

MINUTES (Revised)
LIVINGSTON COUNTY ZONING BOARD OF APPEALS
Livingston County Historic Courthouse
112 W. Madison St.
Pontiac, Illinois

Regular Meeting
7:00 p.m.

June 8, 2017

The meeting came to order and roll call was taken.

Members Present: Michael Cornale, Richard Kiefer, Richard Runyon, William Flott, Gerald Earing and Joan Huisman.

Members Absent: Connie Casey and Richard Runyon.

New Zoning Board of Appeals members William Flott and Gerald Earing were introduced.

Agenda:

Chair Joan Huisman mentioned the agenda. Then Bill Flott moved, seconded by Richard Kiefer, that the agenda for this June 8, 2017 meeting be approved as presented. This motion was approved by unanimous voice vote.

Minutes:

Chair Joan Huisman mentioned the minutes from the last meeting. Then Richard Kiefer moved, seconded by Michael Cornale, that the minutes of the May 4, 2017 meeting be approved as amended. This motion was approved by a unanimous voice vote.

Business:

Case ZT-3-17 - County Board of Livingston County

This zoning case pertains to the review of an application for zoning text amendments to Chapter 56, Zoning, Code of Ordinances, Livingston County, Illinois, which focuses on the most recent considerations for amending the Livingston County wind energy regulations. Proposed text amendments are to Sec. 56.1- General Definitions to add the definition of Hearing Facilitator, are to Article VIII, Wind Energy, Code of Ordinances, Livingston County, Illinois, and to Sec 692- Procedures-9b. The notice for public hearing for this zoning case was published on May 17, 2017. The zoning administrator presented his report and exhibits relative to this zoning case. As part of the packet sent to the zoning board members was a copy of the zoning administrator's report and a copy of the text amendment application being reviewed this evening. The copy of the application was first mentioned, as the second part of text amendments relating to wind energy. The second paragraph of the zoning administrator's report was read. The zoning administrator then commented on paragraph 3 of his report of which focuses on the November 8, 2016 referendum, that had an advisory question regarding minimum distances from wind turbines from residences. The zoning

administrator noted a copy of a county map which reflects the location of the seven townships in question in this zoning text amendment case. The eighth township of Reading was mentioned as a township that voted for lesser setbacks, but this township has different qualities with the location of residential development in the township and higher quality soils. The zoning administrator then provided the zoning board of appeals members with a copy of the specimen ballot that had a copy of the advisory question pertaining to minimum distances of wind turbines from residences in Livingston County. This question(s) on the ballot were then read. The zoning administrator then provided a copy of a map from the National Renewable Energy Laboratory that reflects wind resources. Next the topographical feature of Cayuga Ridge was then commented on in part with the use of two maps one from the Livingston County All Hazards Mitigation Plan rivers and relief elevations, of distinctly shows the Cayuga Ridge, Moraine system map from an application for the expansion of a solid waste facility in Livingston County, with this map reflecting the Cayuga Ridge moraine system. The zoning administrator then provided a copy of a General Soil Map from the Soil Survey of Livingston County, that illustrates the soils in the seven townships in question with classifications of having lower than average productivity index for Livingston County. Next the zoning administrator provided a copy of county population or census data from the Livingston County 2016-2017 yearbook. This census data reflects lower population density in the rural areas of the seven townships in question. Next the zoning administrator presented a copy of a google map that reflects the location of the edges of two existing wind farm developments, with the subject property being in between these two developed wind farm areas.

The zoning administrator then began the review of the application text amendment documents. First, noting that the hearing facilitator was being placed in the body of the zoning ordinance, in the general definitions. The next page reflects regulations page 56-692 a procedures page for special uses, in which the possible use of a hearing facilitator is incorporated into the special use procedures. Then moving into the body of the changes in the wind energy regulations, changes are in green. The zoning administrator began on page 3 noting the added clause to the definition of WECS project to reflect reference as project or WECS project. Then proposed text changes on page 7 reflecting changes in setbacks, indicating the exception of the seven townships having a proposed setback distance of 3.75 times the height of the WECS tower or 1600 feet, and that the setback distances for the seven townships in question would be 1.375 times to height of the tower as opposed to 1640 feet from adjacent property lines. On page 8 in transmission poles setbacks, with an added clause being added to allow for approval of the placement of the transmission poles. On page 10 comments on moving a turbine siting from 50 feet to 100 feet was mentioned. Next on page 12 under noise setbacks, a clause was added in that the possible intent is to waive county regulations but not IPCB regulations.

Then zoning administrator then passed out a page to the zoning board of appeals members that reflects changes discussed by the Livingston County Regional Planning Commission at their June 5, 2017 meeting. Starting at the bottom of this page to reflect the current page 12 regulations area under discussion, to address a planning commission discussion to remove the word setback is to now have this read as With the local 150 feet measuring points requirements pertaining to... , Then discussion took place as to if discussion as to if testimony is taking place. It was noted that this is a planning commission review report. Then on page 8 under (9) to replace the green printed text to read as, unless approved in writing by the proper township, county, state and /or municipal road authority, and the property owner. The property owners of primary structures approving this was discussed. This can be discussed for clarification later.

Then on page 7 setbacks (1) that new language be inserted after the green printed text, for bordering township setbacks, with new language that the setbacks of all Primary Structures, located in the townships located adjacent to Nevada, Odell, Union, Broughton and Sullivan Township are to be 3250 feet from a WECS tower, complying with the setback requirements of those townships, not the lesser 1600 foot setback for Nevada, Odell, Union, Broughton and Sullivan Townships. Then the zoning administrator mentioned that changing the proposed 1600 foot setback to 1640 feet would be appropriate as the 1640 has been remarked as being a safety setback. The words of at least may be added to (1) setbacks in the first line to be the same as the wording under number (3) on the same page. The zoning administrator noted that the planning commission suggested text changes were composed by him and that language is open for discussion.

The chair asked about the format of the presentation, and procedure. A similar procedure could be used, as was used before. The chair questioned as to why no legal counsel was present. Legal counsel is aware of the proposed text amendment. The chair inquired about who was present to represent the case. Daryl Holt came forward and was sworn in. Daryl Holt, 311 Linden St., Dwight, IL, noted his presence representing the Agriculture, Zoning and Emergency Services committee of the Livingston County Board, presented testimony relative to this zoning case. Mr. Holt addressed the Hearing facilitator position in that the county board and ag committee wanted that position so that it could free up individuals on the zoning board of appeals to ask questions and make decisions without trying to run a meeting, with hopes that a hearing facilitator would administrate a smooth meeting. Mr. Holt then mentioned that on page 7 under setbacks that at least be added for consistency, as mentioned by the zoning administrator. The chair asked if that wording of at least be placed before any measurement in the wind regulations, in that the zoning board may go through the entire document looking for consistency. Mr. Holt noted that this is the only area under H (1) that he believes the words at least should be added, of which the chair and the zoning board can consider later. Mr. Holt then concurred with the zoning administrator's comments. Mr. Holt asked for questions. The zoning board inquired as to the basis of the decision on the specific townships, for shorting those setback requirements. Mr. Holt noted those seven townships had voted for the lesser setbacks. Mr. Cornale asked if that information had been presented, the results of the election. The zoning administrator presented county clerk results for this referendum. The zoning board then asked if any additional testimony for a hearing facilitator could be provided. Mr. Holt commented on the definition of a hearing facilitator. Mr. Cornale noted the zoning board had struck the hearing facilitator from their recommendation on a previous text amendment on wind energy regulations. Mr. Holt and the zoning board of appeals then discussed testimony on the hearing facilitator from the previous wind energy text amendment. Legal counsel for this meeting was mentioned again. The zoning board questioning process was then discussed. Mr. Holt explained his position. The chair commented on acting on testimony provided during the hearings. The chair commented on educating people on what has to happen on the zoning board level, and how they have to act on testimony at their meetings. The chair explained that is why they take their time to go through the hearing process to give everyone an opportunity to be heard. Mr. Holt and the zoning board discussed hearing efficiency's. The board noted that they try to protect the county by allowing people to speak, as discussed with legal counsel, at previous wind energy hearings. Mr. Holt commented that he has explained why they want a hearing facilitator in the regulations. A discussion as how the hearing facilitator will be addressed. The chair asked as to if someone else planned to represent the application. A discussion how long it took for the Ag and zoning committee to put their initial text together. The board asked if Mr. Holt had any more evidence to support the hearing facilitator, or more evidence to support lesser township setback distances that would eliminate noise or medical concerns for those residents in those townships.

Mr. Holt mentioned the lesser population. It was questioned as to would those residents be affected by noise issues or medical concerns at a setback lesser as than the determined by the 3250 foot setback. Mr. Holt noted that the 1640 is a safety zone determined by wind turbine representatives. The chair then questioned how they may proceed in accepting evidence. Evidence from past wind farm hearings was then mentioned by the zoning board of appeals. The chair noted they had explained their reasoning for the 3200/3250 foot setback as part of their findings of fact and decision, that resulted from their previous hearings. The chair was ready to move on, noting that the first point was the referendum. Mr. Holt explained that that it was not a driving force, and Mr. Holt noted that Reading Township has better soil, and the proximity of Streator creates a unique circumstance with that township. The zoning administrator related that if the zoning board wanted other specific information that it may be provided at a future meeting. The zoning board wants evidence to support the text amendments, with no special rules. Mr. Flott asked that all be civil about this matter. Mr. Cornale remarked that they are being civil. The zoning administrator suggested that recessing the meeting by be option to take at this time. The chair asked if anyone else was present to provide testimony or to support documents. Mr. Holt noted that he is it, and it was agreed that more time would be appropriate. Mr. Holt commented on this application being a desire of the AG committee, and that he had reviewed the zoning administrator's report. The zoning board asked for more supportive documentation on why a piece is being cut out of the county. The chair noted that no other applicant gets previous asked questions to prepare for the hearings. Mr. Flott noted that the zoning board does not usually argue with the presenters. Mr. Flott noted we are not getting anywhere, tell us want you want for what is wanted for the next meeting and he will make a motion to recess. The chair wanted to note the applicant is not as prepared as desired, and what does the person representing the case want to do. Mr. Flott related that the chair noted the applicant was not prepared. Mr. Cornale, asked if Mr. Flott if he is purporting to prepare the applicant. Mr. Flott said no not at all. Conflict of interest was mentioned. The chair asked for additional information. Mr. Holt noted he had presented what he had intended and he is not prepared beyond that point. The zoning board packet was mentioned and compared to be the same as what Mr. Holt referred to. The chair asked Mr. Holt if he wanted this to be his testimony and stop. Clarification of the new changes in green changes were discussed, as a new application and a new case. The chair discussed a recess and as to when they may come back. They asked for the number of people that may want to testimony present at the meeting. At least 5 people were present wanting to testify. Philip Luetkehans the attorney for the UCLC, suggested that other residents that are ready tonight be allowed to talk. The chair asked if they want to give Mr. Holt and opportunity to come back. Mr. Flott suggested that they give more time. The chair noted that the question now is do they go out of order, noting Mr. Holt could use more time to prepare. The chair questioned as to if should stop now and take other people now or hold off and recess for later on and come back with Mr. Holt. Mr. Cornale asked Mr. Bryan if he had evidence to present, as he represented a school. Mr. Bryan noted he has evidence to present. The zoning board agreed to adjourn, the public questioned the rules being used, Roberts's rules of order or something else. Recessing the meeting versus adjourning the meeting was reasoned. Mr. Flott made a motion to recess. Then the zoning administrator mentioned that other zoning cases for the zoning board to review are in the process of being administered. A discussion to move back the hearings of other zoning cases then took place. June 29th and July 6 were discussed as optional meeting dates to pick up where they left off. Mr. Flott finished his motion to recess, this meeting to July 6th, 2017, seconded by Mr. Kiefer.

This motion was approved by roll call.

Cornale – Yes
Kiefer - Yes
Flott - Yes
Huisman - Yes

Casey – Absent(Did not Vote)
Runyon – Absent (Did not Vote)
Earing - Yes

The chair noted that the meeting would be recessed to July 6th at 7 o'clock. Then public comments were allowed. County Board chair Bob Young, questioned the term hot seat, of which the zoning board of appeals chair noted that that was a joke. Mr. Young noticed past contention, and through cooperation common ground has been reached. And he apologized for a wasted night of time. The zoning board chair suggested legal counsel be discussed. Mr. Young remarked that legal counsel will be contacted, and he thanked the zoning board for their time. The zoning board chair noted that they do ask question and that the applicant should come prepared. Judy Campbell thanked the zoning board from the bottom of her heart for their commitment and dedication. Mrs. Campbell commented on past efforts she has made on seeking to educate the public on the zoning process. She commented on how these hearings are vital. Tom Kulasik 27575 E – 3000 North Rd. from Dwight Township asked as to if the zoning administrator's documentation can be made public. He would like to look at these changes being proposed. The zoning administrator agreed to provide the information to Mr. Kulasik. Mr. Feinman from The Paper, asked to be provided copies of the information also. The chair mentioned a need to go through the evidence procedures.

Other Business: None

Findings of Fact and Decision: None

Report of Officers: None

General Discussion and Informational Update: None

This meeting was recessed at 8:30 p.m.

Material regarding these proceedings is on file in the Livingston County Regional Planning Commission Office, in the Livingston County Historic Courthouse, 112 W. Madison St., Pontiac, Illinois.

Respectfully submitted,

Charles T. Schopp, Secretary
Livingston County Regional
Planning Commission