

ISABELLA COUNTY
PLANNING COMMISSION

January 11, 2018

A Regular Meeting of the Isabella County Planning Commission was held on January 11, 2018 in Room 225 of the Isabella County Building, 200 North Main Street, Mt. Pleasant, Michigan.

MEMBERS PRESENT: Tim O'Neil, Phillip Vogel, Jim Horton, Nathan Rogers, Ann Silker, Jeremy Murphy, Kelly Bean (7:02), Bob Campbell

MEMBERS ABSENT: Gordon Gilchrist

SUPPORT STAFF PRESENT: Timothy A. Nieporte, Community Development Director
Ray Johnson, Zoning Administrator

The meeting was called to order by Mr. Murphy at 7:00 pm.

The Pledge of Allegiance was recited by the commission.

APPROVAL OF AGENDA

Mr. Bean requested that the agenda be approved as presented.

A motion was made by Mr. O'Neil supported by Mr. Rogers to approve the agenda.

Yes: Tim O'Neil, Phillip Vogel, Jim Horton, Nathan Rogers, Ann Silker, Jeremy Murphy, Kelly Bean, Bob Campbell

No: None

Motion carried

ELECTION OF OFFICERS/ORGANIZATIONAL MEETING

Election of Officers

Mr. Bean called for any nominations of officers.

A nomination was made by Mr. Vogel for the following slate of officers; Jeremy Murphy for Chair, Kelly Bean for Vice Chair, Tim O'Neil for Secretary.

Mr. Bean called for other nominations, hearing, none, Mr. Bean called for other nominations. With no other nominations heard, Mr. Bean called for a motion to accept the slate of officers.

A motion was made by Mr. Horton to accept the slate of officers and a unanimous ballot be cast, seconded by Mrs. Silker.

Yes: Tim O'Neil, Phillip Vogel, Jim Horton, Nathan Rogers, Ann Silker, Jeremy Murphy, Kelly Bean, Bob Campbell

No: None

Motion carried

Establish Meeting Day, Time, Place

Chairman Murphy presented the proposed meeting day, time and place for 2018 Planning Commission meetings and the proposed calendar for the 2018 meetings. These dates being the 2nd Thursday of the month at 7:00 p.m. in room 225 of the Isabella County Building.

A motion was made by Mr. Horton to set the meeting day, time and place as the 2nd Thursday of the month at 7:00 p.m. in room 225 of the Isabella County Building and accept the proposed calendar, seconded by Mr. Campbell.

Yes: Tim O'Neil, Phillip Vogel, Jim Horton, Nathan Rogers, Ann Silker, Jeremy Murphy, Kelly Bean, Bob Campbell

No: None

Motion carried

Appoint Committee Members

Chairman Murphy appointed Phil Vogel as representative to the Zoning Board of Appeals and Jeremy Murphy as the representative to the Parks and Recreation Board.

PREVIOUS MINUTES

Minutes of the December 2018 regular meeting were circulated to the commission prior to the meeting for their review.

A motion was made by Mr. O'Neil supported by Mr. Vogel to approve the minutes.

Yes: Tim O'Neil, Phillip Vogel, Jim Horton, Nathan Rogers, Ann Silker, Jeremy Murphy, Kelly Bean, Bob Campbell

No: None

Motion carried

LIAISON REPORTS

Zoning Board of Appeals – Mr. Vogel reported there was no meeting last month

Parks & Recreation – Mr. Murphy reported there was no meeting last month.

Board of Commissioners – Mr. Horton reported the board held their nominations and elections of officers and elected Mr. George Green as Board Chairman and Mr. David Ling as Vice Chairman. Mr. Horton also stated the Board was shown a presentation by the County Road Commission for the construction of a new building and facilities.

TOWNSHIP CONCERNS

Denver – Mrs. Jackie Curtis stated that the Township Board received a petition in November for the Township to establish zoning at the Township level and the petition is currently with legal counsel.

Gilmore – Mr. Tom Gibbs stated at their meeting last night there was a large crowd of people not in favor of wind turbines.

Deerfield – Mrs. Connie Lynch stated the Township has a proposal for a medical marijuana campus to include all five of the licensing options allowed under state law. No action has been taken by the township at this time.

Vernon – Mrs. Vickie Duffett, resident of Vernon Township, stated a petition had been submitted to establish zoning at the Township level.

PUBLIC COMMENT

Opened at 7:11 p.m.

Tammy Gruss expressed her concern over wind turbines and wants the board to be educated. She expressed concerns of turbine companies going to tax tribunals and decommissioning. She asked that a surety bond be posted in the amount of \$500,000 for each turbine. She also expressed concerns that she would be unable to build on her property if there is a turbine next to her.

Mr. Nieporte clarified that the board has done extensive research for a long time. Mr. Nieporte stated that a decommissioning plan is required by the current ordinance and dollar amounts are set at time of application to ensure adequate monies are available for decommissioning.

Mrs. Gruss asked if the board has a bond ordinance and a set dollar amount.

Mr. Nieporte stated we have a decommissioning plan and that a value is not set until there is an application which we do not have at this time.

Mrs. Gruss stated she is glad the board has researched this.

Corey Borland expressed his concerns about setbacks to a residence which will block him from building on his land. He wants the board to increase setback to his property line and wants the decibel levels lowered.

Mr. Nieporte clarified there are multiple setbacks, some are to the property line and others are from roads, railroads, rail trails and occupied structures. He further stated that discussion about setbacks are going to be presented tonight using GIS modeling.

Mr. Borland stated that 20 years down the road if he wants to build on his property he will be denied because of the turbine.

Mr. Nieporte clarified that a turbine has a setback to an existing home. A home does not have a setback to a turbine, you can still build on your property if you choose to.

Connie Lynch on the Deerfield Township Board and Planning Commission indicated that they have issues with grandfathering. Expressed her concerns over leases being signed. Mrs. Lynch asked if the project is built and the ordinance is changed how much is grandfathered in.

Mr. Nieporte clarified that the county has nothing to do with a lease between a citizen and a private company. Mr. Nieporte also clarified that any use can become legally non-conforming and this happens often. He further stated that any use constructed legally under the current ordinance would be legally conforming unless the Ordinance was changed.

Gareth d'Haillecourt from Wise Township thanks the board for all their work. She stated \$800 million will be coming to the community minus \$200 million for manufacturing. She expressed there will be local spending of monies and doesn't want to deny our community this money. She expressed concerns over a person from downstate spreading anecdotal information to frighten people and stated that she is glad the board knows what they are doing.

Colleen Vogel had a hand out of a diagram distributed to the board and expressed concerns of setbacks and that turbines will restrict her from safely using her property. She stated she is upset and feels Mr. Martis came in to give them input. Mrs. Vogel stated she appreciates the time the board has put into this and wants this to be safe for everyone in the county.

Helen Meier presented a letter of her concerns and stated that there is much she does not know. She has concerns about the complaint resolution process and wants more transparency on complaints and review of complaints. She has concerns about forced participation with a company she doesn't want to do business with.

Mr. Nieporte stated that he had this conversation with Helen Meier on the phone and in his office before Christmas and an enforcement process is in place. The process was explained as a normal enforcement process on any and all zoning violations and that the office processes more than 100 complaints per year.

Terry Meier commented on the master plan vision on the back of the meeting agenda and in his opinion turbines are not pristine and asked if there is a decision tonight on what the language will be.

Mr. Nieporte stated there is no action item other than the Commission reviewing possible language.

Carolyn Glaken stated she knows the planning commission reviewed a lot of facts and did a lot of research. She feels there is a huge public safety issue. She has concerns of blade failure and fire. She stated turbines catch on fire and she doesn't know how many turbines catch on fire and has concerns about emergency procedures. She stated she feels public safety should be placed ahead of monetary gain and that public safety for all is very important.

Public Comment Closed at 7:44 p.m.

Wind Energy Conservation Systems Discussion

Mr. Nieporte distributed a copy of staff's analysis on the setback comparison presented to the board by Mr. Nathan Rogers at the December 2017 meeting. He noted that there were in total four issues that were requested by the planning commission for staff to review and analyze.

With regards to the first issue, Mr. Nieporte explained that of the ordinances reviewed, there are 6 ordinances which are the same or less restrictive than the current Isabella County ordinance for setbacks to a non-participating property line. Six others have a greater restriction than Isabella County, however 4 of these 6 have a restriction that would be overly restrictive in Isabella County. Mr. Nieporte also explained that Coe Township in Isabella County has an approved wind project and is at the same setback as the current County ordinance.

Mr. Nieporte displayed current setbacks required by the ordinance and setback scenarios from non-participating properties, within two townships in Isabella County using the County GIS.

Mr. Nieporte indicated that while looking at setbacks, the board should look at the second setback request, being setbacks to an occupied structure prior to making a decision on either of the two setback questions.

Mr. Nieporte explained that with regards to setbacks from a turbine to an occupied structure, there are 5 of the ordinances that were compared, which are the same or less restrictive than Isabella County. Three had no information or staff was unable to interpret the language and the other 4 had a greater restriction than the County. He further stated that a couple of those ordinances reviewed would be overly restrictive in Isabella County.

Mr. Rogers stated that he loved the GIS software and what it can show.

Boar discussion related to setbacks.

Mr. Bean and Mr. Vogel expressed their satisfaction by the current ordinance.

Mr. Rogers stated he would like to see the board review their setbacks to participating and non-participating property lines and the setbacks to a home.

Board discussion occurred.

Mr. Nieporte stated that staff and the planning commission researched setbacks and made changes in June of 2017 establishing setback requirements more restrictive than what they were previously.

Additional board discussion occurred.

A motion was made by Mr. Bean, supported by Mr. Vogel to leave the zoning ordinance as is.

Yes: Phillip Vogel, Bob Campbell, Kelly Bean

No: Nathan Rogers, Ann Silker, Jim Horton, Jeremy Murphy, Tim O'Neil

Motion failed

Mr. Rogers, made a motion supported by Mrs. Silker to change:

1. The 1 times the height setback of a turbine to a non-participating property line to 2 times the height; and
2. The setback of a turbine to an occupied structure from 1,000 ft to 1,320 ft to an occupied structure on a participating property and from 1,000 ft to 1,640 ft to an occupied structure on a non-participating property.

Board discussion occurred.

Mr. Nieporte reiterated to the board that current language is in-line with the majority of the other ordinances analyzed and questioned the change. He further pointed out that this could be overly restrictive.

Mr. Murphy called for a roll call vote.

Nathan Rogers – Yes
Ann Silker - Yes
Jim Horton – No
Kelly Bean – No
Jeremy Murphy – No
Tim O'Neil – No
Bob Campbell – No
Phillip Vogel – No

Motion failed

Mr. Nieporte advised the board to separate the two setback issues and vote on them independently.

The board reviewed and discussed the setback analysis in the GIS.

A motion was made by Mr. Horton, supported by Mr. Campbell to

1. Leave the setback from a turbine to an occupied structure on a participating property at 2 times the height or 1,000 ft, whichever is greater; and
2. Add a setback from a turbine to an occupied structure on a non-participating property at 2 times the height or 1,200 ft, whichever is greater.

Mr. Murphy called for a roll call vote.

Nathan Rogers – Yes
Ann Silker – Yes
Jim Horton – Yes
Kelly Bean – Yes
Jeremy Murphy – Yes
Tim O’Neil – Yes
Bob Campbell – Yes
Phillip Vogel – Yes

Motion carried

The board reviewed and discussed the setback of a turbine to a non-participating property line.

Mr. Bean asked the board that if they make more changes, are we fixing the issues from the public or are we still going to have more issues.

Mr. Horton commented that we are not going to make everyone happy.

Mrs. Silker stated it would be hard to support a smaller setback from a property line than from a road right of way.

Mr. Nieporte clarified that most of the smaller parcels are near the roads and the impact of this potential change would be small however, when you look at the larger parcels there is a much greater impact. He further indicated that any change to the setbacks from non-participating parcel would severely impact the interior area of a section which is where the ordinance requirements would allow for turbines to be located.

A motion was made by Mr. Rogers, supported by Mrs. Silker to change the setback distance of a turbine from a non-participating property line from 1 times the turbine height to 1.5 times the turbine height.

Mr. Murphy called for a roll call vote.

Nathan Rogers – Yes
Ann Silker – Yes
Jim Horton – Yes
Kelly Bean – No
Jeremy Murphy – Yes
Bob Campbell – Yes
Phillip Vogel – No

Motion carried

Mr. Nieporte reviewed the third request to decrease the decibel levels during the hours of 10:00 p.m. and 7:00 a.m.

The board discussed decibel levels

Mr. Rogers expressed his desire to have the time decibels levels are lowered to 8:00 p.m. because he has small children.

Mr. Nieporte stated that staff does not support an 8:00 p.m. to 7:00 a.m. request.

Mr. Bean expressed his desire to leave the decibel level requirements alone.

Mrs. Silker expressed her desire to change the decibel level to 45 decibels.

A motion was made by Mr. Bean, supported by Mr. Vogel to not change the decibel level requirements.

Mr. Murphy called for a roll call vote.

Nathan Rogers – No
Ann Silker – No
Jim Horton – No
Kelly Bean – Yes
Jeremy Murphy – No
Tim O’Neil – No
Bob Campbell – Yes
Phillip Vogel – Yes

Motion failed

A motion was made by Mrs. Silker, supported by Mr. Rogers to modify and decrease the decibel level requirements from 50 dba to 45 dba between the hours of 10:00 p.m. and 7:00 a.m.

Mr. Murphy called for a roll call vote.

Nathan Rogers – Yes
Ann Silker – Yes
Jim Horton – Yes
Kelly Bean – No
Jeremy Murphy – Yes
Tim O’Neil – Yes
Bob Campbell – No
Phillip Vogel – No

Motion carried

Mr. Nieporte reviewed the fourth request to have a post construction sound study provided to the County which provides actual noise levels.

The Board had further discussion.

A motion was made by Mr. Rogers, supported by Mrs. Silker to include the requirement of a post construction sound study and include the proposed language.

Mr. Murphy called for a roll call vote.

Nathan Rogers – Yes
Ann Silker – Yes
Jim Horton – Yes
Kelly Bean – Yes
Jeremy Murphy – Yes
Tim O’Neil – Yes
Bob Campbell – Yes
Phillip Vogel – Yes

No: None

Motion carried

Mr. Nieporte presented to the board two other pieces of language for the board to consider.

Mr. Nieporte reviewed the current FAA approved lighting requirement and presented the board with sample language requiring an Aircraft Detection Lighting System in an effort to reduce light pollution.

Board discussion occurred.

A motion was made by Mr. Horton, supported by Mr. O’Neil to include language requiring the use of an Aircraft Detection Lighting System.

Yes: Nathan Rogers, Ann Silker, Jim Horton, Kelly Bean, Jeremy Murphy, Tim O’Neil, Bob Campbell, Phillip Vogel

No: None

Motion carried

Mr. Nieporte presented the board with sample language which would require an applicant to present as-built drawings of the entire project and all data from the anemometer towers, post construction.

A motion was made by Mr. Bean, supported by Mr. Rogers to include language requiring the applicant submit as-built drawings post construction and all information collected by associated anemometer towers.

Yes: Nathan Rogers, Ann Silker, Jim Horton, Kelly Bean, Jeremy Murphy, Tim O'Neil, Bob Campbell, Phillip Vogel

No: None

Motion carried

Mr. Nieporte suggested that a motion be made to set a public hearing to make the previously approved changes for the next planning commission meeting.

Mr. Horton made a motion, supported by Mrs. Silker to set a public hearing for the February planning commission meeting on February 8, 2018 at 7:00 p.m. in room 225 of the Isabella County Building to hear comments on the following proposed changes with regard to Wind Energy Conservation Systems.

1. Increase the setback from a turbine to a non-participating property line from 1 to 1.5 times the height of the turbine.
2. Add a setback distance from a turbine to an occupied structure on a non-participating property to 2 times the height or 1,200 ft whichever is greater.
3. Decrease the decibel level requirement to 45 dba during the hours of 10:00 p.m. to 7:00 a.m.
4. Require the applicant to provide a post construction sound study.
5. Require the applicant seek FAA approval to install an Aircraft Detection Lighting System.
6. Require the applicant to provide as-built drawings of the project following construction.

Yes: Nathan Rogers, Ann Silker, Jim Horton, Kelly Bean, Jeremy Murphy, Tim O'Neil, Bob Campbell, Phillip Vogel

No: None

Motion carried

PUBLIC COMMENT

Opened at 9:12 p.m.

Terry Meier stated that the lease agreements say the companies can come in and cut down the woods on a property.

Robert Pasch stated that property owners who signed leases have rights also and the changes may be taking away their property rights. He stated that on a square 40 acre parcel with non-participating properties on either side, a tower would be excluded from that property by the new setback proposals to a non-participating property line.

Lou Ann Mogg handed out a page from a safety manual and feels the setback should be a minimum of what is in the safety manual in the event of a fire. She stated the board should protect the safety and welfare of the people and not a turbine company.

Johnathn Sedlar stated he lives in the Nordex wind farm and is a homeowner there and he works for Nordex. He stated the safety document is not up to date and agrees with the County's current setback requirements. He spoke in favor of wind turbines in Isabella County.

Gary Silker expressed concerns on the scale of the GIS analysis.

Vicki Duffett expressed concerns of the setbacks and concern for her safety on her property.

Public Comment Closed at 9:24 p.m.

STAFF COMMENTS

Mr. Nieporte reported that he received a letter from the Middle Michigan Development Corporation in support of wind turbine development. This letter was distributed to the board.

PLANNING COMMISSIONER'S COMMENTS

None.

ADJOURNMENT

A motion was made by Mr. Horton to adjourn the meeting seconded by Mr. Vogel at 9:25 p.m.

Yes: Tim O'Neil, Phillip Vogel, Jim Horton, Nathan Rogers, Ann Silker, Jeremy Murphy,
Kelly Bean, Bob Campbell

No: None

Motion carried



Tim O'Neil, Secretary