

DICKINSON COUNTY PLANNING AND ZONING COMMISSION

Monday January 15, 2024

10:00 A.M.

The Dickinson County Planning and Zoning Commission met Monday January 15, 2024, at 10:00 A.M. in the community room of the Dickinson County Courthouse.

Members present were Tony Weber, James Blum, Carol Pierce, Erica Schultes and Teresa Garvey, David Besch. Absent was Chad Baker.

Also, present were Megan Kardell, Dickinson County Zoning Administrator, and Steve Goodlow, Dickinson County Attorney and Lee McKim Zoning Assistant.

Tony Weber-Chairman called the meeting to order at 10:00 a.m.

First Item on the Agenda was approval of Minutes from December 18, 2023, Schultes approved, Garvey seconded.

Second on the Agenda was New Business.

1. Recommendation to the Board of Supervisors for Pipeline Ordinance 24-1

Kardell read the correspondence.

Public speakers took to the podium: Scott O’Koren from Summit Carbon Solution presented their pipeline presentation.

Calia Corcoran was next to the podium to let the board know the pipeline will go right under the middle of her new house, she came to urge the board to not accept the pipeline case.

Kaylee Langrell, with Summit Carbon solutions also came to the podium to visit with the board about reaching out to emergency managers. Pierce asked questions about equipment and special needs if a pipeline fracture to be at the cost of the pipeline company. Schultes asked about how they will recruit emergency personnel and Langrell responded to all questions.

Dan Wall took to the podium to discuss his experience with Summit Carbon solutions and his lawsuit and appeals to the Supreme court.

Meghan Sloma has her family has two properties in the area, and farms in Sioux County. Sloma explained that Summit has reached out to her and explained her reasons of concern to protect our area.

Weber clarified that this is a working ordinance, and it still must go to Board of Supervisors for their decision.

Vicki Beck took the podium discussing her negative issues with the pipeline on her property and had a power point to present to the commission.

Pierce asked Sloma to speak and confirm the Phmsa pipeline legal information. Sloma explained the definition and that the Pipeline needs to apply to the IUB(Iowa Utility Board), which it has. and explained that it is working its way through the system.

Schultes asked Summit representatives questions about water needs and the points brought up by Beck. O’Koren came back to the podium and explained they do talk to these entities and all utilities.

Randy Heikens came to the podium and brought a chart on drainage on handshake agreements back in 1950 and future problems he believes will incur.

Barb Clayton came to podium to express she is in favor of the pipeline ordinance and her reasons why.

Patrick Kelly took to the podium to talk about transparency, and that all documents need to be posted on website.

Weber asked the board for any comments. None.

Weber explained about the ordinance 24-1 guidelines. Discussion among the Planning & Zoning board.

Weber then spoke about Ordinance 24-1 for a proposal. Pierce motioned for Ordinance 24-1 to go to Board of Supervisors and Pierce seconded.

Votes were 5 approved and 1 abstained. Weber, Pierce, Schultes, Garvey and Besch, approve. Blum-abstain.

2. Recommendation to the Board of Supervisors for amendments to Article # 21

Weber then spoke about Article #21 and its changes.

Kardell then spoke about the reviews for Article #21 to include the local advertising shopper for publishing, Section 4 now as it as “may consider the following factors”, letter A: “morals & comfort” removed, letter B “ and enjoyment” was removed. Section 5 was rewritten: B Planned Unit Development (PUD) and Section 5. D Wind Energy Conversion Systems (WECS)uses shall follow the standards outlined in their respective articles and are exempt from the general standards. The specified uses below shall adhere to the supplemental standards as well as the general standards outlined in Section 4 above. Section D Wind Energy Systems 1. Applicants shall follow the procedures and requirements outlined herein 2. Pre-Application informational conference 30 days to 45 days and be advertised as an application conference, list township names and section number. Computer modeling for sound and shadow flicker will be available for all human occupied dwellings within the project area at the preapplication conference. Agency Notifications and Review recommended any issues addressed to prior public hearing. Added Planning & Zoning office, Dickinson County Emergency Management office, local district and state Iowa Department of Natural Resources office. Notification Procedures: Notification The Board of Adjustment shall schedule a public hearing in relation to the conditional use request. Notice shall be given to the public hearing as required by State Statute by publication in the official County newspaper(s) and the local advertising shopper. The Zoning office shall give notice by ordinary mail to all property owners located within one (1) mile of the property for which the conditional use is requested by mailing such notice to the last known addresses of those to be thus notified by depositing such notice with sufficient postage in the United States mail at least fifteen (15) days prior to the public hearing. An affidavit of mailing shall be obtained for each

notice mailed. Notice shall include the name of the proposed project, a contact person for the proposed project, the location of the proposed project, (list Township names and section numbers), and the time and place of the public hearing. Section 5 dwellings: including non-occupied dwelling, **Non-Human Dwelling**. The Wind Energy Conversion System (WECS) is to be placed 500 feet from any unoccupied non-human dwelling structures. An unoccupied non-human dwelling structure is defined as one not capable of being occupied for residential purposes. The measurement is to be taken from the nearest point of the unoccupied non-human dwelling structures to the center of the turbine base.

b) Commercial Uses. All publicly used commercial buildings, having a permitted commercial use shall have the same setback as a human occupied dwelling. Including but not limited to public assembly and commercial recreational areas.

Property Lines. Property Lines. The Wind Energy Conversion System (WECS) devices shall be set back a distance equal to 110% or 1.1 times the total height from an adjacent property lines. There shall be no setback requirements with regard to wind energy devices if the adjacent property owner gives written consent to allow such wind energy device to be placed adjacent to the property line. Such consent shall be in writing from the adjacent property owner and included in the application.

Public lands and water added verbiage, birds & bats added by Department of Natural Resources. Max height 600 ft, decommissioning plan submitted with application and financial insurance, mitigation of damages. Electronic standards, marked by FFA in occurrence with FFA Standards. Signage no changes, adjusted sound & buffering, dba of 45, sound complaint, shadow flicker 30 hours per year or no more than 30 minutes per day.

Pierce then spoke about if technology improves, the noise factor will be updated. Kardell agreed.

Weber spoke about the long process; and that all information was posted on the website. Schultes asked for public comment before responding.

Kardell read the correspondence letters.

Kardell reread the standards regarding number nine with the FFA standards out loud for Pierce regarding 180 days if the FFA updates their standards.

Break for 15 minutes.

12:08pm reconvened

Public Speakers are Phil Peterson on the subcommittee members, height of turbines to protect the area. Schultes spoke of the subcommittee, three members of Planning & Zoning, two people from DC3, Al Zeitz who works with Iowa Lakes Coop, Harold Prior who was part of the original committee. Schultes, felt the members were listened too and the two members of DC3 submitted their resignation after the last Board of Adjustment meeting. Blum added that Peterson wasn't correct, there were 3 people in the area in the wind turbine area. Schultes corrected as she lives in North of Superior, not in the past applicant area, but she does live within seven turbines put up in 2014.

Joe Crowley took to the podium for Invenergy and discussed some suggestions, that Invenergy would like changed to ordinance. The suggestions were also handed out to board members in a pamphlet.

Gary DeLoss was next to the podium to speak on the height of turbines at 600 feet and repowering the turbine system. DeLoss talked about lighting issues and the red lights at night everywhere, that is a problem.

Ryan Ross took the podium to thank the board for allowing input. Ross then talked about the farm's income being crucial to the farm community, to discourage restrictive setbacks as it affects smaller landowners and not introducing waivers. Ross then talked about sound levels being 50-60dba, to not go as low as 45dba.

Randy Heikens next at the podium, talked about the ordinance and an oligarchy group what it is defined as. Heikens discussed drainage districts under law and how there should be something in the ordinance on that.

Kris VanKleek took the podium discussing her packet that was handed out to the board. VanKleek talked about application fees and per turbine, ice throw, blade warming technology, the 180 days requirement, liability insurance, complaint resolution, escrow account, noise, waste disposal, Signal interference and to protect the people.

Nancy Heikens was next at the podium talking about her concerns with ice throw, fires, setbacks, and dangerous life-threatening situations. Heikens talked about the 30 minutes of shadow flicker, the wording of comfort and joy in the ordinance take out. Heikens discussed if her farm gets burnt who pays for the consequences. Heikens addressed her pamphlet about a turbine fire in Nebraska.

Richard VonEhwegen came to the podium, about the house of representatives on gas power vehicles, blocking emissions, updating regulations is about favoring winners in renewable energy. VonEhwegen asked the board to be fair in their decisions.

Chris Murphy was next to the podium and asked about 1600 feet setbacks that Invenergy suggested and asked the board to not go below that number. Be fair to people who don't want them on their property, offensive sounds, and light flicker. Murphy said she talked to the Board of Supervisors about the nighttime lights on the turbine.

Jake Smith went to turbine technology course, would like to see landowners be able to sell renewable energy and they would use it on their property. Smith asks the board to not shortchange the young families, on fossil fuels.

Roger Doyle came to the podium he stated that he would have four turbines around him if the ordinance goes through. Doyle would like to visit about lack and loss of property value, and the impact of less buyers. Doyle asked the board to protect property owners from loss in property values.

Patrick Kelly took the podium, stating he believes the area was a holy land for the Sioux, and we need to keep the land pristine. Kelly said he appreciates the board for their work. Kelly states he wants a more scientific evaluation, with modern technology before determining to bring more turbines.

Kelli Orton, attorney for Invenergy, spoke at the podium, she stated that Invenergy supported Section 5D1 they supported the clarification. Section 5D are relevant to a WECS application and makes the standards more objective and transparent.

Aaron Janssen, business owner and previous subcommittee member, took to the podium. Janssen stated he is frustrated with an individual at the subcommittee meetings and the application fee of \$ 350.00 and with his venue he was charged more. Janssen went over other counties fees, setbacks, ice throw, and blade warming technology, and setbacks to be four times the total height for turbines.

Barb Clayton was next at the podium, she would like to have application fees increased, when application is filed to have copies of maps. Clayton discussed leases, public meetings, and forums.

Clayton talked about the turbine collapses in the neighboring states and how setbacks are not sufficient.

Steve Anderson, Mayor of Milford took the podium, talking about Section 1 needs to be waived, Section 3 he doesn't believe it should be up to the wind company to send out letters, Section 5F to add WECS shouldn't be in two miles of conservation areas, DNR preconstruction monitoring and they don't have the money for monitoring, so the applicant should pay for it. Anderson said Section 5 J WECS should be within three miles of city limits, Section 8 B that county and wind company need to agree on 3rd party person to assess roads, bridges, culverts before and after construction sixty days before and after construction, operator to do complaints and county should follow up.

Weber discussed that the public section is now closed to take a forty-five-minute break for lunch. Reconvene at 2pm.

Weber discussed the conditional use and the section of the wind ordinance Article # 21 and thanked the wind subcommittee.

Discussion amongst the board members and zoning administrator for comments and input.

1. 600 feet maximum height
2. Notification to Incorporated areas within 2 miles to city limits
3. Remove property lines, revert to original
4. Setbacks go from 1200 feet to 1600 feet, 500 feet non-human dwelling
5. Dbas 45 at night
6. Shadow flicker 30 minutes per day/30 hours per year on average
7. Owner operator included in decommissioning plan (clarification in subset)
8. Road Use Agreement between County Engineer and applicant
9. Enforcement/remediation-breach of permit will be addressed by the County Attorney
10. Agency notifications and review-documentation of notifications/if agency, doesn't respond it may be deemed there was no action taken.

Pierce motioned to amend Article #21 Conditional Uses with conditions listed. Seconded by Garvey.

Votes were 5 approval and 1 denial. Weber, Pierce, Schultes, Garvey and Besch, approve. Blum-deny

Third item on the agenda was Old, unknown business. None

Fourth item on the agenda was Adjournment. Schultes motioned to adjourn and seconded by Garvey seconded motion. All were in favor.

(For more information see P&Z 01 15 24 recording)