

Floyd County Board of Supervisors and Zoning Commission Joint Meeting
November 28, 2023, 1:00 p.m.

The Floyd County Board of Supervisors and Zoning Commission met in the EOC/Training Room of the Floyd County Courthouse with the following in attendance: Board of Supervisors Mark Kuhn, Dennis Keifer, and Jim Jorgensen and Zoning Commissioners Dean Tjaden, Pam Erbe-Lines, Ben Rottinghaus, and Guy Carpenter.

Supv Kuhn called the Board of Supervisor's meeting to order. Jorgensen/Keifer moved to approve the agenda on behalf of the Board of Supervisors as presented. Motion carried 3-0. Kuhn yielded the floor to Commissioner Tjaden, Zoning Commission Chair. Commissioner Tjaden called the Zoning Commission meeting to order and introduced Commissioners Erbe-Lines, Rottinghaus and Carpenter.

John Robbins, North Iowa Area Council of Governments Senior Planner, referenced language from the County's Comprehensive Plan relevant to wind energy, such as "preserve prime farm land", "encourage proper soil management practices", "avoid flood plains", "protect environmentally sensitive areas", "ensure proper maintenance of roads", "developers to return farmland back to its original condition after the end of the useful life", "encourage development of clean and renewal energy and energy efficiency" and "encourage recycling efforts". In the Zoning Ordinance, there are minimum requirements for large-scale wind systems, conditional use permits as reviewed by the Board of Adjustments, some safety standards, and some vague and basic requirements. Iowa Code 335 allows county to establish zoning requirements and permitting processes which the county can do so to create a predictable and regulatory environment for landowners and developers.

Robbins suggests a more robust set of requirements with respect to wind energy systems, battery storage, permitting, and the role of the Zoning Commission and Board of Adjustment. Options include: 1) A conditional use/special use process administered through the Board of Adjustments which would not go through the Board of Supervisors; this is a process most counties use. 2) A floating overlay zone for renewable energy, a special district that lays on top of the underlying zoning district, requires a stricter permitting process, additional hearings, Zoning Commission recommendation to the Board, and Board approval; this process is becoming more popular.

Either option should include a pre-application process where the developer introduces their project with aspects of the plan before filing an application. Some counties require notification of certain entities, such as FCC, FAA, conservation department, prior to making an application or at time of application. An ordinance could callout for a review period/timeframe to assess required elements in the application. Consideration could require the developer to host a public meeting to provide information such as site plan, number of turbines, shadow flickering, noise, etc. and answer questions from the public, after filing an application but prior to the hearing. A specific review period, such as 30-90 days, is recommended to allow time to review an application. After holding public hearings, issues such as determination on whether minimum requirements are met or possible additional requirements are necessary before approving or denying an application. Subsequent to the approval process, follow-up permitting may be required, such as building, road use, zoning changes, etc.

Common required items for a developer include, but not limited to, a completed application, a filing fee (currently \$500/turbine), a narrative addressing capacity of development, site plans, transmission lines, turbines, meteorological (MET) towers, battery storage facilities, substations, landowners agreements, decommissioning plan, certificate of liability insurance, financial security requirement to protect landowners in the event the company goes out of business, FAA SFR7460 permit or proof of "termination of no hazard", FCC beam signal studies or process in place, third party acoustic study, shadow flicker study with plan to regulate, manufacturer details and diagrams, and emergency action plan. Some counties have as a matter of practice or in the ordinance, a list of property owners who should receive mailings within a certain proximity of the project area.

Supv Keifer questioned if the ordinance should address highly productive land being taken out of production and possibly implementing a scale based on land averages higher than certain CSR ratings not being able to build on that land. Robbins does not recommend this due to the minimal amount of land used for turbines and access roads is less than an acre compared to other types of things that take farmland out of production.

An ordinance has various types of setbacks, the distance from where the turbine is to the closest distance to another object. Typical setbacks are based on 110% of the height of the tip of the blade at its highest rotation. Setback types from the turbine to the nearest house, occupied buildings, or residential district are commonly set at 1,000 to 1,250 feet although in recent years larger distances have been required in some states. Distances of 1,500 feet from residence makes it economically challenging to be feasible for a developer. Setbacks from conservation areas or parks are more common in other states; some counties in Iowa range from 600 to 1,250 feet. Setbacks

may be considered for distances from incorporated city limits, confined feeding operations, and drainage tiles. Ordinances will typically allow property owners to voluntarily sign a waiver agreement for a closer setback. Some counties may establish a maximum height setback or a minimum ground clearance setback.

An ordinance may regulate turbine paint colors and whether or not to allow advertising on a turbine.

An ordinance should require a road use agreement. Generally, an agreement should include items such as specific routes to use as directed by the engineer to haul turbine infrastructure, photos/video of pre-construction route assessment, and address intersections that may need to be widened. Basically, the agreement should require the developer to fix whatever is broken and typically when the project is completed, the roads are improved.

Public drainage districts are governed by Iowa Code 468 and setbacks may not necessarily require language in the ordinance. The County should have established procedures regarding impact to drainage districts, repairing, and routing. Tiles in the right of way are typically covered in the road use agreement. Private tiles are typically covered in easement agreements with landowners. Crop damage is usually covered on private drains.

Setbacks for turbine noise can be put in the ordinance but are hard to regulate. Audible sound is commonly 55 decibels from closest residence. Minnesota Code has a post application study requirement one year after construction to ensure noise does not exceed limits; the study is hired by the developer.

Setbacks for shadow flicker, the effect of the moving wave as it casts a shadow across property, measured in hours per year, can be established from the distance of the turbine to an occupied building. No more than 30 hours/year is typical; Worth Co is zero hours/year. A pre-application study would determine the flicker amount.

Decommissioning requirements identify what to do with materials, concrete, steel parts, etc, after the useful life of the turbine. Recycling fiberglass blade material is the most difficult for the industry to address.

Safety measures in an ordinance should include topics such as the zoning department maintaining a current emergency contact list and all ladders and access points of a turbine need to be locked. Lighting requirements atop turbines must be approved by the FAA. Kuhn will provide local airport contact information to Robbins to address concerns about aircrafts utilizing the local airport not equipped with new aircraft detention lighting system technology. Some ordinances have protection from ice "throw" due to buildup on blades but setback distances would typically address this concern as the ice would not go beyond the distance of the maximum height of the tower. Emergency response/action plans should accompany an application with topics such as emergency procedures in case of fire, warning systems, contact information, response plans, icing, transmission lines buried underground, and substations. 911 address signs are at the cost of developer.

The US Fish and Wildlife requires extensive studies on birds and bats. Although eagles are officially off the endangered species list, there are setbacks for eagle nests. A developer can assess the disturbance of eagles and there are permits to relocate nests. Candice Brandau Larson mentioned a letter from the DNR referencing a 5-mile setback from an eagle's nest.

Isaac Lamppa, Invenegy representative, provided an overview of the Chickasaw County project. The development agreement between Chickasaw County and Invenegy will be provided to the Commission.

Supv Kuhn mentioned the moratorium resolution approved by the Board allows for MET towers to be built. Tom Trehorne, Nextera representative, shared information on the use of temporary MET towers to collect data when starting a project to determine the placement of turbines and permanent MET towers after the project.

Trehorne and Lamppa both expressed appreciation for the opportunity to be a part of the process, willingness to present on topics in the future, and their commitment to be partner and invest in the community.

Consensus of the Board and Commission was to set December 20 at 1 p.m. at the courthouse for a listening session. Robbins will draft a notice of the event.

Commissioner Tjaden declared the Zoning Commission meeting adjourned.

Keifer/Jorgensen moved to adjourn the Board of Supervisor's meeting. Motion carried 3-0.

ATTEST:

Gloria A. Carr
Floyd County Auditor

Mark A. Kuhn, Chair
Floyd County Board of Supervisors