

DICKINSON COUNTY BOARD OF ADJUSTMENT

Tuesday, May 26, 2009

7:00 P.M.

The Dickinson County Board of Adjustment met Tuesday, May 26, 2009 at 7:00 p.m. in the Dickinson County Community Building.

Members present were Don Oleson, Dennis Jackson, Bob Duncan, Wendell Williams and Jeff Ashland.

Don Oleson, Chairman, called the meeting to order at 7:00 p.m. He read the Board of Adjustment opening statement.

First on the agenda was roll call.

Second on the agenda was new business.

- 1st item of new business was Neil M. Wenzel, a variance for Lot 14 and 15, Blk. 6, Unit 2, East Okoboji Beach. Oleson read the description of the variance. All members had viewed the site.

Attorney Mike Houchins was representing the Wenzel's. Both Neil and his father, Joseph, are asking for the same variances. He pointed out on an aerial the location of the Wenzel properties. He said because of the road widening and construction in East Okoboji Beach, they are going to eliminate the two corner lots next to the Wenzel's property. They are asking for an 8 feet side yard instead of the 35 feet required on a corner lot. Because of the county's actions, they are asking for this. The board received a letter from the Board of Supervisors endorsing this variance request. He then asked the board members if they had questions.

Oleson read a letter from Lonnie Saunders, Assistant County Attorney, representing the Board of Supervisors. The supervisors suggested and are in support of the Wenzel's request for variance.

Jackson asked where the right of way is exactly.

Houchins said there is an existing 50 feet right of way. They are taking 100 feet, and making a 60 feet road way. There will be 20 feet on each side for drainage.

Jackson said he had a concern of view at the corners, but with 20 feet on each side, this should help the view concerns.

There was no written correspondence, but Oleson read a phone call from Tony Paskert with questions of what the variance was about. He had no objections. Also Gayle Messerole stopped in the office with questions about the variance and she had no objections.

Mardi Allen said she was available to take any questions from the board. She said there are plans for rain gardens and bioswales in the area of the Wenzel's lots.

There being no further comments, Ashland moved to vote on the Neil M. Wenzel variance request. Williams seconded. All were in favor. The vote was recorded as all approve. Oleson read from the vote result form.

- 2nd item of new business was Joseph and Ila Wenzel, Lot 11, Blk. 6, Unit 2, East Okoboji Beach. Oleson read the description of the variance which was identical to Neil Wenzel's.

There were no questions from the board or public.

Williams moved to vote on the Joseph and Ila Wenzel variance. Jackson seconded. All were in favor. The vote was recorded as all approve. Oleson read from the vote result form.

- 3rd item of new business was Lost Lakes Wind Farm and various landowners, conditional use to construct a WECS project. All members had viewed the site.

Williams requested to recused from the Lost Lakes application as he has a personal interest in the Wind Farm project.

Representatives of the Horizon Wind Company introduced themselves. Steve Pace, Attorney, Brenna Gunderson, Project Manager, and Andrew Young, Chief Development Officer. Other members of the Horizon Wind development team were introduced.

Mr. Pace said they would make one presentation, but there are two conditional use requests, one for the wind turbines and one for the substation.

Pace said there were concerns which they tried to address, such as the location of some of the towers. They had a public meeting March 19th in the Milford community building. Lots of studies have been done during the planning process.

He then presented a slide show:

- Less than 2% of the land is being taken out of production.

- The participating landowners receive a lease payment.

- The project promotes rural economic development through temporary construction jobs, some permanent operations and maintenance jobs, tax revenue, licensing fees, and local purchases.

- The wind energy is a clean source of energy – no pollution.

Andrew Young spoke and told about Horizon Wind Energy Company, and gave some history on their other successful projects. This project is about 100 MW. Since 2002, they have completed 16 projects in 8 states. They are pushing to get this one installed by the end of 2009.

Brenna Gunderson spoke. She gave background on two existing wind farms. The Lost Lakes project will be in four townships - Lakeville, Excelsior, Westport and Okoboji. They are requesting to build 61 1.65 MW turbines. They have lease agreements with the landowners and neighbor agreements for those not having a wind turbine on their property, but living within the wind farm.

She said they are meeting all setback and other requirements of the WECS ordinance. Zero wetlands will be affected. She gave information on the wind farm time line as the project planning progressed.

Gunderson said they hope to start construction in June 2009 and finish in December 2009. She described the three phases of the wind farm project: development, construction, and operations.

Environmental studies have been done – bird surveys, bat surveys, and habitat mapping.

She explained the interconnection details with an agreement with a power company, and the substation proposal. She reviewed the studies that have been done to date and explained the visual simulation posters.

Pace then showed the board members a poster of the wind farm overview with the wildlife areas shaded and proximity of the lakes to show that they kept away from those areas.

Oleson asked if the gravel access roads off the county roads will be gated.

Gunderson said these are typically left open unless the farmer requests it be closed.

Oleson said they are meeting the 1200' setbacks from human occupied dwellings. Have studies been done on catastrophic wind and blade throw as to how far a blade could travel?

Young said there have been independent studies done on blade throw and ice throw. The furthest a piece was thrown in the study was 150 meters, approximately 500 feet.

Oleson asked about the lubrication oil in each turbine and concern for any oil leakage.

Young said today's turbines have a catch basin built under the gear box up on top. There are thermal sensors that will shut down the turbine if the oil gets hot. The bottom of the tower is sealed so nothing can leak out.

Lisa Oliver, engineer, said they will have a spill provision maintenance plan in place.

Young said they also have a spill design around the substation.

Ashland complimented Horizon Wind on placing the turbines in straight lines which makes it easier to farm around them.

Duncan asked if there were any changes since the applications were submitted.

Gunderson said they have received a few more agency reviews.

Oleson asked in a fire emergency do they have an onsite fire extinguisher in each turbine.

Bob Keller, construction manager, said there is a small hand held extinguisher mainly for egress for personnel who may be in the tower. In case of fire, they would call the local fire department.

Oleson asked about plans in place for police, fire, and emergency. The board would suggest their meeting with all local emergency officials to coordinate their planning.

Keller said they have people trained in tower rescue.

Dave Smith suggested that each tower be assigned a 911 address for location in an emergency.

Keller said there will be a 911 address at every access road.

Ashland asked at the end of the project, what is the decommissioning plan.

Gunderson said the owner of the project is responsible to remove all to 3 feet below ground, remove the access roads and reseed. If there is no owner, at year 17 they will issue a surety bond for \$25,000 per turbine to have available for decommissioning.

Oleson asked if the land will be put back in a farmable condition.

Gunderson said as close to the original condition as possible and it is also in the lease agreement with the landowner.

Oleson asked about silt fence barriers.

Young said they would have a Storm Water Prevention Plan and would use hay bales, etc.

Lisa Oliver said the IDNR does assist on what they need to design to and the company adheres as closely as they can.

Ashland asked if on any of their previous projects there have been any reports of electronic interference with cell phones or television.

Gunderson said on the Pioneer Prairie Farm they had a report of some TV interference with a home that was using an antenna. This was mitigated by giving them cable or a different receiver.

Oleson asked about the weight of trucks. Has Dan Eckert approved the weight requirements for bridges and roads?

Gunderson said all road use agreements have been signed and approved.

Keller said he will video the roads before and after and repair any damage.

Ashland asked if the power unit they are using is a stable generator.

Young said these are proven units. They have used them more than 5 years. Vestas is the world largest producer of turbine generators. They are very confident in the quality of the technology.

Jackson said the board will be acting on a substation too. What about greenery?

Oleson said the board has in the past asked for multiple rows of plantings.

Young said they would be fine with that condition.

Oleson asked if the turbines can be retrofitted as they age.

Young said yes, they can repower them. There is inherent value in the infrastructure.

Oleson asked for questions or comments from the public.

John Shaw, Milford, said they are part of the wind project in Excelsior Twp. It has been a real pleasure working with the Horizon Wind staff. All questions were answered.

Dave Smith, Milford, said the company was treating everyone fair, not condemning any land. Also, he is all for getting rid of coal pollution.

Tim Hemphill, Milford, related his experience of visiting a shop in Fargo, N.D. On the day he was there, there was no heat in the shop because they are on load control. The city can't keep up with electric use. Every house has to have a back-up form of heat.

Oleson asked about Horizon Wind's observance of the two existing airports.

Gunderson said they hired a consultant to do a study of the air space impact area. They found only Section 9 in Okoboji to be affected, so no turbines were placed there.

Young said the Federal Aeronautics Administration (FAA) has issued non hazard statements for all proposed turbine sites.

Duncan asked if the proposed number of turbines is the maximum amount that would fit in this area.

Gunderson said yes, they are not looking to expand.

Oleson asked about neighbor agreements. Would there be room to put more turbines on those lands?

Gunderson said there is not capability with interconnection. The neighbor agreements were for those not interested in easement or lease agreements.

Ashland asked if there are any health issues reported with any of their existing projects.

Gunderson said none.

Lonnie Saunders, Assistant County Attorney, commented that Horizon Wind has worked hard to meet all the criteria. They waited until the new WECS regulations were in place and complied with those. He has heard little negative comment. Their documentation is very thorough.

Duncan said the application was very professional and thorough and the turbine locations were marked well.

No correspondence had been received.

There being no further questions, Ashland moved to vote on the Lost Lakes Wind Farm project. Jackson seconded. All were in favor.

The vote was recorded as four approve, one abstain. Oleson read from the vote result form.

- 4th item of new business was Lost Lakes Wind Farm LLC and Nancy Hassebroek, for a substation in Govt. Lot 6, Section 32, Lakeville Twp. All members had viewed the site.

Gunderson said they will be purchasing 12 acres. The substation will be on a portion of it. The overhead utility will build their switchyard there also. There will be an underground collection line connecting to ITC Midwest.

Duncan asked about security around the substation.

Gunderson said they will have an 8' locked fence with razor wire on top, high voltage signs, and outside lights.

The members agreed on the stipulation to require two rows of plantings on the north side of the fence:

1 row deciduous trees minimum height of 6' to 8'.

1 row deciduous shrubbery minimum height of 2' to 3'.

Planted in a staggered pattern and kept in a viable, healthy condition.

Bob Keller asked if the board could draw a plan and give to them.

No correspondence had been received for this application.

Oleson asked for any questions or comments from the public. There were none.

Duncan moved to vote on the Lost Lakes Wind Farm and Nancy Hassebroek substation application with the stipulation of the plantings. Ashland seconded. All were in favor.

The vote was recorded as 4 approve, 1 abstain. Oleson read from the vote result form.

Oleson called a five minute recess.

Wendell Williams rejoined the board for the remainder of the meeting.

Third on the agenda was approval of the minutes of April 27, 2009. Williams moved to approve the minutes as written. Ashland seconded. All were in favor.

Fourth on the agenda was communications. There were none.

Fifth on the agenda was report of officers and committees. There were none.

Sixth on the agenda was old or unknown business. Kohlhaase said there would be a variance next month in Weather's End.

Seventh on the agenda was other. Kohlhaase said Al Blum of North Star Wind had requested if they would provide a map, would the board members agree to look at the staked locations of their proposed turbines. They may not bring an application to the board for several months yet. After some discussion, the board members agreed they would be willing to view the sites.

Williams said he would like to discuss further how the board was to handle any applications that were submitted for small, private wind turbines.

Saunders said that Kohlhaase was looking at some ordinances for private wind turbines in place in other states. In the meantime, if an application comes before another ordinance is in place, the applicant will have to answer point by point why they are exempt from the WECS regulation, as the board members suggested at the last meeting.

Eighth on the agenda was adjournment. Jackson moved to adjourn. Duncan seconded. The meeting was adjourned at 9:05 p.m.