

## Stutsman County Zoning Board Minutes

June 16, 2009

At 7:30 a.m. the Public Hearing for the Animal Feeding Operation Expansion Application by Entzminger Dairy was called to order by Planning and Zoning Board Chairman Harold Bensch. Present were Charlie Kourajian, Dale Marks, Harold Bensch, Ryan Odenbach, Doug Kaiser, Brian Amundson, Duane Andersen and Noel Johnson, Zoning Administrator. Absent was Ken Schulz. Terry Entzminger was also present.

A motion to approve the May 21, 2009 minutes was made by Marks and seconded by Amundson. Motion carried.

Johnson presented the application for Entzminger Dairy. He indicated that Entzminger's had complied with all requirements of the County's Zoning Ordinance. The expansion project would be located in the N ½ Section 24 T138N R65W (Lenton Township). Their plan is to expand to 3240 animal units.

Terry Entzminger provided history on the dairy. He indicated that they have had a permit with the State Health Department since about 1999. The dairy has been in compliance with the confinement area but they were told to address the outdoor feedlot and runoff. There is no intent to increase numbers in the next couple years. There are 850 dairy cows, 800 animals under a year and 800 two year olds. During the last two and half years they have been getting their feedlot runoff in compliance. The application was submitted to be in compliance with the County Ordinance.

Entzminger said that he had contacted his neighbors within one mile - Jerome McClean, Anna Oberlander and Mike Huebner. Dean Schmuhl, Lenton Township Chairman, said that he had visited with McClean and he had indicated that things had gotten better. The dairy was using an injection system this year as opposed to spreading. Schmuhl indicated that he had had no odor issues this year where he lives which is two miles west of the farm. In previous years one would know when they were spreading manure. Mr. Schmuhl's only concern was the increased road traffic in the township.

Gary Hoffman, ND Dairy Coalition, indicated that Entzminger Dairy is a well operated dairy.

Johnson indicated that the only question he had by phone was concern over the condition of the roads with the heavy truck traffic.

Schmuhl indicated that most of the car traffic travels north of the dairy and trucks use the County road to the south (Co Road 38). All roads in the township are gravel.

Marks made a motion to grant the conditional use permit and Amundson seconded the motion. Motion carried.

A motion to recess was made by Andersen and seconded by Amundson. Motion carried.

At 9:00 a.m. the meeting was called back to order for the Public Hearing for the Wind Ordinance.

Fremgen indicated that he had found a typo on line 303. The word five should be two.

Jared Opp, landowner near Medina, questioned why setbacks were changed from 5RD to 2RD between adjoining properties. Bensch said that with the 2RD requirement on each side (4 total) appeared to be sufficient, 5RD would be a wider corridor than necessary.

Opp questioned the wind developers about how far apart the wind turbines would be placed. Jeff Metzger, Just Wind, said that wind wake between turbines on the average is about 1500 feet. Setbacks are based on the size of rotor diameters.

Amundson stated that having a larger RD setback could eliminate someone from having the opportunity to have a turbine. Opp stated that with the waiver option he disagrees with the setback.

Laurence Reimers voiced concerns that aerial applicators were provided for.

Lighting of turbines was required. Met towers would be marked. Metzger indicated that he thought most companies would cooperate with a controlled shut down in an area if an applicator contacted them in order to spray.

Johnson requested a comment from Just Wind regarding the \$1000 per turbine permit fee.

Metzger said that most communities have set a cap on permit fees. Just Wind would like to see a cap on the fee.

Andersen questioned if there would be a building permit for a tower on top of the permit fee. Johnson said no. Andersen also asked if the farm would be built and then sold. Metzger stated that was not the intent of Just Wind. They wanted to be involved in the communities in which they build.

Andersen asked if the company would ask for a tax exemption. Metzger said that the State has a tax exemption that his company was not taking advantage of.

Johnson asked if the zoning authority did not modify the permit fee if Just Wind would move out of the County.

Rhonda Schlecht, landowner, asked what happens with the permit fee collected.

Johnson said that the money goes into the general fund, it benefits all taxpayers.

Schlecht said that the wind companies would bring revenue into the community, help with road buildup, take some of the financial pressure off the townships for road repair and provide employment opportunities for the Medina area.

Olga Hieb, Cleveland, stated that the wind farms would bring revenue into the communities.

Metzger stated that his company is looking for safeguards. The outlay of cash before a project is up and running is enormous.

Johnson stated that each turbine generates roughly \$50,000 in tax revenue (1 ½% ad valorem) which is proportioned to all taxing districts within the County.

Metzger stated that the Logan County Wind Farm has been in process for about two years. It should be ready to start turning dirt in approximately two weeks.

Just Wind had started the process to create a project in Stutsman County. The State allows only a five year window for development. They would like to start construction by 2012.

Myron Rader, Ottetail, stated that they feel the 2RD is a good change. Ottetail would also be in favor of a cap to the permit fee. He wanted to know if MET towers were being signaled out.

Fremgen stated that Met towers go up with no notice and that they are so small that it was put in for safety issues.

Tom Hrdlicka, Ottetail, suggested that a special use permit should maybe be required. MET towers are up for usually a minimum of a year to collect necessary data. When a wind farm is constructed a permanent tower is erected to collect data to show that the wind farm is working properly.

Ottetail notifies local aerial applicators when MET towers are erected.

Jim Weight, Jamestown City Zoning Administrator, questioned corporate city boundaries and the one-mile jurisdiction and if there are any locations that a wind farm would not be constructed.

Metzger stated that building a large farm near a city probably would not happen. They have been approached by communities to put in a tower for city use.

Brian Rau, Medina Flying Service, if the lighting of MET towers is a real issue he would like to submit a marking scheme that the national association has that would be acceptable. He would also like to point out that the physical obstruction of the towers is the real issue. There are three things that would help this issue – the lineal arrangement, the concentration and the setback from property lines.

Opp questioned the differences in opinion on setbacks between Ottetail and Just Wind. Hrdlicka indicated that there was not much difference in the wind impact between a 4RD and 5RD setback. Metzger stated that if an average of rotor diameters were used it would probably average to 5RD.

Discussion on possible changes to the permit fee commenced. Johnson said keep the fee as a one-time fee and be none with it.

Fremgen stated that the County Board had to review the ordinance and that they have the opportunity to change the draft.

Townships that have zoning ordinances would be requested to give the County zoning authority over Wind Farms. The County is better able to handle issues that may arise.

Odenbach asked if the ordinance could be amended. Johnson said that ordinances can be changed.

Kourajian made a motion to change the permit fee to \$250/turbine and Marks seconded the motion.

Metzger pointed out that on line 180 – “days” needed to be added after 15.

Amundson would like to see the motion changed to be a recommendation.

Kourajian moved to change his motion to a recommendation. Marks agreed.

Andersen moved to amend the motion to \$500/turbine and Amundson seconded the amendment. Kourajian feels that the amount is too high. Vote on the motion: ayes – 6, nays – 1. Amendment passes.

The vote on the motion to send the recommendation to change the permit fee to \$500/turbine to the County Commission was: ayes – 6, nays – 1. Motion carried.

No additional action required. Bensch declared the hearing closed at 10:35 a.m.

Noel A. Johnson  
Zoning Administrator

NJ/rv