

LEE COUNTY AD HOC COMMITTEE

Ron Conderman, Chairman
Craig Buhrow
Mike Pratt
Gene Bothe
Tom Fassler

Keith Bolen
Alan Pfeifer
Mark Wagner
Chris Henkel, Zoning Officer
Alice Henkel, Clerk

The Lee County Ad Hoc Committee met on Thursday, December 2, 2010, 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, Tom Fassler, Keith Bolen, Alan Pfeifer, and Mark Wagner.

Chairman Conderman asked if there were any changes or corrections to the minutes from the November 4, 2010 meeting. Mr. Wagner stated that he disagreed with the first sentence of the third paragraph, on Page 6 of the minutes because the clerk's interpretation of his statement does not accurately reflect what he said.

The sentence is stated as follows in the minutes: "Mr. Wagner feels that he is the only person on this committee is who is not in favor of wind turbines." Mr. Wagner stated that that's not what he meant or that's not what he said.

Mr. Wagner said he was trying to point out that he is the most likely person on the panel to vote for restrictions against wind turbines. He is not against wind turbines and he wants to make that clear. He is for responsible wind development. He thought if the tape from the meeting was played back, it would reveal that he had said that he is the most likely person to be anti-wind and vote for restrictions.

The clerk agreed to review the tapes from the November 4 meeting and to quote Mr. Wagner directly.

The clerk's interpretation of Mr. Wagner's statement was with regards to Mr. Wagner's question to Chairman Conderman as to who appointed the members of this ad hoc committee. Mr. Wagner stated as follows: "I, I didn't know, I'm curious because it, it seems to me like this is hi-highly, uh, that the zoning board (Chairman Ron Conderman, Craig Buhrow, Mike Pratt, Tom Fassler, and Gene Bothe) has voted usually four to one for turbines and now we have three people added. These two, these two guys (Keith Bolen and Alan Pfeifer) are going to do everything they can to bring turbines in, they, they have an interest. There's a conflict of interest here. He's (Keith Bolen) an employee of Mainstream (Mainstream Renewable Power) and he (Alan Pfeifer) has an interest in bringing students to his wind program at his, at his uh college (Sauk Valley Community College)."

Gene Bothe made a motion to approve the minutes with the correction, and Mike Pratt seconded it. All were in favor.

Chairman Conderman asked if there were any changes or corrections to the minutes from the November 18, 2010 meeting. There were none. Mike Pratt made a motion to approve the minutes, and Alan Pfeifer seconded it. All were in favor.

Chairman Conderman stated that there is going to be a change in procedure. State's Attorney Dixon has informed Chairman Conderman that this board should not be voting on the changes the committee agrees should be made. The sole purpose of this committee is to make recommendations to the Zoning Board of Appeals. This committee is not changing anything. It is recommending that changes be made. This committee does not have to agree nor does it have to come to an agreement.

At the November 18, 2010 meeting, discussion regarding the Public Services section of the conditions was table to this meeting; however, Lee County Highway Engineer Dave Anderson was not present at this meeting for further discussion.

Also, Mr. Neil Palmer, from FPL, mailed to each committee member, a copy of the FPL Road Agreement with the County; however, some members had not yet received their copy.

It was agreed that further discussion concerning the roads be deferred to the December 16, 2010 meeting. Mr. Anderson will be asked to be present at this meeting for continued discussion regarding the impact of wind energy traffic on County roadways.

The committee started out with the review of the County's conditions for Dust Control. The condition currently reads:

“Dust Control

1. Petitioner will use dust control measures as reasonably required by the County during construction.”

Chairman Conderman suggested that this may also be a matter for County Highway Engineer Dave Anderson.

Mark Wagner questioned the term, “reasonably.” He wanted to know how that term is defined. Also, he wanted to know what are the “dust control measures.” As it now reads, the condition is vague and does not provide enough information.

Mr. Henkel suggested striking the condition. Mr. Wagner said the committee could do what it wants. He feels the committee needs to get into these conditions, not just blow over them.

Mr. Henkel warned that if the committee wants dust control, then it is also saying that it does not want any dust coming out of a farmer's combine.

Mr. Wagner said that he did not say anything about farmers and that some of the committee members keep changing the subject to farmers when the committee is talking about the construction of wind turbines.

Mr. Henkel advised the committee against requiring one particular entity to have dust control and not any others.

Mr. Wagner stated he disagrees. He does not equate the dust that is caused by a temporary wind project with farming dust.

Chairman Conderman asked Mr. Wagner what he would suggest in order to curtail the dust. Mr. Wagner stated he could not tell what he wants because there is no information provided about what the reasonable measures are.

Mr. Fassler wanted to know if the committee was talking about the access roads or the township roads. Chairman Conderman stated they are discussing all roads.

Mr. Fassler did not think there has ever been an issue with the dust during the construction of the project. He thinks if it is too dusty for the workers who are working in it, that they will do what they need to do to lessen the dust. A lot of the chipped roads aren't going to have dust, and he personally hasn't seen the workers putting water or calcium on the gravel roads. Mr. Fassler agrees with Mr. Wagner that the current condition is very vague.

Mr. Wagner said there were lots of complaints from residents about dust during the construction of the Lee-DeKalb project. He would like to know what the reasonable measures are and who enforces them. He also wants to know what the remedy is.

Chairman Conderman thought that it may be up to either the township road commissioner or the County Highway Engineer.

Mr. Henkel mentioned that dust control may even be covered in the road agreements.

Mr. Pratt suggested that the condition should state who is responsible for enforcing the condition.

Mr. Wagner said that the great authority the township road commissioners have had been discussed but none of the road commissioners are present. He wanted to know when do they get involved in this process if they have so much authority over the roads. He thinks at least one of them would be invited to be at these meetings. Mr. Wagner was informed that the township road commissioners have been invited; they just don't come to the meetings.

Chairman Conderman said that the topic of dust control will be deferred to the December 16, 2010 meeting so that it may be addressed by County Highway Engineer Dave Anderson.

Chairman Conderman proceeded with the review of the County's conditions for Sewer and Water. The condition currently reads:

“Sewer and Water

1. Any facility shall comply with existing septic and well regulations as required by the Lee County Health Department and the State of Illinois Department of Public Health.”

Mr. Fassler questioned whether this was a matter for the Health Department and whether the condition should be included.

Chairman Conderman suggested omitting the condition.

Mr. Wagner wanted to know what the remedy would be and where would a problem be addressed if there is problems with someone's well water being contaminated due to something involving the excavation or the placement of all that concrete and rebar.

Chairman Conderman stated the complaint would go to the Health Department for remedy.

Mr. Wagner wanted to know what the Health Department would do and who would take responsibility.

Chairman Conderman stated that the Health Department would have the authority to remedy the situation.

Mr. Fassler agreed with Mr. Conderman and that the Zoning Board of Appeals has nothing to do with sewer and water.

Mr. Henkel stated that any septic and well issues would go through the Health Department.

Mr. Wagner inquired further about the issue of well water being contaminated due to something related to a wind farm, or one or more wind turbines, and wanted to know if there were any measures that can or should be taken in advance as far as a remedy for such contamination.

Mr. Wagner stated that he brought this up because he has read much about this and that it's a big concern; and that in the future it is expected that with all that concrete left under the ground, with the rebar in it, that there could be contamination of well water. He wanted to know what can be done about this and who is responsible.

Mr. Henkel stated that this is the first time he has heard that well water can be contaminated by concrete. He used the example of a subdivision of 100 homes and 100 basements made of concrete and rebar.

Mr. Fassler stated that regardless, it would still go to the Health Department; and Mr. Henkel agreed.

Mr. Wagner stated that during decommissioning, he thinks they only remove the top 48 inches of the concrete pad, leaving an enormous chunk of concrete in the ground. He said that over time, the concrete with rebar is considered to be hazardous waste.

Mr. Wagner said that a big chunk of concrete would not normally be allowed to be there. Over time, that material is going to be leeching into the ground. If there is too high a density of wind turbines, there is going to be a problem with these contaminants getting into well water.

Chairman Conderman wanted Mr. Wagner to think about all the highways this country has, all containing concrete and rebar, and wanted to know if Mr. Wagner had ever heard of contamination from our roadways. Mr. Wagner said he has not but he had limited the scope of his research to matters related to wind turbines only.

Mr. Wagner still wanted to know if there is a remedy. If it is up to the Health Department, that is fine with him, but he wants to know what the Health Department will do about it. Chairman Conderman asked if someone from the Health Department should be invited to the next meeting.

Mr. Wagner feels that once the committee gets into the topic of decommissioning, that's where this will come into play. Mr. Henkel explained that the decommissioning covers the removal of the top 48 inches. The remainder of the concrete will stay there. Mr. Wagner said that he knows that is what the current decommissioning requires but in the future when people have problems with their well water being contaminated, it could have to do with the concrete and rebar that is left under the ground.

Mr. Wagner feels that this is something to talk about and think about, and to come up with a remedy for, not just going to the Health Department with a complaint. He wants to know what the Health Department is going to do. Chairman Conderman didn't think the Health Department would do anything because contamination of this nature is not ever going to happen because there is concrete and rebar scattered all over the country, and all over the world that has been there for years. He has never heard of anyone dying or getting sick from it. He said there are too many houses built next to street and subdivisions that have wells in the front yards of homes, between the basement and the street, both made of concrete and rebar.

Mr. Wagner said he understood what Mr. Conderman was saying but that this issue is different. He stated that normally, that material would have to be removed, and with the decommissioning of a wind turbine, it doesn't have to be removed. He explained that there are people who live near these things who rely on the well water. He reiterated that he understood what Mr. Conderman said, and again stated that this is a different issue.

Mr. Pratt seemed to think that the only way to control that would be to limit the number turbines that are built. Mr. Wagner agreed.

Mr. Pratt thought it would be pretty difficult to remove those cement pads. Mr. Wagner stated that it is an enormous amount concrete and would cost a lot of money to remove.

Mr. Henkel asked if anyone had any recommendations to make.

Mr. Fassler suggested striking the condition because the Zoning Board of Appeals had not authority over the matter, the Health Department does.

Mr. Pratt wanted to know if anyone had any thoughts on not allowing wind turbines to be built within so many feet of an existing well.

Mr. Bolen wanted to know what the risks are to a well, and is that restriction going to apply only to wind turbines. He used the example of a grain leg. Mr. Bolen explained that grain legs have a lot of concrete in them, and wanted to know if they would be allowed within 500 feet of a well.

Mr. Wagner stated that zoning is to prevent the creation of nuisances and to deal with general health, safety, and welfare. He wanted to know if the public's health, safety, and welfare are going to be taken care of or are things going to be done to usher in the maximum profitability on a wind project. Mr. Wagner stated that if one chooses the latter option, public health, safety, and welfare is compromised.

Mr. Fassler felt that the committee should have someone from the Health Department present to ask these questions. Lee County Board Vice Chair John Nicholson suggested inviting the Health Department Administrator, Cathy Ferguson, to the next meeting.

Mr. Wagner stated that Ms. Ferguson needs to be in the loop on the health effects of wind turbines. He noticed in the County code, a lot of the stuff about noise issues, and water contamination issues are the responsibility of the Health Officer. He doesn't know if the Lee County Health Officer has been doing research or has been becoming knowledgeable of the issues associated with wind turbines. Mr. Wagner thinks she needs to get in the loop of being knowledgeable about health issues of wind turbines.

Chairman Conderman asked Mr. Henkel to invite Ms. Ferguson to the December 16, 2010 meeting.

Chairman Conderman proceeded with the review of the County's conditions for Drainage Repair. The condition currently reads:

“Drainage Repairs

1. Petitioner will repair waterways, drainage ditches, field tiles, or any other infrastructures damaged during construction and maintenance phases.”

He asked if anyone had anything they wanted to add.

Mr. Wagner made a recommendation that the condition should state that repairs should be made back to original condition or better.

Chairman Conderman proceeded with the review of the County's conditions for Engineer's Certificate. The condition currently reads:

“Engineer’s Certificate.

1. The engineer’s certificate shall be completed by a structural engineer registered in the State of Illinois and shall certify that the tower and foundation are compatible with and appropriate for the turbine to be installed and that the specific soils at the site can support the apparatus. All commercially installed wind turbines must utilize self-supporting tubular towers.”

Mr. Pratt stated that the last sentence of that condition seems out of character for that paragraph. It goes from talking about the engineer’s certificate to the style of tower.

Mr. Fassler thought that the sentence may address the issue of lattice towers. Mr. Pratt agreed but still felt the sentence is out of place.

Mr. Pratt suggested removing the sentence from that paragraph and moving it to a more appropriate section, maybe to the section where height of the towers is discussed.

Mr. Fassler asked Mr. Henkel if he had received engineer’s certificates for each project. Mr. Henkel said he had, and confirmed that it is an engineer hired by the wind company. He stated that Willett Hofmann did both the Big Sky project and the Papiach’s project.

Chairman Conderman proceeded with the review of the County’s conditions for Certificate of Contracts. The condition currently reads:

“Certificate of Contracts.

1. Certificate shall verify that power purchase contracts, power transmission contracts, and other legal rights are in place.”

Mr. Henkel suggested striking this condition because the County has nothing to do with these contracts. He feels that if the developers don’t have the power purchase contracts, they are not going to build a multi-million dollar project.

Mr. Pratt recalls this being an area of concern when these conditions were first drafted. Mr. Henkel confirmed that he has never had a problem with this issue. Mr. Pratt understood but was not sure if he agreed the condition should be stricken.

He asked Mr. Henkel if he had these contracts on file. Mr. Henkel stated that he has never received a power purchase contract. He explained to Mr. Pratt that it was once a concern, but history has proven, as well as economics, that a developer is not going to build if he or she does not have these contracts.

Chairman Conderman stated that it is recommended that this paragraph remain a condition at this time.

Chairman Conderman proceeded with the review of the County's conditions for Decommissioning Plan. The condition currently reads:

“Decommissioning Plan.

1. Petitioner shall ensure that the facilities are properly decommissioned upon the end of the project life or facility abandonment. Petitioner's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48” beneath the soil surface, and restoration of the area occupied by the project improvements to as near as practicable to the same condition that existed immediately before construction of such improvements. Prior to issuance of a building permit, Petitioner will provide a bond letter of credit or other security acceptable to the County, for the cost of removing each tower to be constructed under that building permit. When such tower is operational, such security shall be modified to cover the cost of removing all improvements above the foundation and shall not be released during the entire term of the special use until those improvements are removed. Petitioner will provide an affidavit to the Lee County Zoning Board representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within twelve (12) months of expiration or earlier termination of the project.”

Mr. Wagner asked Mr. Henkel whether or not a decommissioning plan in one project could be different from decommissioning plan in another project. Mr. Henkel responded that they should be the same for the most part.

Mr. Wagner asked how long are in the road agreements in effect. Mr. Pratt said that the road agreement he received talks of correcting problems for up to three years. Mr. Wagner asked if the road agreement states what happens after the three years. Mr. Pratt quoted the agreement, “The three-year road maintenance period shall not be construed as a limitation or modification of any applicable statute of limitations.” He was not sure if it could go for longer.

Chairman Conderman wants to know at what point does road maintenance become the responsibility of the general public who will be using the road more than the wind company will be.

Mr. Fassler said that sometimes the wind company's traffic is more than the general public's traffic. He also stated that it doesn't matter how many axles a 390,000 pound crane has on it, it is still heavy.

Chairman Conderman was under the impression that once a turbine is built, that crane will never be back unless there is a major breakdown. Both Mr. Fassler and Mr. Wagner told Chairman Conderman that is not true, that the crane will back several times.

Mr. Bolen stated that the crane will have to be permitted. Mr. Fassler stated that such a permit costs only \$10.

Chairman Conderman thought the focus should be on the bond, not the permit. The permit will not fix any roads; it will only give them authority to be on the road.

Mr. Pfeifer said that the last sentence of the condition concerning roads, it talks about a bond for future repair. He recommended that whoever is writing these road contracts, includes in the contracts, something about the bond being big enough cover road repairs.

Mr. Bolen reference page 5, item T, of the FPL Road Agreement.

Mr. Bolen agreed that there is going to be more traffic on the roads, but he wants to know how one would discern a wind company pick-up truck from farmer's pick-up. Mr. Fassler responded to Mr. Bolen that that is not what he was trying to say. Mr. Fassler thinks that the overall maintenance on these roads is going to be more when there are wind turbines there, that when there were no wind turbines.

Mr. Bolen said there would definitely be more traffic and that is why the township collects a property-tax revenue for maintenance of the infrastructure.

Mr. Wagner is concerned about the road maintenance only being covered for three years because there will be breakdowns of equipment and the heavy crane will have to return. He wants to make sure that there will be enough money to pay for that so that it does not become a burden of the County.

Mr. Wagner explained that decommissioning of a wind turbine basically means it is being taken away. He wants to know who is going to pay for that, and is there enough money to pay for it. Based on the material he has read, there is a strong feeling that the bonds are not large enough and there is not enough money put away for decommissioning. Mr. Wagner just wants to make sure enough money is put aside to cover all the expenses of decommissioning.

According to Mr. Wagner's research, there has never been a decommissioning of a wind turbine in the United States. He explained that some old turbines from California have been relocated to Minnesota, but this is not decommissioning.

Mr. Wagner explained that the figures for scrap are incorrect because they were calculated when the cost of metal was high. The turbine needs to be disassembled and cut apart. He has also read that there is hazardous waste involved in the decommissioning because hazardous resins are used to put the fiberglass blades together.

Mr. Pfeifer referred to page 16, No. 8 of the FPL Road Agreement. It mentions that another road agreement will be signed with the County and will be required by the County upon demolition or decommission. He stated that this is another step the County Highway Department would take when turbines are decommissioned.

Mr. Wagner stated that the problem that is happening in the rest of the country is that the turbines have been abandoned. The companies that build these turbines have accelerated depreciation and they sell their wind farm. This repeats itself under new ownership and by the fourth or fifth time the wind farm is sold, the final owner is stuck with old turbines and old technology. The turbines then tend to sit there and waste away. He said this has happened in Hawaii and California, and that he thinks there are thousands of abandoned turbines in the United States.

Mr. Wagner said there is no decommissioning, that it does not get done. The turbines sit there and rust away. He said if an entity is going to have the money to actually physically remove a wind turbine, how would it figure out how much money you are going to need?

Decommissioning is the responsibility of the project owner; however, if the owner defaults, it then becomes the responsibility of the farmer.

Mr. Pratt wanted to know if the County needs a decommissioning plan, and that it's really the farmer who needs a decommissioning plan.

Mr. Henkel feels that what the County wants to know there is that there is a decommissioning plan established.

Mr. Wagner expressed concern for the future landowner who may become responsible for decommissioning. Mr. Pratt explained that the County does not own land, that the farmer still owns the land. Mr. Wagner asked if the landowner has to decommission the turbine. Mr. Fassler, said yes, if the wind company defaults.

Mr. Wagner wanted to know if the County would let that abandoned turbine stay there or would it require it be taken away. Mr. Fassler did not think there was anything in the present conditions that stated that a turbine that has not producing electricity for a certain period of time has to be removed.

Chairman Conderman pointed out to Mr. Fassler that current conditions do cover this in the very last sentence. The wind company and/or property owner will have 12 months to properly decommission the turbine.

Mr. Pfeifer stated that the current condition says "...such security shall be modified to cover the cost of removing all improvements above the foundation, etc." He wanted to know who holds this security. Mr. Henkel said that the County has. Mr. Henkel explained that once the project is up and running this letter of credit goes away. Mr. Pfeifer understands this statement to mean that the security money should stay for the removal of the improvements and should not be released during the entire term of the special use, until those improvements are removed.

Mr. Bolen recommended the idea of having a structural engineer go out every five years to evaluate the value of these turbines. The engineer could determine the scrap value of each turbine, as well as the cost to decommission each turbine, and the difference between the two would result in a security bond pledged by the developer/owner to the satisfaction of the County. This would prevent a future liability.

Referring back to the number of abandoned turbines, Mr. Wagner said that his notes say there are 14,000 turbines abandoned in California alone.

Mr. Pratt wanted to know if the County has the liability or if the landowner has the liability.

Mr. Fassler liked Mr. Bolen's recommendation of having a structural engineer evaluate the value of the turbines every five years. Mr. Pratt agreed that it is a good suggestion.

Mr. Fassler asked Mr. Henkel if anything can be done with the turbines that currently exist. Mr. Henkel said no, but this would address future wind farms.

Mr. Bolen believes that this could lead to the creation of wind turbine scrapping businesses that will come out and dismantle the turbines.

Mr. Wagner told Mr. Bolen that it costs too much money to take down a turbine. There will need to be a crane which will lead to road damage that will need to be repaired. There is compaction to the soil and he asked who would take care of that? Mr. Wagner stated that to physically take apart a wind turbine and cut it apart, the cost of the labor and the crane rental would exceed the cost of any salvage value.

Mr. Pratt recommended that the County needs to make sure the landowner has access to the turbines after the company has abandoned them, should the wind company default.

Mr. Wagner wanted to know if the substation and any aboveground or underground transmission lines would be decommissioned as well, or would they remain. He recommended including the substations and power lines in consideration for removal too.

Mr. Wagner wanted to know if the underground lines are allowed to remain and the concrete pad is not fully removed, does the County have some method of charting where exactly the concrete pads are and where exactly the underground wire are, for use by future landowners.

Chairman Conderman stated that there are currently wires underground that are longer in use. Mr. Wagner said that in today's world, we know there are underground cables and shouldn't we document that somehow and attach it to the title for the property.

Mr. Henkel thinks it goes back to the landowner and feels it the same thing as having tile underground. He thinks it is the farmer's responsibility, not the County's. Mr. Wagner said that there are records kept at the courthouse on a property, and one of them includes a drawing of what is there on the property. He wanted to know if they would want to include in the knowledge base of a physical piece of property that there are giant concrete pads underground on that property. Mr. Wagner suggested requiring this so that in the future, people will know that the pads are there.

Mr. Bolen stated that everything is GPS now. Each concrete pad is given its own Parcel Identification Number (PIN). This is recorded on a deed at the recorder's office. Each roadway and turbine has their own PIN numbers.

Mr. Pfeifer asked if the County has GIS, and Mr. Henkel confirmed that it does. He said that it could be mapped on there and the County would have it forever. It could be another layer on the GIS. Mr. Bolen said that's where it is now.

Mr. Pfeifer made a recommendation that it be required that the location of the concrete pad be logged into the County's GIS system.

Chairman Conderman proceeded with the review of No. 1 under Additional Conditions for Special Use Permitting. Additional Condition No. 1 currently reads:

- “1. Petitioners shall obtain necessary access easements and necessary recorded utility easements, copies of which shall be submitted to the Zoning Enforcement Officer.”

Chairman Conderman asked if that is current being done. Mr. Henkel said that it is.

Mr. Pratt asked that Mr. Pfeifer's recommendation to require information to be logged into the County's GIS should also apply to this condition.

Chairman Conderman proceeded with the review of No. 2 under Additional Conditions for Special Use Permitting. Additional Condition No. 2 currently reads:

- “2. No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except in accordance with the Lee County Zoning Ordinance.”

Mr. Henkel said that this means that attach anything to the towers.

Mr. Wagner wanted to know if, in the future, something is invented that would make the turbine run better by adding on there, would the owner be able to do so without getting any approval for aesthetics for noise. Mr. Henkel explained that the condition states, “No

appurtenances other than those associated with the wind turbine.” Mr. Wagner says he understands, but he wants to know if it will be allowed to put an appurtenance on the tower without coming before Zoning Board of Appeals to let them know what is being done.

Mr. Wagner recommended that the owner should be required to get permission from the Zoning Board of Appeals for such appurtenance so that the County knows what that appurtenance is; and that if there is any nuisance caused by that appurtenance, the County should have the ability to turn down the use of that appurtenance.

Chairman Conderman proceeded with the review of No. 3 under Additional Conditions for Special Use Permitting. Additional Condition No. 3 currently reads:

- “3. At the Petitioner’s expense, the company will work with local rescue authorities to provide training on assisting with a rescue from a wind turbine or tower.”

Chairman Conderman said this is being done now.

Review of No. 4 under Additional Conditions for Special Use Permitting will be done at a later date and time, and in conjunction with the discussion on setbacks (tentatively scheduled to be discussed on January 6, 2011).

Chairman Conderman proceeded with the review of No. 5 under Additional Conditions for Special Use Permitting. Additional Condition No. 5 currently reads:

- “5. If television or broadcast interference is shown to be created by the wind farm, the petitioner will use reasonable efforts to mitigate problems on a case-by-case basis.”

Chairman Conderman asked if there were any existing problems with this. Mr. Wagner said there are many problems with television. He said that people in the Lee-DeKalb project are having problems and these problems are being experienced at just about every wind farm.

Mr. Wagner stated that an industrial development near residences is going to interfere with analog and digital transmission and this creates a serious nuisance that affect the general welfare of the public. He wants to know why the County would even entertain having something like that put so close to where people live if it’s going to have a severe impact on all sorts of transmissions.

Mr. Wagner said people are having problems with cell phones, satellite radio, GPS, and even doplar radar. He feels that it is unacceptable to allow something like that to come in to the County and that the wind developers know this is going to be a problem.

Mr. Wagner feels this is a predictable problem and recommended that everyone that will be affected by it should be notified, in advance, of the possible problems.

Mr. Wagner also thinks that an expert should be brought in that can explain what is going on, why wind turbines cause these problems, and what can be done to prevent this from happening.

Mr. Bolen said that he talked to a developer at the Crescent Ridge Wind Farm which consists of approximately 34 turbines. He had four or five residences that experienced this problem, and it was remedied to the satisfaction of the residences by installing satellite TV.

Mr. Wagner thinks it should be simply required the developer cannot position a wind turbine and allow this to happen to the adjacent landowner unless the adjacent landowner has agreed to it.

Chairman Conderman wanted to know if the developer would know there is going to be a problem until after the windmill is up. Mr. Wagner believes this to be a predictable problem that can be avoided through planning.

Mr. Wagner said he would want to require that a study be done to predict what the problem would be and to come up with a way to mitigate the problem.

Chairman Conderman said Mr. Wagner's suggestion would be included, that if there is a problem, it must be mitigated.

Mr. Henkel suggested that setbacks might have something to do with the problem. In Bureau County, he believed the setback to be 900 feet, which could make interference more likely.

Mr. Fassler stated that he has not had any problems with GPS around his residence (which is near wind turbines).

Mr. Pratt recommends that everyone within a wind farm's footprint should be notified of possible problems prior to construction and of what can be done to remedy the problem. He also feels complaints should be made to a third party to ensure the problem is being satisfactorily resolved.

Mr. Pratt also thinks an expert should be brought in to explain things.

Chairman Conderman proceeded with the review of No. 6 under Additional Conditions for Special Use Permitting. Additional Condition No. 6 currently reads:

“6. The special use shall also comply with the Wind Energy System Standard attached hereto.”

Mr. Henkel suggested striking this condition because the petitioner must automatically comply with the ordinance. The ordinance is the first thing the petitioner looks, not the conditions.

Chairman Conderman proceeded with the review of No. 7 under Additional Conditions for Special Use Permitting. Additional Condition No. 7 currently reads:

- “7. Petitioner has provided evidence from assessors in areas with existing wind farm projects, as well as other independent economic analysis, showing no adverse impact on property values. Nevertheless, Petitioner agrees to maintain, for the 5 year period after issuance of the first Certificate of Occupancy for the project, a home seller protection program, in form acceptable to the Lee County Administrator, covering loss in value directly attributable, upon the sale of such home, to the wind farm for those homes which are not located within the original area identified in the Petition for Special Use but which are adjacent and contiguous on at least 2 sides to property which is both subject to this Special Use Approval and on which a wind turbine is built by the Petitioner.”

Mr. Henkel explained that No. 7 is subjective. It was done for Mendota Hills and it was not used again. FPL, for example, used a good-neighbor policy to address this condition.

Mr. Henkel stated that the County has not had an issue with the property values. According to the Lee County Assessor, there has been no decline in property value, with the exception of property values during the initial construction phase. After construction has been completed, the values tend to rise back to where they were prior to construction.

Mr. Pratt wanted to know if this should be discussed at the same time as the discussion on Real Estate Valuation. Chairman Conderman wanted to know if the Lee County Assessor should be invited to the next meeting to further discuss this condition.

Chairman Conderman directed Mr. Henkel to invite Lee County Assessor Wendy Ryerson to the December 16, 2010 meeting.

Mr. Wagner stated that he is not comfortable with the present language that states “Petitioner has provided evidence...” He stated that he knows the petitioner will go out and get a study skewed to what the result that the petitioner wants. He further stated that he disagrees just about with everything Mr. Henkel had stated about property values and with Mrs. Ryerson’s opinion.

Chairman Conderman tabled further discussion on Additional Condition No. 7 to the December 16, 2010 meeting, when Mrs. Ryerson will be present to answer questions.

Mr. Bolen pointed out the fact that Mr. Wagner has disagreed with what State’s Attorney Henry Dixon has said, he has disagreed with what Mr. Henkel has said, and he has disagreed with what Mrs. Ryerson has said, and these are people who have been elected or have publicly serving the County. Mr. Bolen stated that Mr. Wagner has questioned these people as if they are not doing right by the people of Lee County.

Mr. Wagner responded that he has met with all of these people and he has sat down with these people individually and he respects these people. He thinks there is a culture that is

for wind energy in Lee County, and it is in this courthouse. He further stated that many people who set that culture up were present at this meeting. He thinks that with all the information that is now available since that culture was created, that that culture needs to change. Mr. Wagner said there are deaf ears falling on new studies and on things that have come to light in recent years.

Chairman Conderman stated that Mrs. Ryerson is known all over the State of Illinois as one of the top county assessors in the State of Illinois.

Mr. Wagner stated to Chairman Conderman that there are other folks who believe that Mrs. Ryerson's numbers are wrong.

Chairman Conderman proceeded with the review of No. 8 under Additional Conditions for Special Use Permitting. Additional Condition No. 8 currently reads:

“8. If approved by the FAA, the Petitioner shall install aviation light deflectors, currently in use in Canada, on the medium to high intensity FAA strobing red and white large flashing lights to be used on the wind farm.”

Mr. Henkel stated that this does not apply to the U.S. FAA. As discussed at the previous meeting, there are other options for lighting to minimize the effect of the blinking red lights.

Mr. Pratt recommended striking the entire paragraph.

Mr. Wagner said that at the previous meeting, he was told his concern would be addressed in this paragraph. He wanted to further discuss the Audio-Visual Warning System.

He was asked to find out some more information which he did.

Mr. Wagner said he called one company that offers this lighting system. He was told that, while each wind project is unique, the cost is somewhere between ½ to 1% of the total project cost.

Mr. Wagner thinks that cost should not be an issue. The red, blinking lights are a nuisance and it should be in the County's interest to require this sort of audio-visual warning system to be installed on new wind projects.

Mr. Pratt stated that the lights could be on just as much as there is air traffic. The lights will have to stay on so long, and asked what would happen if a plane goes by every two minutes. He thinks it may not change the duration of the time they are on, and that the County needs to study this.

Mr. Wagner agreed that this needs to be studied.

Mr. Wagner asked the guy he spoke with if the County would have to require the audio-visual warning system for every application and the guy said he had never heard of that before. Mr. Wagner does not understand this.

Chairman Conderman explained that discrimination may come into play if one entity is required to use this type of lighting but not all entities.

Mr. Wagner told Chairman Conderman that public health, safety, welfare and nuisances must be weighed against promoting more wind development, and there is a compromise.

Mr. Henkel asked Mr. Wagner to consider aircraft such as ultra-lights, private airplanes, experimental airplanes, and things that fly that don't have the radar system to trigger the light to come on. This could result in a serious accident if such an aircraft were to fly into a tower.

Mr. Wagner recommended that the County require this sort of audio-visual warning system to be installed on new wind projects.

Chairman Conderman proceeded with the review of No. 9 under Additional Conditions for Special Use Permitting. Additional Condition No. 9 currently reads:

- “9. In the event a dispute arises as to satisfaction of the foregoing conditions to this Special Use Ordinance, such dispute may, at the request of Petitioner, County or the aggrieved party, be resolved pursuant to binding arbitration in accordance with the procedures of the American Arbitration Association by an independent arbitrator acceptable to Petitioner and the County or aggrieved party, as applicable. If Petitioner and the County and the aggrieved party, as applicable, are unable to agree on an arbitrator, then each such party shall choose an independent arbitrator and their respective choices shall then choose an arbitrator. This Condition shall not bind an aggrieved party, other than the County or FPL, to submit to arbitration”

Mr. Pratt suggested that the State's Attorney should review this condition to make sure it includes the correct wording.

Discussion on the conditions concluded.

Chairman Conderman turned the committee's attention to the agenda. Since the committee has fallen behind, he recommended postponing the discussion of Noise to the January 6, 2011 meeting.

Lee County Highway Engineer Dave Anderson, Lee County Assessor Wendy Ryerson, and Tim Trader from the Lee County Health Department will be asked to be present at the December 16, 2010 meeting.

Assuming all three can make the meeting, the committee will start off with continued discussion on road agreements with Mr. Anderson, followed by discussion with the Health Department regarding sewer and water, and then discussion with Mrs. Ryerson regarding real estate valuation.

Mr. Wagner wanted to know why the LESA does not apply to wind turbines. Mr. Henkel explained that wind turbines are considered to be an agricultural use and the LESA is not required for land that is being used agriculturally.

Mr. Pratt wanted to decide on experts for the discussion on noise and shadow flicker. He would like to hear experts on both the pro-wind standpoint and the anti-wind standpoint.

Chairman Conderman reminded the committee that it has no money to fund an expert speaker.

County Board Vice Chair John Nicholson suggested contacting the Illinois Pollution Control Board to see if they have someone who could come speak. If they do have someone available, he suggested a meeting during normal business hours to accommodate them. He also liked the idea of having experts on both sides of the issue, assuming the speakers can do it with out cost.

Mr. Bolen stated the Illinois Pollution Control Board is a regulatory body within the State of Illinois. As it is a regulatory body, it should be used as a guide.

Vice Chair Nicholson stated that he would truly like to have someone from the regulatory body to come and speak. Mr. Bolen thinks this would be as close to a neutral party as the committee can get.

Mr. Wagner stated that he absolutely does not think the Illinois Pollution Control Board has adequately addressed noise with regards to wind turbines. He further states, that because of this, other counties have developed their own county sound ordinance.

Mr. Wagner said that if the pollution control board is going to be invited to speak, that he can get an expert who is more specifically tuned in with the noise of a wind turbine, and that Mr. Wagner will take care of the cost of having him present to speak.

Vice Chair Nicholson directed Mr. Henkel to contact the Illinois Pollution Control Board to see if they can have present to speak.

Mr. Pratt thinks that if someone is going to be present to speak on behalf of the anti-wind position that someone from the pro-wind position should also be present to speak.

Mr. Wagner said that he has put together a 30-minute presentation on noise that includes the latest studies, and latest information, that he would like to verbalize to the committee. He will be allowed to do so at the January 6, 2011 meeting regarding noise.

Mr. Pratt stated that he would like to see if the independent consultant for the Sauk Valley Community College wind turbine would be available as he provided a detailed and thorough explanation.

On the motion of Craig Buhrow, and seconded by Gene Bothe, the meeting was adjourned at 9:05 p.m.

Respectfully submitted,

Alice Henkel

By: _____