Planning Commission and its facilitator). Topics for discussion
 - a. Tour Discussion
 - b. Flicker, Lighting & Noise Discussion
 - c. Decommission Discussion

Todd Kays provided a brief overview of previous work sessions. Kays also pointed out that there are hundreds of pages of information that have been submitted and available for review on-line. Kays went on to state that it is not his role as facilitator to regurgitate the information that is being sent for review. It is on the webserver and available to everyone to review on their own He then opened discussion to the LATI/GCDC Tour that had been conducted and asked the Commission about new thoughts or understandings that may have come from this tour. He also pointed out that in a recent the Letter to the Editor there was an incorrect statement attributing handouts at the tour coming from the First District. Kays stated that the handouts came from LATI and not the First District.

Continuing the discussion from the previous work session regarding setbacks, Kays asked the Commission whether the board was at regarding their views on fixed flat setbacks or minimum setback with a multiplier. He also asked the Commission about establishing different setbacks for participants and non-participants

Kays began with non-participant residences and asked the board to define a number to begin the discussion. Pillatzki stopped the discussion and stated the Rosenberg information brought up questions for him that he feels should be looked at by someone that knows better for the health factors. What are the true repercussions like a jet vibration and the health risk? The Board is responsible for the well-being and health of the citizens. Mach then asks what if the size was limited, does the board have a right to do that. Kays points out that is what a multiplier will do. Leddy stated before the tour he wanted to up the distances but it is hard to even see the towers with the trees and now feels the size should not be limited. Spartz felt the non-participants would be paid something extra to be closer to their lotlines.

More area should be included with more participants and that money could be thrown in a kitty to be paid to the non-participants. Johnson points out that is what they do now and Spartz agreed that is what they do now.

Kays refocuses the discussion by referring to previous discussions and maps regarding setbacks and further states that Commission had previously stated, collectively, that the existing 1,000 foot setback was inadequate

Johnson asks about what other counties are doing and stated that she had heard Codington County was moving to the 500 foot at 1500-foot height with a 2 ½ foot multiplier. Kays states there are around 40 counties that have that have wind energy setbacks and went into details about some of them. Johnson states she could support a 1250 foot setback for 400' tower with a 2 ½ multiplier and Spartz asked about going to a 1275 with 2 ½ foot multiplier because a 600 foot tower will throw ice further. Spartz states he wants to be realistic such as in Yellow Medicine County which is considering a 600 foot tower. These are taller towers with the same generation to decrease the time of generation. Pillatzki just wants to see whatever will make it more setback.

After asking each commissioner their thoughts regarding setbacks from residences, the Commission on a 5-2 vote recommended a 1,500 foot flat setback. However, participants could sign a waiver from the 1500-foot setback but the tower could be no closer than 500 feet 110% of the tower height for towers over 500' tall. Pillatzki states he would like more than 500 feet.

Kays then asked about the setback to the Center of the Road which is currently 500 feet and 110%. Spartz states the 500 feet and 110% takes adjoining property rights because they can no longer use their own land. Kays disputes Spartz's claim by saying that there is nothing prohibiting an individual from encroaching an existing WES with a home or building. A vote of 4/3 to place the setback to COR at 2 times the tower height. Mach clarified the ROW would be 33 feet in most cases and 50 foot in others and it is cluttered with wires and lines already. Leddy would like to see what 150% looks like in the case of a 500 foot tower is that 750 foot to COR? He feels currently what is used to site is inadequate and Johnson points out an inaccuracy in the ordinance in 1211 #2b and asks if that is a typo. Kays acknowledges that this was missed in his review and corrections. Spartz would like to see 2 times the height and 1500 feet to structure. Leddy asked about what is gained by moving the tower back that height. Why more? Leddy then asked what the Nichols turbine setback to the road was. Spartz states that a 50-foot big road the lines are about 10 foot off the property line and a 500 foot tower would only have 550 feet to not fall at the 110% and adds that we need to 150% to give it plenty of room to not fall on the power lines. 5/2 vote to stay the same up to 500 ft tower at 110% for Center of the Road.

Kays asks about the 500 ft property line being adequate and the board voted in at 5/2 yes that was adequate.

Discussion of municipality or city limits began with Johnson when she questioned treating the growing communities and expanding city limits differently than the towns that are in the area and may not be expanding. Kays pointed out that the towns could have different classifications and be treated differently. Vote of 5/2 for 1 mile to a municipality or city limit. Public parks were also discussed at this time and it was found that the few in Grant County may be recognized with another type of setback such as the Chataqua being a Lake Park District that would be included in the city limit setback. Kays asked if a setback from lakes would apply to all prairie potholes. The board felt no further need to discuss or apply a setback from public parks and/or lakes. Discussion followed regarding setting a 1-mile setback from Airports. The board felt no need to discuss this at this time because of the FAA oversight of the rules that supersede the county requests.

Kays discussed noise factors with the board by opening with the current ordinance matching current PUC guidelines at 45dBa measured 25 feet from non-participating residence and 50dBa measured at 25 feet from participating residence. A vote of 5/2 agree this is a good setback.

The amount of shadow flicker was discussed. Currently the county does not regulate Flicker. The PUC standard as of recent decisions has been 30 hours per year or .3% of the time. Pillatzki asked how this is enforced and Kays reported that a complaint would it be registered and sent to the PUC for enforcement purposes.

Lighting in both Codington and Clark have traffic detection and the towers are requested to be dual mode. If the FAA says no or will not sign off then the blinking red light remains. It was recommended to require ADLS lighting unless FAA disapproves

Decommissioning is the final topic of discussion led by Kays. Current ordinance states 10 years and may require financial assurance at that time. As an idea to get discussion started Kays stated that 30 days prior to a building permit a line of credit or escrow could be made to the Board of Adjustment that would put \$5000/year into a fund to earn interest. 100 towers would be \$500,000 each year over 30 years for \$15 million that would go to landowners if company fails. At this time it costs about \$180,000 to decommission a turbine. This could be set up to run for 10 years and be reviewed every 5 years at that point. Pillatzki asked who would maintain that account. Kays answered that it would be a third party administrator from either the company buying the power with a letter of credit, a bond

would have a bondsman or an escrow account would have an accountant. After 15 years the fund would be complete and if they meet all the time limits for decommissioning they would get the money back. Board generally approves of this approach

Kays then asked if there were any other topics the board wanted to discuss or direct for research and none were reported. He states that October would be a presentation of draft form which would be distributed and a forum would be the platform. In November the adoption process would begin.

Mach asked for research about the compensation to counties that they would receive as a part of a 30 to 50 year project and stated that he has heard it would be anywhere from \$8000 to \$15000 each year for the landowners. Kays stated Muller was going to be working on this and would probably start in Brookings County, where turbines have been in existence the longest in South Dakota. This is governed by State law in South Dakota and is dictated by the state. Kays will check with the Department of Revenue to see what is available.

8. Open address to Planning Commission for 5 minutes-

In order to accurately reflect the following comments this testimony has been transcribed verbatim from the meeting recording.

Amber Christenson questioned Todd Kays on the emails she thought she was going to get in which they would be notified of study group information. She doesn't think any of the stuff that was discussed at this meeting should have been because she didn't have proper notice for submission. She also feels that some stuff has not been posted to the website because some of the board told her they hadn't been on the site. Kays stated that all items submitted have been posted on the website, nothing has been lost, she obviously had notice to come to hear the discussion today and there is a litany of information on the website, some of which she has submitted herself in written form. As far as more information in an email everything is on the website and the board can choose to read it or not. Christenson shouts that is not how it was set up and that Kays is not going by the rules he set up. Kays answers back that this is a false accusation and he is following the rules that were set at the first meeting by the study group and Planning & Zoning Board. Kays does apologize for the communication breakdown in getting information regarding meeting topics directly emailed to those signing up last spring.

Kristi Mogen began by talking about reference material that she has submitted that is on the website and talks about the science of setbacks and ordinances. Section 103 specifically speaks about the welfare in the Zoning ordinance. The board needs to know this and understand this. They should know about infrasound. A consultant should be hired for community noise and she suggests they read section 12.9 of the ansi codes. The ordinance does not give free use of property. Flicker should never cross her property line because she is not paid. No mitigation. Why is there a 50 year lease on a 20 year turbine? At decommissioning there should be a cost expert not numbers picked from the air. MLS turbines and confidentiality clauses.

Gary Ehlebracht asks when turbines are abandoned then what. What happens when they are not working?

Theresa Kaaz begins with cumulative effect and wants it explained why they are seizing the growth potential and why Twin Brooks and Marvin don't matter in Leddy's words. Leddy clarifies that he did not state this and Kaaz says, well she did and points to Johnson. Leddy answers no one did.

Wayne Borgheijnck begins that he is a soldier that was taught to fight and he will be a soldier for life. He talked to a young farmer at a sale who said to his father what am I going to do- there is nowhere left to go. They are boxed in a small town by economic swings and what is supposed to be life safety and liberty the farmers have quit buying. Young people have nowhere left to go. Commissioners have closed their ears and the young man has nowhere to go. What is the future? Most of the Grant county people rent the land but don't live here because it isn't livable anymore. He will continue to be a soldier fighting to defend children's futures.

9. Matters for Board Discussion/Staff Report- none

10. Next meetings:

- a. Regular meeting: **Tuesday, October 9, 2018** at 4 PM

11. Executive Session (if necessary)

12. Adjourn as the Grant County Planning Commission Motion by Mach second by Pillatzki carries 7-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County