

**ISABELLA COUNTY PLANNING COMMISSION
SPECIAL MEETING – JANUARY 31, 2019 – 7:00 PM
MINUTES**

The Isabella County Planning Commission met Thursday, January 31, 2019 at 7:00 p.m. at Mt. Pleasant City Hall, 320 Broadway St., Mt. Pleasant, Michigan 48858.

Present: Chair Murphy; Vice-Chair Bean; Secretary O’Neil; Commissioner Horton; Commissioner Campbell; Commissioner Neyer; Commissioner Vogel; and Commissioner Rogers

Absent: Commissioner Silker

Call to Order: Chair Murphy called the meeting to order at 7 pm.

Pledge of Allegiance was conducted.

Agenda: Approved by unanimous consent.

Minutes of January 10, 2019 Meeting: Approved by unanimous consent.

Public Comment (Other than related to Public Hearing): None.

Public Hearing on Apex Clean Energy/Isabella Wind LLC Special Use Permit Application:

Chair Murphy called upon Attorney Fahey to present the Planning Commission Conflict of Interest Declarations. Attorney Fahey reported that each of the members of the Planning Commission disclosed the following facts related to potential conflicts of interest:

Chair Murphy: No conflicts.

Vice-Chair Bean: No conflicts. His nephew Todd Bean will receive a notice of the SUP hearing since he lives within 600 feet of the project boundary, but the Planning Commission by-laws do not make that a conflict of interest. His brother Jeff Bean will receive notice of the SUP hearing only by virtue of his position as Vernon Township Supervisor, but does not have any personal financial or property interest in the project. Vice-Chair Bean has disclosed these relationships, and believes that he can consider and make a decision on the SUP without bias or prejudice.

Secretary O’Neil: No conflicts.

Commissioner Horton: No conflicts.

Commissioner Neyer: Commissioner Neyer has disqualified himself because his brother owns property that is leased for the SUP project. He will not participate in any Planning Commission discussions, deliberations or decisions on the SUP.

Commissioner Vogel: Commissioner Vogel has disqualified himself because he owns property (as a member of an LLC) that is leased for the SUP project. He will not participate in any Planning Commission discussions, deliberations or decisions on the SUP.

Commissioner Silker: No conflicts (but absent at this meeting).

Commissioner Campbell: No conflicts.

Commissioner Rogers: Commissioner Rogers has disqualified himself because he owns property within the SUP project's notice area and within 600 (actually 300) feet of the project area the SUP project. He will not participate in any Planning Commission discussions, deliberations or decisions on the SUP.

Pursuant to Section III(F) of the Planning Commission Bylaws, a Planning Commissioner who has a conflict of interest must disclose that conflict, and may not participate in deliberations, discussions, or voting on the matter, including representing himself before the Planning Commission. Commissioners Neyer, Vogel and Rogers will not participate in any Planning Commission discussions, deliberations or decisions on the Apex Clean Energy/Isabella Wind LLC Project; they each left the Planning Commission meeting at this time.

Applicant's Presentation: Chair Murphy called upon Scott Hawken, representative of the Applicant, to present the Applicant's reasons for the requested SUP. Mr. Hawken gave a PowerPoint presentation to the Planning Commission with the reasons for approving the SUP.

Staff Presentation: Chair Murphy called upon Alan Bean, of the Spicer Group, to present his expert analysis of the Applicant's materials, as more specifically evaluated in the Spicer Group's staff report to the Planning Commission. Mr. Bean also gave a PowerPoint presentation to the Planning Commission, summarizing the staff report.

Written Comments: Chair Murphy called upon Staff Member Ray Johnson, who summarized each of the written comments submitted to the Planning Commission on the requested SUP.

Oral Comments: Chair Murphy requested that citizens present at the public hearing offer their comments and questions regarding the SUP. The following comments and questions were made:

Josh Nolan: Concerns regarding shadow flicker and sound.

Tim Wolff: Concerns regarding Village of Lake Isabella Airport.

Bonnie Ott: Supports project.

Jeff Weinstock: Concerns regarding viewscape.

Paul Dubay: Supports project.

Dan Koontz: Supports project.

Fred Prout: Supports project.

Tammy Groos: Concerns regarding sound; shadow flicker; viewscape; and decommissioning.

Lisa Ward: Concerns regarding viewscape.

Peter Koper: Supports project.

Marie Koper: Supports project.

Russel Allen: Supports project.

Jonathan Sudlar: Supports project.

Jim Luca: Questions project's effects on agriculture.

Ed Rivet: Supports project.

Keith Van Hollander: Supports project.

Matt Graham: Supports project.

Carolyn Berger: Concerns regarding shadow flicker, noise and property values.

Judy Schumacher: Supports project.

Stacy Budek: Concerns regarding property values.

Albert Jongewaard: Supports project. Offers 34 additional letters of support for project

Mike Russo: Supports project.

Ron Neyer: Supports project.

Diane Sebenick: Concerns regarding "receptors."

Jim Moreno: Supports project.

Don Schurr: Supports project.

Dan McKernan: Supports project.

Derek Sader: Supports project.

David Clark: Supports project.

Becky Garrett: Supports project.

Clyde Taylor: Supports project.

Ann Taylor: Supports project.

June Mogg: Concerns regarding loans on properties.

Al Davis: Concerns regarding airport issues.

Gary Jones: Supports project.

Floyd Graham: Supports project.

Rhonda Graham: Supports project.

Mitch Miller: Supports project.

John Fabian: Supports project.

Bill Funnel: Supports project.

Kirk Utterback: Supports project.

Mark Perry: Concerns regarding project cost, tax incentives and subsidies.

Jim McBride: Supports project.

John Derby: General concerns need to be addressed.

Louann Mogg: Concerns about sound.

Abe Pasch: Supports project.

Colleen Vogel: Concerns about where sound is measured; do project right.

Terry Meier: Concerns regarding proper authorization of fees.

Professor Ferkel. Concerns regarding the effects of the Project.

Chair Murphy called upon Applicant's staff and County staff to answer questions and concerns raised. Mr. Jenks, Mr. Lampheer, Mr. Bean and Mr. Fahey answered the questions presented.

Chair Murphy closed the public hearing.

Planning Commission Deliberation and Decision: After the Planning Commissioners deliberated on the issues presented, Attorney Fahey summarized the two draft decisions prepared by County Staff for the Planning Commission's consideration. Member Horton moved and Member Bean supported to adopt the decision granting SUP #18-09 with conditions, based upon the findings, conclusions and conditions stated below:

Findings: The Planning Commission has reviewed the Application, as amended, the staff report dated January 24, 2019, by Spicer Group, and the other written submissions provided by the public and by the staff related to the Application. The Planning Commission has also considered the written and oral comments received at the public hearing on January 31, 2019.

- 1) Staff Report: The Planning Commission adopts and incorporates the January 24, 2019 staff report as part of its findings on the Application.
- 2) Section 12.05(QQ): Based upon all the information considered, the Planning Commission finds that, subject to the conditions listed below, the Application and the Project meet the specific requirements of Section 12.05(QQ) of the Zoning Ordinance.
- 3) Section 12.03: The Planning Commission also finds that, subject to compliance with the

listed conditions, the Application and the Project meet the requirements of Section 12.03 of the Zoning Ordinance, and specifically finds that the proposed Project:

- a. Is in general agreement with the County's adopted Comprehensive Plan; and
- b. Does not present density or use characteristics that are detrimental to adjacent properties and land uses; and
- c. Is designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area; and
- d. Is not hazardous to adjacent property and does not involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property due to traffic, noise, smoke, odor, fumes or glare; and
- e. Is adequately served by essential public facilities and services; or Applicant will be able to continually provide adequate services and facilities deemed essential to the Project; provided all such facilities or services shall be approved by the Central Michigan District Health Department; and
- f. Based upon Section 12.05 QQ (24) of the Zoning Ordinance, the Project shall be permitted to operate at all times of the day and night, including between the hours of 8 pm and 8 am, subject to compliance with all other requirements of the Zoning Ordinance and this Special Use Permit.

Conclusions: Based upon the materials received and reviewed, including, but not limited to, the staff report dated January 24, 2019, the Planning Commission concludes that the Application, as amended, meets all the requirements of Section 12.05(QQ) of the Zoning Ordinance and all requirements of Section 12.03 of the Zoning Ordinance, subject to specific conditions below and provided that those conditions must be complied with by Applicant as described in those conditions. Subject to the listed conditions, the Planning Commission grants the Application for SUP #18-09.

Conditions: SUP #18-09 shall be approved based upon and subject to compliance with the following conditions as part of the site plan approval process, unless otherwise specified:

- 1) Site Plan Approval: This SUP shall be subject to site plan review and approval for all issues and requirements that are subject to site plan review and approval under the Zoning Ordinance and under this Decision.
- 2) Section 12.05 QQ (2)(c): Prior to the issuance of building permits, the Applicant, or Applicant's subcontractor, must provide site plans for the proposed laydown yard and substation facility. The Applicant must also provide detail drawings and dimensions as necessary. Additional site plans shall follow all requirements of the County Zoning Ordinance.
- 3) Section 12.05 QQ (2)(d): Applicant should provide the height of all adjacent buildings, structures, and above ground utilities within 600 feet of turbine B-14.
- 4) Section 12.05 QQ (2)(g): Applicant should update the narrative to explain expected maintenance activities for all proposed access roads.

- 5) Section 12.05 QQ (2)(h): If the Applicant plans to construct an 8-foot tall fence, they must seek a variance from the County Zoning Board of Appeals from the applicable fence height requirements.
- 6) Section 12.05 QQ (2)(i): Prior to the issuance of building permits, the Applicant must provide construction documents signed and certified by a registered engineer in the state of Michigan. Prior to the issuance of building permits the Applicant must provide a copy of the manufacturer's installation instructions.
- 7) Section 12.05 QQ (2)(j): Applicant must provide the Planning Commission an updated complaint resolution form which includes contact information for the project. The information shall include a name, phone number, email address, and mailing address.
- 8) Section 12.05 QQ (2)(k): At the time of site plan review, and prior to construction the Applicant must demonstrate full compliance with QQ (2)(k). A shadow flicker model, like the one in Exhibit G, showing compliance with the Zoning Ordinance must be provided to the County as part of the site plan review. Updated shadow flicker tabular calendars shall be submitted so the title of each sheet lists the Township, section number, nearest intersection, and receptor ID number. The 30-hour threshold for each turbine shall be submitted on the tabular calendars, showing all 12 months of the year and the point where the shadow flicker threshold will be exceeded. Furthermore, the Applicant shall provide documentation to the County that describes how the Applicant plans to measure real shadow flicker, not expected shadow flicker. The explanation should include a discussion of the technological method and/or other methods that monitor shadow flicker in real time.
- 9) Section 12.05 QQ (2)(l): Applicant must resolve decommissioning requirements and the decommissioning agreement prior to construction.
- 10) Section 12.05 QQ (4-9): This section shall be reviewed and must be complied with by Applicant at the time of site plan review.
- 11) Section 12.05 QQ (10): Prior to construction, the Applicant must provide the County the FAA's Determination of No Hazard form for each proposed turbine and MET tower and must provide copies of any applicable local airport authority permits.
- 12) Section 12.05 QQ (11): Prior to construction, the Applicant must provide the County copies of all approvals necessary for the Michigan Natural Resources and Environmental Protection Act.
- 13) Section 12.05 QQ (13): Applicant must provide the Planning Commission with the temporary construction lighting plan.
- 14) Section 12.05 QQ (16) and (28): The Applicant expects the operation of their proposed WECS to maintain compliance with Section 12.05 QQ (16) through the continuous implementation of various reduced noise operation modes, and if the County's post-construction study required by Section 12.05 QQ (28) demonstrates non-compliance with the 50 dB(A) standard at property lines, then the Applicant will be required to shut down noncompliant turbine(s) within five days and be kept shut down until the violation is corrected. Further, the Applicant shall comply with the requirements and methodology of the staff report prepared by Spicer Group dated November 13, 2018.

- 15) Section 12.05 QQ (17)(a): Applicant must update Application narrative to address this Zoning Ordinance requirement and submit as-built drawings of the WECS, including the turbines, MET towers, access roads, junction boxes, underground power collection system, and boring beneath roads or drains. The Applicant must submit Adobe PDF documents, coordinate data for all site features, and GIS and CAD files for all the information listed above.
- 16) Section 12.05 QQ (17)(b): Applicant must update Application narrative to address this Zoning Ordinance requirement and the Applicant must provide the County a summary of all data collected by anemometer towers associated with the project.
- 17) Section 12.05 QQ (22): The Applicant must update the narrative to address this requirement and provide the County the local utilities' review and comments prior to construction.
- 18) Section 12.05 QQ (23): The Applicant needs to clarify the depth of their proposed underground collection lines.
- 19) Section 12.05 QQ (24): If there are siting changes less than 100', the Applicant will only need to consult with the County Zoning Administrator on requested changes to ensure continued compliance with the Zoning Ordinance.
- 20) Resolve agreement and financial obligation with County Road Commission prior to construction.
- 21) Resolve agreement and financial obligation with County Drain Commissioner prior to construction.
- 22) Prior to site plan approval, the Applicant will provide updated site plans showing the location of the planned collection lines located off the non-participating parcel in Nottawa Township Section 27.

Roll Call Vote: Chair Murphy: Yes; Vice-Chair Bean: Yes; Secretary O'Neil: Yes; Commissioner Horton: Yes; Commissioner Campbell: Yes.
Absent or Abstain: Commissioners Silker, Neyer, Vogel and Rogers.

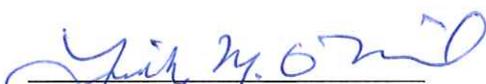
Motion carried.

Other business: None.

Additional Public Comment: Comments previously made were reiterated by Professor Ferkel and Josh Nolan.

Adjournment: Motion to adjourn by Member Bean and supported by Member O'Neil Motion approved by unanimous consent. Meeting adjourned at 11:13 p.m.

Respectfully submitted:


Secretary O'Neil
Planning Commission Secretary