

## Stutsman County Zoning Board Minutes

March 19, 2009

At 3:00 p.m. the meeting was called to order by Harold Bensch, Chairman. Present were Charlie Kourajian, Dale Marks, Noel Johnson, Harold Bensch, Doug Kaiser, Brian Amundson and Duane Andersen. Absent were Ken Schulz and Ryan Odenbach. Also present were Delmer Leapaldt, Ted Weissman, Kirby Andersen, Myron Rader, Mary Horner, Jeff Metzger, Keith Norman, Bruce Schlecht, Rodney Suko, Joseph Schmitt, Ken Trautman, David Deutscher, Denny Ova, Paul and Deb Henderson, Elmer Retzer and Debra Gutschmidt.

Kaiser made a motion to approve the minutes from the March 3, 2009 meeting. Marks seconded the motion. Motion carried.

At 3:03 p.m. Ryan Odenbach came into the meeting.

Bensch opened the floor for public comment.

Schmitt stated that he had been involved with other tower drafts and commented on what he thought was good and weak in the ordinance. He had concerns about decommissioning a site, no bonding requirements, and thought videoing the roads at 25 miles/hour was too fast. He was also concerned that there were no penalties for failure to comply with the ordinance. He stated that no project was cancelled due to regulatory requirements.

Metzger, President - Just Wind, provided information on State statute dated October 1, 2008 that addresses decommissioning a wind energy facility. Roads are taken care for the life of a project.

Kirby Andersen, Ottertail Power Company, stated that the scrap value would be more than enough to reclaim a site. He expressed concerns with a discrepancy with the footage and lighting of MET towers (lines 124-125 and line 216). He also would like to see 5RD changed to 2RD. He also said that they always try to work with landowners.

David Deutscher, Medina, would like to see the 5RD changed to 2.5 RD. Larger RD limits the number of turbines that can be put in place. The tax dollars in his community is very beneficial. He said that towers would not be put on prime cropland. Wind Energy Companies are also "Community partners".

Mary Horner, Just Wind, mentioned that on page 8, lines 291-295, puts neighbor against neighbor.

Metzger, Just Wind, would like to see 2.5 X largest machine.

Johnson asked about transmission line placement. Metzger stated that studies are done to see what can be put into transmission lines. The first company/project has the first priority. Upgrades are a cost of doing business. There would be upgrades to accommodate renewable energy.

Ted Weissman, Next Era Energy, transmission system upgrades change capacity.

Duane Andersen asked what the distance between towers is within a wind farm. Metzger said an average is 1200'. There are many variables – terrain, wetland, fish and wildlife. Normally 1 to 3 towers in a ¼ mile.

Weissman was in favor of 1.1 X rotor radius.

Johnson asked who all the players were in Stutsman County. Next Era Energy is in the Woodworth/Cleveland area and Just Wind is in the Medina area. Geronimo mentioned put with no area.

Fremgen mentioned that “fly by night” outfits could turn landowner into an asset.

Kirby Andersen said that there is a 5-year rule. “MISO” - certain milestones that have to be met, it has to be legitimate.

Bensch asked who Boulevard Associates were. Weissman said that it is the leasing company for Next Era Energy.

Kourajian asked about bonding requirements. Weissman said a bond could be waived if company is viable. The cash outlay is large to get a project up and running. There are usually corporate guarantees and the accountability of the company.

Duane Andersen questioned the setback from road versus right-of-way.

Metzger said the fall line was the rule of thumb from the edge of a road.

Weissman said that 1.1 X turbine height from edge of road/right-of-way. This also allows for more feasible use of land.

Fremgen said that the definition of public road includes unimproved section lines.

Metzger stated that companies need to improve roads and that many times they develop the section line road. Normally do not take prime farm land.

Amundson questioned whose road it is to maintain if the company builds a road. The road is the company's to maintain. Duane Andersen questioned the ownership of the road if on the section line. Metzger stated that the township would own it but that it is the company's to maintain – turbine access roads are the company's too maintain. Metzger stated that the quality of the road is greater than most existing roads because of the equipment that needs to go over it. Bensch said that the improvements are probably better than what townships have as their best road.

Duane Andersen questioned line 256 - setback from unoccupied structure – what if a homestead is currently not being lived in and up for sale does the 5RD apply? Fremgen stated that if the farmhouse seems abandoned and hasn't been used as a dwelling (legally habited) could get a waiver for the setback.

Whatever setbacks are adopted, future building is an individual's problem. Turbine is there first - moving to the problem.

Johnson said that this is an umbrella zoning. In all probability the County will ask Townships to relinquish their authority over wind zoning.

Fremgen stated that to answer Andersen's question about unoccupied structure – lines 34 – 41 state that a structure that is either legally inhabited, in use or under substantial construction (improved in preparation for construction) is considered an occupied structure.

Deb Gutschmidt, Stutsman County landowner and resident of LaMoure County, asked the Board to look at the big picture - harmony between all parties and the tax dollars that is generated.

Schmitt stated that he is in favor of wind development, just wanted to point out what he didn't see in the ordinance.

Bensch stated that the Board is trying to benefit all parties, trying to take care of what the PSC misses.

Johnson suggested a working meeting with the whole Board without public input.

Amundson made a motion to have the Board as a whole review the ordinance. Andersen seconded the motion.

Research wanted before next meeting: setbacks that the state requires and what the State requires for bonding. Fremgen stated that the legislature is still in session, there is a bill that is still in the legislature regarding reclamation.

Next two meetings set: March 26, 2009, 3:00 p.m. and April 2, 2009, 3:00 p.m.

Motion to adjourn was made by Marks and seconded by Amundson. Meeting was adjourned at 4:55 p.m.

Noel A. Johnson  
Zoning Administrator

NJ/rv