

Town of Union PLAN COMMISSION MEETING Minutes of September 5, 2008

The Town of Union Plan Commission special meeting was called to order on Friday, September 5, 2008 at the Evansville Country Club, 8501 N. Cemetery Rd., Evansville, WI at 5:31 p.m. by Vice-chairman Doug Zweizig. Members present included Alvin Francis, Doug Zweizig, Kim Gruebling, Eric Larsen, Dave Pestor, Renee Exum, and Doug Lee. Also in attendance: Town Engineer Greg Hofmeister, Town Attorney Matt Dregne, and Clerk Regina Ylvisaker. Town Board Chairman Kendall Schneider was also in attendance.

Approve August 19, 2008 Plan Commission Minutes.

Kim Gruebling stated that his statement on page one of the minutes was incorrect; the individuals he had spoken to who had a new antenna installed had poor reception prior to the turbines being installed. He would request that the statement be changed from "...the energy company put up a second antenna for their televisions to get reception, as it had been affected by the turbines..." to "...the energy company put up a second antenna for their televisions to get reception, even though it had not been affected by the turbines..."

Motion to accept the minutes of August 19, 2008 as amended made by Eric Larsen. Second by Kim Gruebling. Motion carried by unanimous voice vote.

Review, discussion and possible modification of the Draft Large Wind Turbine Siting Ordinance.

Page 6 of the Recitals, remove "Regina to confirm."

Motion that the findings with a revision date of 9.2.08 be accepted into the ordinance made by Doug Lee. Second by Doug Zweizig. Motion carried by unanimous voice vote.

Attorney Dregne is going to address and finalize the public roads issue.

Regarding the letter of credit for road maintenance, Dregne, working with the Town Engineer, will determine what type of letter of credit will need to be provided. It will be part of the risk assessment. Dregne will handle the road maintenance and related issues in his draft of the ordinance.

Decommissioning: the issue of whom is responsible for the decommissioning is yet to be resolved. Doug Lee presented a copy of the Beloit ordinance with decommissioning information included. The ordinance states "...the owner shall cause the facility, including foundation, to be dismantled and removed from the site..." This puts the legal obligation on the land owner. Form of surety will be required of the operator in the amount the Town determines is adequate. Gruebling feels that they need to determine how much it would cost to take a turbine down. Dregne suggested that a plan for deconstruction could be provided and reviewed by the Town Engineer, and he could then determine the cost. Gruebling stated that the Town has separate accounts for different items, such as roads that haven't been put in yet, and this approach may be an option for segregating these funds. An interest bearing account would help take into consideration inflation costs. Dregne thinks that a requirement that a decommissioning plan be submitted, including the applicants estimate of costs, which would then be reviewed by the Town Engineer who will make a determination on costs. The applicants would then be required to post financial security, either via a letter of credit or cash in escrow. Dregne recommended

avoiding using a bond if possible. Greg Hofmeister suggested handling the cost estimate as he does roads, by adding a 10% contingency on top of the estimate. He always adds an estimating contingency, depending upon stage of project.

The plan is to use the Beloit ordinance and our own existing language and combine them to get to what we want. Dregne will redraft this section to include 1) submitting a plan, 2) including estimated costs of implementing decommissioning plan, 3) a review and approval by the Town and Town Engineer, and 4) posting surety in the form of letter of credit or cash in escrow.

Will the landowner be responsible for the decommissioning or the applicant, or is it a joint responsibility? Eric Larsen stated that when dealing with gravel pits it is only the applicants who are responsible; he was concerned that there would be an issue with inconsistency if the turbines are handled differently. Dregne believes that if the surety issue is covered then there should be no issue with which party is responsible, and doesn't think that both need to be responsible. Lee commended that with financial security in the form of continual renewals of a letter of credit or cash in an escrow account, the Town's concerns will be covered and guaranteed no matter what.

Dregne questioned if the owner of the property would be someone who is part of the application. The Town will need to have the owner acknowledge that the Town is allowed to enter the owners property to inspect the turbines. It is unclear if that is in the ordinance at this time, but the landowners do need to be tied into the licensing procedure.

Dregne asked if at this point the Town is assuming that there will be an application form. Doug Zweizig stated that was the assumption. Therefore, Dregne asked if an application form would need to be developed or if an existing form could be used, and what specific information does it need to include. One specific item it needs to include is a statement the the owner is allowing the Town to access the property. A checklist seems to be the best way to go, it would be easy for Dregne to compile. It was agreed to proceed with a checklist format and to have Dregne draft it.

Regarding a standard for reclamation after decommissioning: Zweizig wants to be sure that the decommissioning requirements are "standard". The idea of not requiring the land to be returned to its previous condition is inconsistent with what is currently required for gravel pits; however pits are more intrusive to the land than turbines.

Hofmeister suggested prohibiting the burying of materials, restoring the topsoil and leaving it in a condition that is not erodible. There would be no need to go through a reseeding program if the land will be returned to a farm field. Zweizig asked how much top soil and sub soil would be needed; Hofmeister stated that not much is needed, and was not sure that the Town would need to be concerned with regulating the amounts. Per Greg, would prohibit burying materials. Also restoration of top soil, leaving it in a condition that is not erodible, similar language. No need to go through a seeding program if it will be returned to a farm field. Doug Z: how much top soil and sub soil is needed? Greg, not much, not sure that town needs to be concerned with it. Should we ask for a reclamation plan? Jim Bembinster cited the sample decommissioning information provided by EcoEnergy; the wording is acceptable to all and will be incorporated into the ordinance by Dregne. Larsen requested that the depth be increased to 48"; the existing language requires 42".

Dregne will prepare a "reimbursement section" that addresses licensing costs and ordinance development cost recovery fees.

According to Dregne, a public hearing is not legally required in this instance, as it is a permitting process/issue. No policy decisions are being made. No neighbor notification is needed, only for stray voltage testing. Permits should go directly to the Town Board. What is the required timeline for the Board to take action on requests? Per Dregne, nothing needs to be specified by the Town or in the ordinance, as there is no way to know how long the process may take.

The meeting was recessed at 8:34 p.m.

Respectfully submitted by:

Regina Ylvisaker, Clerk

Note: Minutes are considered draft until reviewed and approved by the Plan Commission at a properly noticed meeting