

Minutes of the Lee County Board Meeting
May 21, 2013

State of Illinois)
)
County of Lee)

Call to Order

Chairman Ketchum called the regular session of the Lee County Board to order on May 21, 2013 at 9:00 A.M., at the old Courthouse in Dixon.

Chairman Ketchum called for a moment of silence for the people of Moore, Oklahoma who have been devastated by the tornado.

Pledge of Allegiance

Chairman Ketchum led the pledge of Allegiance.

Roll Call

Clerk Myers called the roll. Members present were Chairman Ketchum, members, Binder, Buckley, Buhrow, Considine, Deem, Gibler, Gottel, Gusse, Kitzman, Leffelman, Mercer, Morrissey, Nicholson, Palen, Shippert, Taylor, Truckenbrod, Wentling, Williams, Witzleb. Members absent were Kitson and McClain. One seat is vacant.

Announcements

Clerk Myers acknowledged Bonnie Klamen who is retiring after 32 years of service to Lee County in the Clerk and Records Office.

Chairman Ketchum announced some committee assignment changes. Mr. Gottel is moving from Finance to Transportation/Solid Waste. Mr. Considine will be on Finance and will also continue to serve on Properties until the new board member is selected and they will serve on Properties.

Approval of Board Minutes

The **minutes of the April 16, 2013 regular Board Meeting were approved** on a motion by Mrs. Taylor, second by Mr. Mercer. Chairman Ketchum asked if there was any discussion, there being none, the minutes stand approved as read.

State's Attorney Anna Sacco-Miller addressed the Board. She thanked everyone for being here. Her office has been fielding a number of calls, letters and emails regarding the process for the granting of the Special Use Permit for the wind farm that has been in hearings with the ZBA. The Zoning Board of Appeals duty is to hold public hearings on the issue and that has been done. There has been testimony, cross examination, closing arguments and the Zoning Board of Appeals under state law and county ordinances has done its job by making certain findings and recommendations to the Board. The Board today is voting on whether or

not to accept the applications for special use proposed by Mainstream, or to accept with additional conditions, or to deny the application, or to send it back to the ZBA. To grant a special use permit it requires a vote of the majority of the Board. Chairman Ketchum asked if it was the majority of the members voting or the majority of the Board. Assistant State's Attorney Matt Klahn referred to several different statutes and feels that the vote requires a simple majority of the board present.

To Zoning Board

No Petitions.

To Planning Commission

No Petitions

From Zoning Board

Petition 12-P-1483 by Mainstream Renewable Power, requesting special-use permits in an Ag 1 zone for the purpose of a wind energy conversion system. The parcels are currently zoned Ag-1 Agricultural. On a motion by Mr. Witzleb to **accept Ordinance #05-13-001, Petition 12-P-1483 for special use with the existing conditions and include the following eight (8) conditions:**

1. In addition to the proposed road agreement the petitioner shall enter into one or more road use and repair agreements with the county and the township authorities. All road agreements must be approved by the county engineer, township supervisor, zoning officer and county board prior to the building permit being issued.
2. The decommissioning plan shall also include a minimum of \$40,000 per turbine to be put into escrow over the first fifteen years of service, at fifteen years and every five years thereafter a review of the cost for decommissioning will be updated. The decommissioning agreement must be approved by the county engineer, township supervisor, zoning officer and county board prior to the building permit being issued.
3. The petitioner shall provide the zoning administrator the specifications for the WECS equipment chosen to be used. Said turbine shall be 2.3-101 or 2.3-113 Siemens Design or equivalent. If a different turbine is used; it may not be larger the 2.3 megawatts. A new noise and shadow flicker study must be done by a noise expert that complies with all applicable Illinois Pollution Control Board noise regulations. A certification from a registered professional engineer that the tower's design is sufficient to withstand wind load requirements for structures as defined by the International Code and the foundation design of the WECS project is within accepted professional standards for the type of said conditions.
4. In addition to the proposed setbacks in said petition a 1.1 setback shall be required for WECS turbines to the residence located on the project parcel.

5. In addition to the proposed shadow flicker in the petition the petitioner shall offer to all neighbors within one-half mile of WECS turbine \$1000 per year for 20 years if said neighbor receives 10 hrs/yr or more of shadow flicker based on model prediction.

6. The petitioner shall at its expense coordinate, with the zoning administrator to develop a system for logging and investigating complaints related to the WECS wind farm. This includes but not limited to noise, shadow flicker, vibration, or interference with radio and television reception or future GPS signals, reception, 911 communications, emergency communication, receptions prior to commercial operations.

7. In addition to the proposed, the petitioner shall construct all roads, temporary or permanent, in a manner that will not interfere with drainage.

8. All conditions of the wind farm shall be transferable to any and all new owners of the wind farm.

Motion was seconded by Mr. Williams. Chairman Ketchum opened the floor for discussion.

Ms. Shippert felt the motion is an insult to the work the ZBA has done over the last year. They have held meetings and spent many hours reaching their conclusion. The purpose of zoning is to promote the public health, safety and welfare of its citizens and to minimize conflict between farming and other land uses. This project does not meet those requirements and the conditions do not remedy it.

Mr. Gottel stated that zoning special uses are special things. He referred to the current ordinance in place. He feels that the Board should support the Zoning Board of Appeals and the work they have done and he can't support the installation of these structures.

Mrs. Truckenbrod acknowledged all the work that has gone into the hearings from both sides of the issue. She has reviewed the testimony presented in making her decision for her vote today. She discussed property rights and the health and welfare of the citizens, the drainage issue and shadow flicker.

Mr. Deem thanked the Zoning Board of Appeals for all of their work and also to the citizens who have done their homework on this. Mr. Deem addressed many issues such as property values, job creation, tax revenue, decommissioning, shadow flicker and noise. He proposed that the revenue is needed in Lee County.

Mr. Binder referred to the Lee County Zoning Code and the purpose of the code. He commented on shadow flicker and noise and the effects on the residents in this area. He does not feel that the set backs are sufficient. He also thanked the members of the Zoning Board for their dedication to this issue. He urged the County Board to deny this petition.

Mr. Buhrow would like consideration given to what the Zoning Board of Appeals has recommended. He does not feel that this project is about financial issues. He feels that this project is very intrusive to property owners and enforcement and mitigation is needed for these projects. He would vote to deny this petition.

Mr. Gusse supports the Zoning Board of Appeals decision. He questioned the additional conditions being presented and would like to have seen these go before the Zoning Board.

Mr. Leffelman thanked everyone for calling, writing and emailing with their concerns. He feels that the Board should support the Zoning Board of Appeals decision. He had attended several of the Zoning Board hearings and hopes that other Board Members have reviewed the transcripts before making their decision. He feels there are many unanswered questions such as size of the towers, how many, decommissioning, placement, set backs, management, property values, flicker and noise, tiles and roads. He explained where the money goes from the tax bill. He requested other members vote with the Zoning Board.

Mr. Nicholson also referenced tax bills and about 67% of the money ends up in the small school districts. The other point he wanted to make was that the Zoning Board found 4 -1 that Mainstream was in compliance with the ordinance and then they voted against the petition.

A roll call vote on the motion was called.

YES: Considine, Deem, Kitzman, Mercer, Morrissey, Nicholson, Palen, Taylor, Wentling, Williams, Witzleb, Ketchum.

NO: Gibler, Gottel, Gusse, Leffelman, Shippert, Truckenbrod, Binder, Buckley, Buhrow.

ABSENT: Kitson, McClain.

VACANT: One Seat

Motion carries on a roll call vote.

From Planning Commission

No Petitions

Board Member Comments

Mr. Morrissey commended the State's Attorney's Office for not pursuing the Rita Crundwell case and saving tax dollars.

Lee County Industrial Development Association

John Thompson with the Lee County Industrial Development Association gave an update to the Board. He spoke about a new publication called "Illinois the State of Innovation". The I-88 West is featured in the front of the publication. These materials will be used at several trade shows promoting the area.

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Public/Visitor Comments

Mimi Hicks, University of Illinois Extension, Carroll, Lee and Whiteside Counties introduced Robin Etnyre the new 4-H Program Coordinator.

Jim Timble commented that after many months of hearings and testimony the ZBA's recommendation to the County Board is over ruled by twelve Board Members. He felt that proper hearings were held under oath and an in-depth findings of fact process took place. He thanked the ZBA members for their work. He quoted some of the findings of facts. He said the battle is not over and they will continue to fight against the wind farms.

Kendall Guither addressed the Board. He feels this vote has put more county residents in more discomfort. He has lived beside wind turbines for over two (2) years. He feels these turbines ruin the natural scenery and create noise. The noise is a distraction. Shadow flicker is a huge issue and has negatively affected him. Shadow flicker can be seen over a mile away. He feels that the turbines do decrease property values. Turbines disrupt their TV reception and their GBS signals for farming. The turbines have ruined his life and now will affect more Lee County Residents.

Katherine Guither addressed the Board. She thanked the Board Members who voted to deny the Green River petition. To the Board Members that voted to allow the wind farms she is disappointed. She asked which of them would open their homes when the residents who are negatively affected are not able to be in their homes or fields.

Richard Porter, attorney for Hamilton Township and several other landowners, wanted to thank the Zoning Board of Appeals for the effort they put into considering this application. He was very disappointed the Board has chosen to ignore the Zoning Board of Appeals recommendation. He feels that now the county has an opportunity to make a better ordinance concerning wind farm projects.

Robert Logan stated he has been involved with the wind projects for several years. He feels that people should not have to live with wind turbines that do not want them. He feels that now it is up to those who don't want them to enforce them. He felt that many of the Board Members did not look at the findings of fact. He thanked the citizens who came to all the hearings.

Richard Boris thanked all the Board Members who did their homework. He feels that Lee County does not enforce their WECS ordinances. He feels the additional special conditions that have been added should have gone through the hearing process. He asked who is going to bear the liability of the adverse affects of the wind turbines.

Chairman Ketchum called a break at this time.

Chairman Ketchum called the meeting back to order.

Reports of Committees

Finance: Mr. Gottel gave the Finance Report. They had a report from Sheriff Varga about the tour they had of the jail in Pontiac. The committee had a closed session to discuss some investment options for the county.

Transportation: Mr. Binder gave the Transportation/Solid Waste report. On a motion by Mr. Binder to **approve claims**, second by Mrs. Taylor; motion carries by a voice vote.

On a motion by Mr. Binder to **approve Illinois Department of Transportation Local Agency Agreement for Federal Participation #05-13-002, Tampico Road over branch of Green River, 6.5 miles SW of Harmon**, second by Mr. Deem; motion carries by a voice vote.

On a motion by Mr. Binder to **approve Resolution #05-13-003 appropriating \$203,000.00 of County Motor Fuel Tax Funds to complete construction project on Track Road, in Ashton Road District**, second by Ms. Shippert; motion carries by a voice vote.

Solid Waste: Five private wells in the vicinity of the landfill have been tested and the results will be received next month. The electronic collection held with Ogle County was a success.

Properties/Planning/Zoning: Mr. Nicholson gave the Properties/Planning/Zoning report. They are working on some intergovernmental agreements for Animal Control in the future. He gave an update on the Animal Control facility. It will be going before the City of Dixon Zoning Board on June 6, 2013.

LOTS (Lee Ogle Transportation System): Mr. Kitzman gave the LOTS report. There was no meeting last month; the next meeting is this Friday, May 24, 2013. The monthly update was included in the board packets.

Administrative Services: Mrs. Truckenbrod gave the Administrative Services report. The minutes of their meeting are in the packet. Mr. McBride, GIS/IT will have an intern from Sauk Valley Community College working this summer. Mr. Fritts, Lee County Treasurer, was named Treasurer of the Year for Zone IV. Mr. Lalley, ESDA, gave an update on the disaster drill to the committee.

Public Safety: Ms. Shippert gave the Public Safety report. The minutes of their meeting are in the packet.

RC&D – Blackhawk Hills: Mr. Deem gave the RC&D – Blackhawk Hills report. Their Annual Meeting was held on May 16, 2013; Josh Albrecht with Dixon Main Street gave a presentation on economic development.

911 Board: Mr. Witzleb gave the 911 report. There was no meeting last month. The next meeting is Thursday, May 23, 2013.

Tourism: Mr. Gusse gave the Tourism report. He distributed a packet to Board Members and included the quarterly Northwest Magazine.

Health Department: Mr. Morrissey gave the Health Department report. The minutes from the meeting are in the packet. On July 22nd & 23, 2013 the Ronald McDonald Care Mobile will be in Dixon and will be offering free medical and dental services for uninsured or under insured children.

Tri-County Opportunities Council: Mr. Williams had no report for this month they will be having a meeting next Tuesday.

United Counties Council of Illinois (UCCI): Mrs. Taylor will be reporting on the meeting she attended yesterday at next month's board meeting.

Executive: Chairman Ketchum had no additions to the minutes from Executive. On a motion by Ms. Shippert to **approve claims**, second by Mr. Witzleb; motion carries by a voice vote.

County Officers Reports, Request for Deposit of Funds, Orders Paid in Vacation

On a motion by Mrs. Taylor to **approve County Officers Reports, Request for Deposit of Funds and Orders Paid in Vacation**, second by Mr. Palen; motion carries by a voice vote.

Old Business:

On a motion by Mr. Nicholson to **approve Ordinance #05-13-004, Authorizing Aggregation of Electrical Load and Adopting and Electric Aggregation Plan of Operation and Governance**, second by Ms. Shippert; motion carries by a voice vote.

On a motion by Mr. Gottel to **accept the low bid from Verde Energy for a one (1) year period at a price of 05.519/kWh**, second by Mr. Morrissey; motion carries by a voice vote.

Mr. Buhrow asked when this would take affect. Mr. Mudge with Rock River Energy advised that they would now start the opt-out period and they are looking at about two (2) months.

New Business:

On a motion by Ms. Shippert to **hold the Ordinance on Prevailing Wage over until June**, second by Mrs. Taylor; motion carries by a voice vote.

On a motion by Mrs. Taylor to approve:
Resolution #05-13-005 authorizing application for Public Transportation Financial Assistance under Section 5317 of the Federal Transit Act of 1991, as amended (49 U.S.C. § 5317). (New Freedom)

Resolution #05-13-006 authorizing application for Public Transportation Financial Assistance under Section 5316 of the Federal Transit Act of 1991, as amended (49 U.S.C. § 5316). (JARC-011)

Resolution #05-13-007 authorizing application for Public Transportation Financial Assistance under Section 5316 of the Federal Transit Act of 1991, as amended (49 U.S.C. § 5316). (JARC-010)

Resolution #05-13-008 authorizing submittal of the application dated June 1, 2013 for a Public Transportation Capital Assistance Grant under the Illinois Department of Transportation's general authority to make such Grants.

Second by Mrs. Truckenbrod; motion carries by a voice vote.

On a motion by Mr. Witzleb to approve:

Resolution #05-13-009 requesting to change the polling location of Dixon 13, Dixon 14, and Dixon 15 Precincts from Bethel Church, Pre-School Gymnasium, 125 North Court, Dixon IL and Dixon 20 Precinct from McReynold's Tower, 1000 Washington Avenue, Dixon, IL to Dixon Masonic Friendship Lodge, 1409 North Galena Avenue, Dixon, IL.

Resolution #05-13-010 requesting to change the polling location of the Dixon 12 Precinct from McReynold's Tower, 1000 Washington Avenue, Dixon, IL to Bethel Church, Pre-School Gymnasium, 125 North Court, Dixon, IL.

Second by Mr. Wentling; motion carries by a voice vote.

On a motion by Mr. Gibler to **approve Resolution #05-13-011 appointing John Thompson to serve on the Quad Cities Regional Economic Development Authority**, second by Mr. Nicholson; motion carries by a voice vote.

On a motion by Mr. Considine to **approve Resolution #05-13-012 to appoint Lori Erbes to serve on the Board of Review of Lee County, Illinois for a term beginning June 1, 2013 and ending May 31, 2015**, second by Mrs. Truckenbrod; motion carries by a voice vote.

On a motion by Mrs. Taylor to **approve Resolution #05-13-013 appointing Edwin Lilja as Trustee of the Amboy Fire Protection District for a period of three (3) years**, second by Mr. Kitzman; motion carries by a voice vote.

On a motion by Mr. Binder to **approve Resolution #05-13-014 reappointing John N. Prentice and Jeffrey R. Politsch as Trustees of the Paw Paw Fire Protection District of Lee County, Illinois**, second by Mr. Leffelman; motion carries by a voice vote.

On a motion by Mr. Gusse to **approve Resolution #05-13-015 to reappoint Mike Pratt to the Zoning Board of Appeals to serve another five (5) year term and to appoint Liza Zeimetz as an alternate member of the Lee County Zoning Board of Appeals for a four (4) year term.**, second by Mrs. Truckenbrod; motion carries by a voice vote.

On a motion by Mr. Nicholson to **approve Resolution #05-13-016 appointing Wayne Hussey as Trustee of the Franklin Grove Sanitary District of Lee County, Illinois for a term ending the first Monday, in May, 2015**, second Mr. Deem; motion carries by a voice vote.

Executive Session

None

Mileage and Per Diem

On a motion by Mrs. Taylor to **approve Mileage and Per Diem**, second by Mr. Kitzman; motion carries by a voice vote.

All Bills and Appropriations

On a motion by Mr. Mercer to **approve All Bills and Appropriations**, second by Mr. Gottel. A roll call vote is called.

YES: Deem, Gibler, Gottel, Gusse, Kitzman, Leffelman, Mercer, Morrissey, Nicholson, Palen, Shippert, Taylor, Truckenbrod, Wentling, Williams, Witzleb, Binder, Buckley, Buhrow, Considine, Ketchum.

NO: None

ABSENT: Kitson, McClain

VACANT One Seat

Motion carries by a roll call vote

Motion to Adjourn:

On a motion by Mrs. Taylor to **adjourn this meeting until June 18, 2013 at 9:00 A.M.**, second by Mr. Considine; motion carries by a voice vote.

Rick Ketchum
Chairman Lee County Board

Attest: Cathy Myers, Lee County Clerk &
Ex-officio Clerk of the Lee County Board

ORDINANCE NO. 05-13-001

WHEREAS, the Lee County Board desires to act upon Petition No. 12-P-1483, by Mainstream Renewable Power, requesting special-use permits in an Ag-1 zone for the purpose of a wind energy conversion system. The parcels are currently zoned Ag-1, Agricultural.

WHEREAS, the necessary public hearing was held before the Zoning Board of Appeals on the petition described which resulted in recommendation for denial from the Zoning Board of Appeals for said Petition.

NOW, THEREFORE, BE IT ORDAINED by the Lee County Board that Petition No. 12-P-1483 (Mainstream Renewable Power) be (~~approved~~ denied) by the Lee County Board by the Lee County Board.

PASSED BY THE LEE COUNTY BOARD

THIS 21st DAY OF May, 2013.

BY: Reik Kothman
Lee County Board Chairman

ATTEST:

Cathy Myers
Lee County Clerk

To the Honorable Chairman and
Members of the Lee County Board

Ladies and Gentlemen:

Consideration was given to 12-P-1483, by Mainstream Renewable Power, requesting special-use permits in an Ag-1 zone for the purpose of a wind energy conversion system. The parcels are currently zoned Ag-1, Agricultural.

A hearing on the petition was conducted in accordance with the Rules of Procedure that were adopted by the Zoning Board of Appeals. The hearing required 33 sessions that took place on the following dates:

<u>2012</u>	<u>2013</u>
July 5	January 2
July 10	January 14
August 1	January 15
August 7	January 16
September 4	January 23
September 18	February 4
October 2	February 5
October 9	April 10
October 10	April 11
October 17	April 12
November 13	April 23
November 14	April 24
November 26	April 25
November 27	
November 28	
December 3	
December 4	
December 10	
December 12	
December 18	

Minutes and transcripts corresponding to the session dates are available at the Zoning office or on the County's website.

The chronological progress for the public hearing was:

1. Opening remarks by the Applicant or its agent;
2. Presentation of evidence by the Applicant, either one witness or one document at a time;

- a. Each witness was placed under oath or affirmation by the hearing facilitator;
 - b. Each witness was allowed to be cross-examined, first by the Zoning Board of Appeals, then by interested parties.
3. Presentation of evidence by interested parties, either one witness or one document at a time;
 - a. Each witness was placed under oath or affirmation by the hearing facilitator;
 - b. Each witness was allowed to be cross-examined, first by the Zoning Board of Appeals and/or Applicant.
4. Rebuttal witnesses or documents were presented by the Applicant, one at a time;
 - a. Each rebuttal witness was placed under oath or affirmation by the hearing facilitator;
 - b. Each rebuttal witness was allowed to be cross-examined, first by the Zoning Board of Appeals, then by interested parties.
5. Surrebuttal witnesses or documents were presented by the interested parties, one at a time;
 - a. Each surrebuttal witness was placed under oath or affirmation by the hearing facilitator;
 - b. Each surrebuttal witness was allowed to be cross-examined, first by the Zoning Board of Appeals and/or Applicant.
6. Closing remarks by the Applicant; and
7. Closing remarks by interested parties.

Following the conclusion of the public hearing, the Board conducted its Finding of Fact.

After the Board had conducted its Finding of Fact, Tom Fassler made a motion that the Lee County Zoning Board of Appeals recommends to the Lee County Board that Petition 12-P-1483 be denied. A second was discerned, and a vote was taken on Mr. Fassler's motion. The ayes prevailed, and the motion was adopted.

Sincerely,

Alice Henkel, Clerk

By: _____

In addition to the proposed conditions in the Petition 12-P-1483 the following conditions shall apply:

1. In addition to the proposed road agreement the petitioner shall enter into one or more road use and repair agreements with the county and the township authorities. All road agreements must be approved by the county engineer, township supervisor, zoning officer and county board prior to the building permit being issued.
2. The decommissioning plan shall also include a minimum of \$40,000 per turbine to be put into escrow over the first fifteen years of service, at fifteen years and every five years thereafter a review of the cost for decommissioning will be updated. The decommissioning agreement must be approved by the county engineer, township supervisor, zoning officer and county board prior to the building permit being issued.
3. The petitioner shall provide the zoning administrator the specifications for the WECS equipment chosen to be used. Said turbine shall be 2.3-101 or 2.3-113 Siemens Design or equivalent. If a different turbine is used; it may not be larger the 2.3 megawatts. A new noise and shadow flicker study must be done by a noise expert that complies with all applicable Illinois Pollution Control Board noise regulations. A certification from a registered professional engineer that the tower's design is sufficient to withstand wind load requirements for structures as defined by the International Code and the foundation design of the WECS project is within accepted professional standards for the type of said conditions.
4. In addition to the proposed setbacks in said petition a 1.1 setback shall be required for WECS turbines to the residence located on the project parcel.
5. In addition to the proposed shadow flicker in the petition the petitioner shall offer to all neighbors within one-half mile of WECS turbine \$1000 per year for 20 years if said neighbor receives 10 hrs/yr or more of shadow flicker based on model prediction.
6. The petitioner shall at its expense coordinate, with the zoning administrator to develop a system for logging and investigating complaints related to the WECS wind farm. This includes but not limited to noise, shadow flicker, vibration, or interference with radio and television reception or future GPS signals, reception, 911 communications, emergency communication, receptions prior to commercial operations.
7. In addition to the proposed, the petitioner shall construct all roads, temporary or permanent, in a manner that will not interfere with drainage.
8. All conditions of the wind farm shall be transferable to any and all new owners of the wind farm.

