

LEE COUNTY ZONING BOARD OF APPEALS

Ron Conderman, Chairperson  
Craig Buhrow, Vice Chairperson  
Mike Pratt, Member  
Gene Bothe, Member  
Tom Fassler, Member  
Bruce Forester, Alternate Member

Chris Henkel, Zoning Officer  
Alice Henkel, Clerk

The Lee County Zoning Board of Appeals met on Thursday, September 1, 2011, at 7:00 p.m. in the Old Lee County Courthouse, Dixon, Illinois. Chairman Ron Conderman called the meeting to order and Clerk Alice Henkel called the roll. The following members were present: Craig Buhrow, Mike Pratt, Gene Bothe and Tom Fassler.

Chairman Conderman asked if there were any changes or corrections to the minutes from the August 18, 2011 meeting.

Mike Pratt noted a mistake on Page 20, Paragraph 5. The paragraph should read:

“Mr. Pratt did not think a certain amount of years should be specified...”

Craig Buhrow made a motion to approve the minutes, including Mr. Pratt’s correction, and Gene Bothe seconded it. All were in favor, resulting in a 5 – 0 vote.

Chairman Conderman announced that Notice of Additional Meetings of the Lee County Zoning Board of Appeals have been published in the newspaper. If needed, the following dates have been designated for meetings of this Board:

September 15	November 3
October 6	November 17
October 20	December 1

The meetings will begin at 7:00 p.m. and will take place on the third floor of the Old Lee County Courthouse.

Mike Pratt made a motion to approve, and Gene Bothe seconded it. All were in favor, resulting in a 5 – 0 vote.

Chairman Conderman proceeded with the first order of business, Petition No. 11-P-1474, by Domar Farms, Doris Zueger and Marlies Fisch, PPN 09-19-32-200-003, located in Hamilton Township, requesting a Special Use permit in an Ag-1 zone for Restricted Landing Area (RLA).

Markus Fisch was sworn in on behalf of the petition.

Petitioner had satisfied the notification requirements.

Mr. Fisch explained that the property is located approximately three (3) miles north of Walnut and that the land strip would run east to west.

The RLA would be located approximately one (1) mile north of Baseline Road and approximately 1,500 feet west of Indian Head Road.

The Board agreed that the area of land designated for the RLA is to be no more than five (5) acres. The Petitioners will have to have the five (5) parceled off and the Special-use Permit will only apply to those five (5) acres.

The RLA will be grass and approximately 100 feet wide.

Mr. Fisch stated that the State came and took pictures of the proposed location, and at this time, it is FAA approved.

Chairman Conderman asked if there were any other comments from the Board. There were none.

Chairman Conderman asked if there were any questions or comments from any visitors present. There were none.

Mr. Pratt asked if Mr. Fisch owns a plane or has a pilot's license. Mr. Fisch said he does and his son is taking lessons in order to receive a pilot's license.

Chairman Conderman proceeded with the Findings of Fact:

The first finding of fact is the effect of the proposed use upon the character of the neighborhood.

Mr. Buhrow asked where the nearest residence is located. Chris Henkel explained that there is a residence located one (1) mile north of Baseline Road and is approximately 1,500 feet east of the eastern border of the proposed location.

Mike Pratt made a motion to accept these findings of fact, and Gene Bothe seconded this motion. The Board voted Yes, 5 – 0.

Chairman Conderman proceeded with the second finding of fact by asking the Board to state if there is an effect of the proposed use upon traffic conditions.

There were none.

Craig Buhrow made a motion to accept these findings of fact, and Tom Fassler seconded it. The Board voted Yes, 5 – 0.

Chairman Conderman proceeded with the third finding of fact by asking the Board to state if there is an effect of the proposed use upon public utility facilities.

There were none.

Gene Bothe made a motion to accept these findings of fact, and Mike Pratt seconded it. The Board voted Yes, 5 – 0.

Chairman Conderman proceeded with the final finding of fact by asking the Board to state if there is an effect of proposed use upon public health, public safety, and/or general welfare.

There were none.

Mr. Henkel added that Hamilton Township now has a planning commission. This petition went before the Hamilton Township Planning Commission, and it was approved.

Craig Buhrow made a motion to accept these findings of fact, and Gene Bothe seconded it. The Board voted Yes, 5 – 0.

Tom Fassler made a motion to approve the petition and Mike Pratt seconded it. All were in favor, resulting in a 5 – 0 vote.

Chairman Conderman stated that this matter will go before the Lee County Board on September 20, 2011, at 6:00 p.m. with a recommendation for approval.

Chairman Conderman submitted the following documents that had been provided to this Board, to be included in the minutes:

1. an e-mail from Deb Carey, to Chris Henkel, entitled Wind Power Projects;
2. a copy of an article entitled, “Noise Complaints On Rise with New Industrial Wind Power Projects National Wind Watch calls for minimum 1-mile setbacks;”
3. a copy of an article entitled, “The Party’s Over for Big Wind,” by Robert Bryce;
4. a duplicate copy of an article entitled, “Noise Complaints On Rise with New Industrial Wind Power Projects National Wind Watch calls for minimum 1-mile setbacks,” (From The Informed Farmer’s Coalition); and
5. a copy of an article from the Walnut Leader entitled, “Walnut Board to review wind turbine ordinance.”

Chairman Conderman proceeded with the continued review of existing ordinances and conditions for WECS. During the August 18, 2011 meeting, the Board concluded the review of Section V (Liability Insurance) prior to the close of that meeting.

Mr. Henkel contacted Lee County's insurance provider regarding this topic. The agent has been asked to review what has been proposed and recommend what would be appropriate for this type of project. Further discussion of insurance was deferred until after a response from the agent has been rendered.

Steve Robery of Franklin Grove addressed the Board. He wanted to recommend to Chairman Conderman, and to the rest of this Board, that they consider hearing from an expert witness at a future meeting.

Mr. Robery offered to bring in Dr. Carl Philips, an expert of epidemiology, which is the study of health outcomes and exposures in people for the purpose of making assessments about population health; and an expert of the health effects of wind turbines on nearby residences.

He went on to state that Dr. Philips has written several papers on the subject of health effects of wind farms; has made several presentations; and has submitted expert testimony to the Ogle County Zoning Board.

Mr. Robery asked if he could make arrangements for Dr. Philips to make a presentation at the October 6, 2011 meeting. Chairman Conderman stated that this Board intends to proceed with and complete its review of the WECS draft prior to entertaining any requests for additional testimony. Once this Board has concluded its review, it would consider hearing further testimony if necessary.

Mr. Pratt asked Mr. Robery why he felt it was necessary for this Board to hear additional testimony regarding noise. Mr. Robery explained that Dr. Philips is not a noise expert, nor a noise engineer; Dr. Philips deals with health effects, in relation to setbacks and other things.

Chairman Conderman stated that discussion of Section VI (Decommissioning Plan) would be deferred to a later date.

Chairman Conderman proceeded with Section VII (Abandonment):

#### **“VII. ABANDONMENT**

The WECS Project owner or the landowner of a WECS or multiple WECS shall notify the Ogle County Planning & Zoning Department when the WECS Project or any individual WECS unit is no longer in operations pursuant to Section VI above. Within twelve (12) months of cessation of operations, unless the Planning & Zoning Committee of the Ogle County Board grants an extension of time for good cause shown, the approved "Decommissioning and Site Restoration Plan" pursuant to Section VII above shall be implemented.”

Mr. Fassler asked if that doesn't include if the turbines are not working. Chairman Conderman responded by asking where does this Board draw the line.

Mr. Buhrow interprets this to mean twelve (12) months from the last time the turbines operated.

Mr. Fassler asked Mr. Buhrow if “not working” meant “not producing electricity.” Mr. Buhrow said that was how he was reading it.

Mr. Fassler asked if this applied only when time to decommission them. Chairman Conderman said that it reads both ways.

Mr. Pratt said the paragraph does state “individual WECS unit.” Mr. Fassler asked if they would lose their zoning if they did not adhere within one year. Mr. Pratt said yes, unless they request an extension from this Board.

Chairman Conderman asked if the Board wanted to leave the paragraph the same.

Mr. Fassler said that twelve (12) months seems fair, that they should be able to get the turbine(s) fixed within one year; however, he noted that there are two turbines near his residence that have not run since last October (2010).

Bob Logan from Franklin Grove addressed the Board. He feels that this leaves the full responsibility on either the landowner or the project owner and it seems to him that that is allowing the “fox to rule the henhouse.”

Mr. Logan said at a previous meeting it was discussed that notification should come to this Board that the WECS is not operational. He feels that the ordinance should allow for something like that and not be restricted to their notification.

He said there are other County ordinances where the responsibility falls on the landowner and the landowners are not doing what they are supposed to do, some even having signed agreements. Mr. Logan doesn't think the County should make it possible for the landowners not to report the non-operational condition.

Mr. Logan feels anyone should be able to report to the County that a turbine has not been operating.

Richard Boris of the Village of Lee addressed the Board. He understands that some wind companies pay landowners based on production of electrical energy. He wanted to know if a farmer is then not paid if a turbine has not been operating or has been non-operational for a year.

He also thinks the Board should consider that this would take two (2) acres of farmland out of production.

Chairman Conderman asked the Board how it wants to leave this section.

Mr. Pratt feels who can report a non-operational turbine should be addressed.

Mr. Fassler wanted to know how a person would know.

Mr. Henkel referred to the turbines near Mr. Fassler's residence that have not been running. He said that it can be seen from the road that there are blade issues. Mr. Henkel contacted the company regarding the turbine and was informed that the company intends to have those turbines running; however, they are having complications finding blades that won't "delaminate."

Mr. Pratt said, if that's the case, and those turbines go twelve (12) without operating, then the wind company should come to this Board, explain why the turbines are not running and request an extension in order to correct the issue(s).

Mr. Henkel thinks that what Mr. Pratt stated is conveyed in the paragraph. Mr. Pratt wants to include in the paragraph that anyone can report a turbine that is not running.

Mr. Fassler wanted to know a person would be able to tell turbines that are producing electricity from turbines that are not producing. He also had concerns about Mr. Henkel and the Zoning Office not having the time to sort through complaints.

Mr. Henkel said a turbine may not run for one (1) or two (2) days and then be back to running the next day. Every time a turbine stops running, the "clock" for the twelve (12) months starts. Then when the turbine starts running, the next time it stops the "clock" will start over.

Mr. Logan suggested using language, "when it has been established that they're not operational," or language like that because it does not determine who can report it.

Mr. Logan was not sure if this responsibility would fall onto the Lee County Zoning Office or if this Board, during it review, may decide to bring in an expert to monitor the County's WECS.

He feels that some date has to be established from which the County will work from so there is a definitive timeframe.

Chairman Conderman asked the Board what should be added to allow any person to report a non-operational turbine.

Mr. Fassler said it has to be established when the turbine stopped working in order for the County to establish a timeframe. He thinks the wind companies should be able to provide the date that a turbine stops working to the County.

John Martin with Mainstream Renewable Power ("Mainstream") addressed the Board. Mr. Martin said Mr. Fassler was correct; the wind companies do have this information. He agreed with getting a date on record, it would be available from the operator.

Mr. Martin was concerned about using language other than that because the County may end up getting calls every other day if it is not windy and the turbines are not running.

Chairman Conderman again asked the Board what changes, if any, it would like to make to this section.

Mr. Pratt said something needs to be added, similar to “that the date of inoperable condition will be established by the wind company.”

Mr. Fassler suggested that the wind company should contact the County when a turbine has been inoperable for three (3) months. He understands that there are going to be issues with these turbines but most are alleviated in approximately one (1) to two (2) weeks.

He thought that the wind company could contact Mr. Henkel after three (3) months of a turbine not operating, then Mr. Henkel could go back three (3) months and start the “clock.”

Mr. Logan stated that when the language, “when it has been established,” this Board can clean up the rest of the language at the end of its review so long as it gets the intent at the present.

Mr. Logan thinks that the County should not want to rely on the wind companies for information. He had concerns that the wind companies are not currently reporting that turbines are not operational.

He said that sometimes it’s apparent that a turbine is not operational because there is damage to it and in some cases, it even makes the news, referring to a turbine that had been struck by lightning. However, if the County needs a clarification as to when the turbine stopped running, it should be able to contact the wind company for confirmation that a tower is not running and for the date when it stopped working.

Mr. Logan also said that reports should be made to the Zoning Office.

Mr. Pratt suggested possibly including the following, “...the date that a WECS project or individual WECS unit is proven inoperable, the twelve months begins.”

Also, after reading the paragraph numerous times, Mr. Pratt questioned whether it’s necessary to “clean up” the language regarding who can report that a turbine is not working. He doesn’t feel the County should restrict, and he doesn’t think the language in the draft restricts that either.

Mr. Pratt said that this was more about establishing, from the wind companies’ records, when the twelve (12) months begins. He feels this should be included in the paragraph that the “clock can be running” for abandonment.

Mr. Fassler believes the wind companies have this information. Mr. Pratt agreed and wants the paragraph to have appropriate language so that they are required to provide such information. Mr. Fassler also believes that the wind companies will readily provide

the County with that information.

Chairman Conderman asked Mr. Pratt where he wants to insert the language. Mr. Pratt said after the first sentence. He suggested the following: The date that the WECS project or individual WECS unit becomes inoperable is to be established between the Owner/Operator and the Zoning Board of Appeals. He said a date has to be established in order to start the twelve (12) months.

Mr. Henkel agreed that the wind company should be able to provide that information. He said that when he receives a call, he contacts the wind company to find out what is wrong. He feels it is the intent of the wind companies to have the turbines “up and running” in order to make a profit.

Mr. Boris thought that the County may want to require the wind companies to provide a report of the electrical energy produced for each turbine. Then if there are days that they are not putting energy on the grid, the County will have some indication of how electricity is really being produced by these turbines.

He went on to say that this would give the County a “management overview of what marketing says and what is being produced, so that in the future we can look forward to what is likely to reoccur.

Mr. Pratt stated that he disagrees with Mr. Boris’s suggestion because the intent of this Board is not to run a business. This Board decides on what is the best for the land, and he doesn’t think this Board needs to know the details of the business.

Mr. Boris said that if the business is proven to be so inefficient, then it would be desirable not to put up more wind turbines.

Mr. Pratt does not want to make a “management decision for the company.”

Jim Timble from Franklin Grove addressed the Board. With regards to Mr. Pratt’s proposed language, Mr. Timble suggested adding the word, “permanently” to it, “When the WECS project or individual WECS unit is established as permanently inoperable...”

Mr. Timble stated that this paragraph addresses abandonment.

Mr. Logan stated he feels permanently is too long. He said this Board is trying to keep these turbines operable within one year.

It was agreed by the members to include Mr. Pratt’s suggestion and to have the State’s Attorney “clean up” the language.

Chairman Conderman proceeded to the next section, Section VIII (Home Seller Protection Program). It was agreed to defer discussion of this section to a later date.

Chairman Conderman proceeded with Section IX (Payment of Taxes or Payment(s) in

Lieu of Taxes (PILOT))

**“IX. PAYMENT OF TAXES OR PAYMENT(S) IN LIEU OF TAXES (PILOT)**

The owner of the WECS Project shall annually provide property taxes as required by applicable State law, provided, however, that in the event that property tax law applicable to wind energy devices change such that the total property tax amount in any given year would be less than that which would have been required under the tax laws effective as of the date of this Ordinance, then the owner of the WECS Project will provide additional funds to bring the total property tax up to the amount that would have been required if the property tax formula in place at the date of this Ordinance were in place; unless any future change in property tax laws applicable to wind energy generation devices result in a formula that would generate more tax revenue than would be generated under the property tax laws in place as of the date of this Ordinance, in which case the owner of the WECS Project shall pay property tax in accordance with the tax laws then in force.”

Chairman Conderman feels this is covered by a State law that was initiated by the Lee County Tax Assessor, whereby all windmills in the State of Illinois are assessed at the same rate, no matter where they are located. He doesn't believe the tax rate is going to change.

Mr. Logan said that the tax laws, as they now apply, have a “sunset” on them of 2016. It was 2011, and they have since been extended to 2016. He stated that this ordinance, which has been adopted by many places, protects the taxing groups like Lee County from a loss of revenue. He said there may also be a Federal move to tax exemption for purposes of encouraging certain types of development.

He feels this provision protects the County's future revenues. This will protect the County in the event that the other laws change.

Mr. Buhrows asked if there is depreciation on this, would this stabilize the income. Mr. Henkel responded that he did not know.

Keith Bolen of Mainstream Renewable Power addressed the Board. He stated that, as a school board official, who will be directly affected by the Green River Wind Farm, the taxes per megawatts are a State standard, with a 4% depreciation and a CPI adjustment. For a taxing body, it is one of the most stable sources of income, unlike farmland that can go by 10% and then down by 10%, or the stagnate housing market which continues to decline.

The laws were extended to 2016 on either a unanimous vote by the legislature or with one vote against it, and it went through very quickly. If this law sunsets in 2016, in Bureau County, that assessment can go double or triple more than what it was at by law. It was a

compromise that worked for everyone involved. He doesn't think there should be a fear of running out of revenue for the County or the school districts. It's a good policy that standardizes everything.

Mr. Pratt asked Mr. Bolen what would be the negative effects of leaving the paragraph in. He feels that it currently does not leave the wind companies exposed; it only requires that they have to maintain the level of the first year.

Mr. Fassler stated there is no depreciation.

Mr. Pratt feels this section is more like a "failsafe." He again asked if there's a negative to the wind companies.

Mr. Bolen was concerned about the precedence that would be established and wondered if the County was treating any other industries in the same manner. Mr. Pratt said that there are a lot of things in the ordinance that apply only to the wind industry.

Chairman Conderman asked Mr. Bolen what he thinks might take place in the future. Mr. Bolen said that, when talking with the legislature, the intent of the first five (5) years was essentially a trial. As it has been successful, it was extend another five (5) years to 2016. He believes that as it continues to be successful, as it has been so far, that the law may become permanent.

Mr. Bolen said the tax assessors like it, and it is a very stable revenue stream, making it easy on taxing bodies for budgeting.

Mr. Pratt asked if the revenues would go down approximately 1% per year, and Mr. Bolen said that depends on the CPI, which has been at approximately 3%.

The way Mr. Pratt understands the paragraph is that the wind companies are going to pay the same as (or more than) the first year, so the wind companies are not going to benefit from that 1% decline.

Mr. Martin from Mainstream wanted to make a clarification. The way he understands the paragraph is that on the date that this ordinance goes into effect, if the present tax law is in place, then the standards of the law would still be in place. As such, the companies would start at a certain rate, and that amount would be adjusted by the CPI, and then be allowed to depreciate. However, if this Board is reading this a different way and intends to make it a straight-line payment, then he needs that clarified.

Mr. Pratt stated that he cannot find a negative effect to the wind industry. Mr. Martin feels the glaring negative is that this is not required by any other industry in the County.

Mr. Martin asked the Board if this provision is required for any other industry in the Lee County.

Kelly Robery from Franklin Grove addressed the Board.

She feels that since these meetings are regarding wind energy conversion systems, everything should apply to the wind industry, and not to other industries. She said that this Board was meeting specifically to create an ordinance for WECS, and the fact that this doesn't apply to any other business does not matter.

Mr. Boris said he has heard that wind lobbyists are constantly attempting to reduce taxes on wind turbines and/or eliminating them by declaring them to be personal property, or because they are located in an enterprise zone. He thinks it would be inappropriate for this body to consider the input of wind farms and their interpretations of what may happen with the taxes in the future.

He thinks it's prudent because the County is looking at a long-term flow of income, which he said is being marketed to it for accepting these wind farms. The County needs to make sure that this stream of revenue is going to be as expected.

Chairman Conderman did not think that this is the intent of this Board. The intent is that whatever rate the turbines are being assessed at today, is the same rate they will be assessed at in the future.

Mr. Martin said Mr. Boris brought up a valid point in terms of the other economic development tools that are available. Not every industry can receive those benefits, such as enterprise zones which are used by towns and counties to encourage certain development within a community. Mr. Martin thinks this would then trump the ability to use those tools.

Mr. Martin said not everyone may be going after tools that are available. He thinks this would a perfect question for the assessor to address, in term of what would be done if this law was no longer in effect, would things stay relatively the same or would there likely be an increase or decrease.

He said Illinois is ranked either second (2<sup>nd</sup>) or third (3<sup>rd</sup>) in terms of how heavily they tax WECS and WECS companies.

Mr. Fassler suggested having Lee County Tax Assessor Wendy Ryerson review this provision.

Chairman Conderman deferred further discussion of this section until Mrs. Ryerson has reviewed it and rendered a response.

Mr. Pratt thinks that this section is protecting the County if the tax law changes or sunsets, to the point that the tax ordinance that is in place now, the revenue can never be less than what that tax law generates. He was not sure if that is a good thing or a bad thing and would also like to hear Mrs. Ryerson's thoughts on the matter.

Mr. Logan said that nothing else in Illinois is taxed in the same matter that wind turbines currently are. He said that regardless of what happens to other taxes, it's not going to have an effect on WECS taxes.

Mr. Logan explained that they are funded through subsidies, and when those subsidies go away, the wind companies are going to be looking for other types of incentives. This may lead to a review of the tax structure in which the Federal government might prohibit them from being taxed in the manner of which they are now. This could happen anytime and this protects the County.

Mr. Logan stated that businesses of all kinds are taxed very heavily in the State of Illinois, not just wind farms.

Chairman Conderman proceeded with Section X (Indemnity Clause):

**“X. INDEMNITY CLAUSE**

The Owner and/or Operator of the WECS Project shall defend, indemnify and hold harmless the County of Ogle and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including attorney's fees arising out of the acts or omissions of the Owner and/or Operator concerning the operation of the WECS Project without limitation, whether said liability is premised on contract or on tort.”

Chairman Conderman asked State’s Attorney Henry S. Dixon if the County needs this paragraph included. SA Dixon said it does.

Chairman Conderman said there would no changes to Section X (Indemnity Clause) and proceeded to the next section:

**“XI. REMEDIES**

A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under the Special Use Permit Ordinance.”

There were no comments from the Board. Chairman Conderman said leave Paragraph A, and he proceeded to Paragraph B:

“B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).”

Chairman Conderman requested that SA Dixon review this paragraph and provide his recommendations for any changes to this Board. SA Dixon said he would.

Mr. Martin asked if the negotiations would have to start within the 60 days, and had concerns about mechanical issues taking more than 60 days to resolve.

SA Dixon said the default should be cured in a certain amount of time unless extended by both parties, in this case, the County and the Owner/Operator.

It was agreed to include that in the provision. Chairman Conderman proceeded to the next paragraph:

- “C. If the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, shall subject the owners Owner and Operator to the penalties set forth in Division 9 of the *Ogle County Amendatory Zoning Ordinance*.”

Chairman Conderman suggested striking this paragraph as it applies to Ogle County. Mr. Fassler suggested rewording the paragraph so that it applies to Lee County.

Mr. Logan did not think the paragraph should be removed. He said if the Lee County Code does not have a penalties section, then it should be added to and included with this ordinance.

Chairman Conderman deferred further discussion of this paragraph so that it may be determined whether or not the County has such section as part of its existing code.

Chairman Conderman proceeded with the next paragraph:

- “D. The Owner and/or Operator of the WECS Project shall, at the Owner and/or Operator expense and in coordination with the County of Ogle, develop a system for logging and investigating all complaints from citizens related to the operation of the WECS Project.”

Chairman Conderman said yes.

Mr. Buhrow asked what the current system for logging/investigating complaints is. Mr. Henkel said there isn't one, per the existing ordinance.

Mr. Henkel said he has been logging complaints up to this point in time. When he receives a complaint, he forwards it to the property authority at the wind company.

Mr. Pratt asked what constitutes as a complaint. Mr. Henkel said any complaint, major or minor, is documented and passed on to the wind company. The complaint must be in

writing for records purposes and so that it may be forwarded to the company.

Mr. Henkel said he does not have a code for this process and recommended adding one.

Mr. Boris said that DeKalb County has been using a pre-printed problem identification form to facilitate the identification of issue by the Zoning Office or the police, if necessary. He offered to get a copy to share with this Board.

Mr. Henkel said he has a form and does not need a copy of DeKalb County's. The form is available online and it mimics that of Bureau County. Bureau County had that as a requirement, and Mr. Henkel asked to use that form. Once the form has been completed and provided to the Zoning Office, he then forwards the complaint to the wind company. The company then must contact the complainant in an effort to resolve the complaint.

Mr. Logan believed there is a book of forms that are used by the County. He suggested adding that form to this book.

Mr. Robery said that during the Ad Hoc Committee review, there was discussion of creating a time-frame in which the wind company would have to respond to the complaint. He feels this might be an appropriate area to add that.

Mr. Robery also suggested creating a complaint resolution section for the ordinance so that the response time for the wind companies is the same for all issues such as television interference, noise, shadow flicker, etc.

Mr. Pratt stated that that was not a bad idea.

Mr. Buhrow suggested adding something at the end of the paragraph.

It was agreed the wind company shall be required to respond to any and all complaints within fourteen (14) days of the date the complaint was tendered.

Mr. Timble asked Mr. Henkel if the complaints are sorted into categories and if they are available to the public.

Mr. Henkel said the complaints are available to the public. He explained that when he receives a written complaint, he forwards it to the wind company.

With regards to the Big Sky project, Mr. Henkel has received seven (7) or eight (8) complaints, mostly about television interference and a few noise complaints. Those complaints are then forwarded to Big Sky to resolve.

Mr. Pratt asked if the company is responding to the complaint within fourteen (14) days. Mr. Henkel said they had been. About a week ago, he received a report regarding a television interference complaint. The wind company has a company go to the location of the complaint to do study and determine what is causing the problem. They then propose a remedy for the issue.

Mr. Henkel has not had any issue with the wind company not responding to a complaint in a timely manner. He said there is an issue with the wind company being able to reach the complainant once the complaint has been received. It is sometime due to work schedules of the complainant.

Chairman Conderman asked if the Board wanted to create a Paragraph E to address this. Mr. Pratt suggested a continuation of Paragraph D, but said that either would work.

Mr. Pratt suggested added the following to end if Paragraph D:

“All written complaints must have a response from the Owner/Operator of the WECS project within fourteen (14) days.”

Chairman Conderman said the State’s Attorney could “clean it up.”

Mr. Logan said the Board should clarify if it is fourteen (14) calendar days or working days. If the Board means working days, he feels ten (10) working days to respond to a complaint is reasonable. This would also address holiday when businesses are not working and would be less confusing.

The Board agreed to change the language from fourteen (14) days to ten (10) working days.

It was noted that fourteen (14) days was referenced in other parts of the proposed ordinance and the Board agreed to change all to ten (10) working days.

Mr. Henkel stated that he has spoken with County Engineer Dave Anderson regarding the section concerning roads. Mr. Anderson is presently working on language to be included in the ordinance.

Chairman Conderman said the Board is expecting additional information from Mr. Anderson concerning the roads, the County’s insurance provider regarding liability insurance, and from Mrs. Ryerson regarding payment in lieu of taxes.

Mr. Pratt asked Mr. Henkel to recap a discussion they had regarding Lee County current fee structure. Mr. Henkel stated that the fee structure that the County uses for WECS is for the first ten (10) acres, the County charges \$525 for the petition fee. Each parcel of land is considered a fee. If a person owns 80 acres of land and wishes to place a turbine on those 80 acres, the fee is \$525 for the first ten (10) acres and \$10 an acre for the remaining 70 acres. Therefore, the County is receiving \$1,225 in fee for that one parcel.

Mr. Henkel said Mr. Porter suggested a fee of \$100,000; however, the County has already established a fee structure, and Mr. Henkel feels it has been working quite well.

Mr. Pratt said it is working because the last project brought in over \$100,000 in petition fees. Mr. Henkel confirmed this statement.

Mr. Logan said that when figuring a fee structure, the fees should be enough to cover the cost of bringing in experts. Also, as a nonprofit organization, governing bodies are not supposed to use their permitting fees as a way to generate revenue for general issues. It is to be used for administering the wind farm ordinance. He feels it would be appropriate for this Board to look at the actual costs when it is done with this ordinance.

Mr. Logan feels the present fee structure has worked so well in the past because the County has done so little to have expert evaluations. He feels these fees should be directly related to the costs of the County doing business regarding these projects.

Mr. Pratt asked Mr. Henkel who set the fee structure. Mr. Henkel said the fee was set by the Lee County Board. Mr. Pratt noted that this Board does not have the authority to change the fee; the County Board would have to make any changes to this fee schedule.

The Board had arrived at the end of the Draft. As various topics were deferred, the Board discussed how it would proceed from this point forward. The following is a tentative schedule of what remaining topics will be discuss during the up-coming meetings:

- |               |   |
|---------------|---|
| September 15: | Roads agreement, Tax assessment, Liability Insurance, Property Values, Decommissioning; |
| October 6:    | Noise, Shadow Flicker, Setbacks;  |
| October 20:   | Review and Re-organization; and   |
| November 3:   | Review and Re-organization (if another meeting is needed).                              |

Mr. Robery again requested an opportunity to have Dr. Philips present to this board regarding health effects related with wind projects. He restated his position and emphasized that it would be beneficial for this Board to hear his testimony prior to it concluding its review.

After some discussion, Tom Fassler made a motion to hear Dr. Philips presentation on health effects, and Mike Pratt seconded it. A vote was taken, resulting in a 4 – 1 vote in favor of the motion. Chairman Conderman voted no.

Mr. Robery was directed to arrange for Dr. Philips to be present for the meeting scheduled for October 6, 2011.

On the motion of Mike Pratt, seconded by Gene Bothe, the meeting was adjourned at 8:50 p.m.

The next meeting is scheduled for Thursday, October 6, 2011, at 7:00 p.m.

Respectfully submitted,

Alice Henkel

By: \_\_\_\_\_