

LEE COUNTY AD HOC COMMITTEE

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

Keith Bolen
Alan Pfeifer
Steve Robery
Chris Henkel, Zoning Officer
Alice Henkel, Clerk

The Lee County Ad Hoc Committee met on Monday, March 21, 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 Steve Robery. Members Tom Fassler, Keith Bolen, and Alan Pfeifer were not present.

The approval of the minutes from the February 23, 2011 meeting was tabled during the March 11, 2011 meeting. Mr. Robery's revisions that were presented during the March 11, 2011 meeting were attached to the minutes. Mike Pratt made a motion to approve the minutes of February 23, 2011 meeting, with Mr. Robery's attachment, and Gene Bothe seconded it. All were favor.

Chairman Conderman asked if there were any changes or corrections to the minutes from the March 11, 2011 meeting.

Mr. Robery stated that there was a correction on page 4, paragraph six, second sentence. The minutes state, "Robery said that human ears do actually hear average sound levels, so in realty, sound peaks are not canceled out by periods of lower level sound." The minutes should read, "Robery said that human ears do not actually hear..."

Also, Mr. Robery requested that a comment by Chairman Conderman be added to the last paragraph found on page 18. Following the statement, "Mr. Pratt said it was suggested to move that paragraph to somewhere else in the conditions or make it its own condition," Mr. Robery asked that the following be added, "Mr. Conderman indicated that shadow flicker would be discussed more at a later date."

Mr. Bothe made a motion to approve the March 11, 2011 minutes with Mr. Robery's correction and addition, and Mr. Buhrow seconded it. All were in favor.

Keith Bolen arrived.

Mr. Robery provided to the committee a packet of materials put together by a Lee County citizen (see attached). The materials relate to the discussion held by this committee.

Mr. Robery also provided to the committee a list of recommendations that have been made during these meetings (see attached).

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.”

Mr. Robery referred to the recommendations stated in the list he had handed out.

Mr. Pratt stated that this condition had been pretty well covered at the previous meeting, and Chairman Conderman concurred.

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.

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. Robery again referred to the list of recommendations he had provided.

Mr. Henkel explained that this condition has essentially been replaced by a “Good Neighbor Policy,” which is an agreement between the non-participating land owner within ¾ mile from a turbine and the wind company.

Mr. Henkel recommended the continued use of the “Good Neighbor Policy.”

Mr. Robery stated that some County Board members think the turbines have had no impact on property values, but he feels that this has not been proven.

Mr. Robery recommended that the County implement a property value guarantee into the ordinance that protects the property for the life of the turbines or until the property is

sold. Additionally, if the home sell for less than it is valued, then the wind company has to pay the difference.

Discussion was held as to whether or not an appraisal would then need to be done prior to the wind development. Chairman Conderman feels that it is “ridiculous” to want to force the wind companies to pay for appraisals prior to the construction of a wind farm as Mr. Robery had suggested.

Mr. Robery again recommended that the County implement a property value guarantee and stated he also agrees with the recommendations in the memorandum by Mark Wagner that was provided to the committee during the March 11, 2011, meeting.

Mr. Pratt referred to the Ogle County Home Seller Protection Program. The program is offered to all residents who live within one mile of a turbine, and it shall not apply to those who have purchased existing homes or constructed new homes after the board (Ogle County Board) has approved the wind energy project.

Home owners have to elect to be in the program and must sign a grant of right of first refusal to the wind company. When the home owner goes to sell the property, the appraisal is done, and the wind company makes up the difference of any short-fall.

This program is the only program offered.

Mr. Pratt made a recommendation to refer to the home seller protection plan offered by Ogle County.

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 and Mr. Pratt agreed that this condition should be removed as the technology referenced in the condition is not in use in the United States.

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. Robery referred to his summary and stated that at a December 2010 meeting, Mr. Pratt had made a recommendation to have this condition reviewed by the State’s Attorney.

Mr. Robery said that he noticed a difference in this condition between a more recent version and an older version of this condition. The more recent version had omitted a phrase that allows the dispute “to be handled judiciously.” Mr. Robery wanted to know if the State’s Attorney thinks this phrase should be added back in.

Chairman Conderman proceeded with recommendations concerning noise.

Chairman Conderman made a recommendation that the wind company be required to be in compliance with the Illinois Pollution Control Board.

Mr. Robery recommended that the County develop its own noise standards; that there should be a standard that says the maximum increase over nighttime ambient is 5 dBA; the use of C-weighted criteria; and that there be provisions for noise monitoring and enforcement within the standards.

Mr. Pratt again referred to Ogle County’s recommendations. Ogle County has devised sound level limits during different hours of the day. He recommended that Ogle County’s recommendation be further reviewed.

Mr. Robery recommended putting a complaint resolution in the standard to deal with issues such as TV interference, shadow flicker, and noise. The wind company would have to fund an escrow account in the amount of \$250,000 to cover the expenses related to the complaints. He also said that the wind companies could recover this money after a certain period of time with no complaints.

Mr. Pratt thinks that the number of complaints would have to be limited. Also, he feels the complaintee should cover the costs expenses related to his/her complaint until it has been determined that this is a valid complaint.

Mr. Bolen is concerned that Mr. Robery wants to make a business pay for all of these things when it is already paying taxes to Lee County. He agreed with the use of the standards set forth by the Illinois Pollution Control Board.

Mr. Bolen asked Mr. Henkel how many noise complaints he has received. Mr. Henkel said he doesn’t receive many noise complaints; however, he is not saying that the turbines are not noisy; he just hasn’t received any complaints.

Chairman Conderman proceeded with recommendations concerning shadow flicker.

Chairman Conderman confirmed with Mr. Henkel that he has received two complaints, near Ohio, concerning shadow flicker. He has not received any shadow flicker complaints regarding the other wind farms.

Bureau County is having an independent study done regarding shadow flicker. When the study is completed, it will be reported to the Bureau County's zoning board of appeals. It was noted that Bureau County has 750 foot setbacks.

Mr. Pratt feels shadow flicker is not acceptable since computer modeling allows the developer to plan around its occurrence. He recommended limiting shadow flicker to a certain amount of hours per year.

Mr. Henkel said Ogle County has limited shadow flicker to 30 hours per year. They also require issues be mitigated prior to construction.

Mr. Pratt said shadow flicker for non-participants is not acceptable since the wind company should be able to design their farm so that shadow flicker does not affect non-participants.

Mr. Robery agrees that shadow flicker is intolerable. He also brought up a concern about one participating land owner causing shadow flicker on his neighbor who is also a participating land owner.

Mr. Robery recommended that there should be no shadow flicker on anyone's home unless the home owner allows it. He further recommended that shadow flicker should not be allowed to occur anywhere on a property containing, or having the potential to contain, occupied residences unless a written waiver is provided by the property owner.

He also recommended that shadow flicker should not be allowed on properties containing churches, schools, cemeteries, and nursing homes. Also, shadow flicker should not be allowed on any public roadway because of safety concerns.

Chairman Conderman stated he disagreed with some of what Mr. Robery recommended.

Mr. Bolen said that 30 hours of shadow flicker on a residence, annually, seems reasonable. He also thinks mitigation should be expected.

Mr. Robery asked how shadow flicker is mitigated. Mr. Bolen said mitigation may include curtains, blinds, and/or a "Good Neighbor Policy." He feels a "Good Neighbor Policy" engages people in the footprint of the wind farm, but that the policy is also a contractual issue.

Chairman Conderman proceeded with recommendations concerning the issue of setbacks which was the last topic for discussion.

Chairman Conderman stated the current ordinance puts setbacks at 1,400 feet from a dwelling. McClain County is the only county in Illinois with a larger setback of 1,500 feet from a dwelling. The smallest setback is in Stephenson County at 500 feet from a dwelling.

Chairman Conderman recommended that the County keep the current setback of 1,400 feet from a dwelling; and if wind turbines become taller, he recommended that the County use the formula of 3.3 times the height of the turbine to determine the setback. The County would then use 1,400 feet or 3.3 times the height of the turbine, whichever is greater, as the setback.

Mr. Robery challenged Chairman Conderman recommendation and demanded that he provide the reasoning behind this recommendation.

Chairman Conderman feels that the current standard, that has been used for 10 years, is adequate.

Mr. Buhrow asked how many setbacks complaints Mr. Henkel has received. He has received none.

Mr. Robery made the following recommendations:

1. a minimum setback of 5,000 feet to the property line of a parcel containing a residence, not the dwelling itself;
2. a setback of 2 miles from designated natural and historic areas (recommendation of the Nature Conservancy for the Nachusa Grasslands regarding the natural areas);
3. a minimum setback of 1 ½ miles from churches, public parks, recreational areas, schools, cemeteries and nursing homes;
4. a minimum setback of 1 ½ miles from municipalities, unless the municipality has its own zoning ordinance regulation regulating the placement of wind turbines within the 1 ½ mile area surrounding the corporate limits of the municipality, in which case the municipality's ordinances will apply (this is in accordance with Lee County's plan to encourage residential development adjacent to existing municipalities, as stated in the Lee County Comprehensive Plan and zoning ordinances);
5. a setback of 2-3 times the height of the turbine from the property line of the host property (Mr. Robery increased this from 1 ½ to 2-3 times the height of the turbine after seeing a broken blade on a turbine near DeKalb); and
6. a similar setback from power and communication lines.

Mr. Buhrow asked Mr. Robery what the broken blade had to do with setbacks since the blade he referenced stayed on the turbine. Mr. Robery was concerned with debris that scattered.

Mr. Pratt again referred to the Ogle County recommendations. He agrees with their recommended setback of 2,640 feet from any residence located on a non-participating parcel. Further, the wind energy project applicant may negotiate a setback easement to reduce this setback requirement. He said there is also a 1,300 feet setback from property lines of a parcel on which turbines have been placed. The wind project applicant may negotiate a setback easement with an adjacent property owner and/or a non-participating property owner to reduce this setback. Mr. Pratt recommended that the Ogle County setback requirements be further reviewed.

From a developer's stand point, Mr. Bolen said that an applicant could have participants sign but still not be sure if they have a project because the non-participants end up playing a more critical role than the participants. The developer will spend a lot of time and money to have participants sign and yet not know whether he will be able to proceed with the project.

Mr. Bolen also thinks the 2,640 feet setback sends a strong message that the County is not "friendly" to the wind industry and that a 2,640 foot setback is not workable.

Mr. Robery recommended that the zoning board should also consider additional placement guidelines, including the maximum number of turbines specified within a certain area, for example, 1 ½ miles of any given residence. He would suggest limiting that to three turbines.

Mr. Robery thinks that the Lee County Planning Commission should be consulted regarding the maximum number of turbines that should be allowed in Lee County.

Regarding Chairman Conderman's recommendation for keeping the existing setback, Mr. Robery asked him if, based on everything Chairman Conderman has heard since the start of this committee, he thought the existing setback is fine. Chairman Conderman said he did not say that.

Mr. Robery then asked Chairman Conderman if his recommendation was to leave the setbacks the same, indicating that the existing setback need not be changed after all the information he has heard. Chairman Conderman said he did not say that.

Mr. Robery then asked Chairman Conderman if his recommendation was to leave it the same. Chairman Conderman said yes.

Mr. Robery then asked if his recommendation is to leave it the same after everything he has heard. Chairman Conderman said, at this point, yes.

Chairman Conderman asked if there was any other business.

Mr. Pratt brought up decommissioning.

Mr. Pratt recalled that it was undecided whether or not the County needs a decommission plan. Should it be the property owner's responsibility or should the County be the "watch dog" for that?

Mr. Robery feels that the best way for the County to not be involved is to have a decommissioning clause that indicates that the County is not responsible for taking the turbine down. He feels the County needs to make the assumption that the wind developer is going to be around to decommission the turbines and specify terms for its removal, such as what triggers the decommissioning (a period of non-use?); what needs to be removed (the structure, foundation, access roads, substations, and underground cables); and what needs to be done for soil restoration.

Mr. Pratt interjected and asked if the County has the right to tell a property owner what to do. Mr. Robery said the County would not be telling the property owner anything, it would be the wind developer who would have to comply.

Chairman Conderman said he knows a couple of participating land owners who love the access roads during harvest time and they may not want those road removed. Mr. Robery agreed it should be at the land owner's discretion, but some may want them removed. The ordinance should specify that if the land owner wants it removed, the wind developer should remove it. He feels the ordinance could be written to address both.

Mr. Henkel asked what would happen if the land owner did not want the turbine removed. Mr. Robery wanted to know if the County would be okay with leaving towers that are not running or maintained. Mr. Robery also asked what would happen if a land owner did not have the means to remove the turbine(s).

Mr. Henkel explained that the land owner is receiving a certain amount of money for having that turbine on their property. Decommissioning is covered in the land owner's agreement with the wind developer. He feels that decommissioning should be addressed by the land owner, as it is his land; it is, therefore, his problem. The tower belongs to the land owner. Mr. Robery feels the land owners better be aware that it is their problem. Mr. Henkel said the agreement should state that the land owner is responsible for taking the turbine down. He suggested making that agreement stronger by having the wind developer provide a letter of credit after 10 years and start contributing to that letter yearly so that there are sufficient funds to remove the turbines. Further, he suggested after 10 years that a study be done regarding scrap metal value to see if more money needs to be added to the fund for decommissioning.

Chairman Conderman questioned whether or not the County would tell a farmer to tear down an unsightly silo that is no longer being used. Mr. Robery said that he is tired of comparisons being made to the agriculture. The special use ordinance that gives the zoning board the authority to make special conditions that will apply only to that special use. He feels that this is not a valid comparison.

Mr. Robery strongly recommended that the County have a decommissioning plan. Mr. Henkel said that the County would still have a decommissioning clause, but the details regarding decommissioning would be set forth in the agreement between the land owner and the wind developer.

If the wind company is still in operation at the time of decommissioning, then it is the company's responsibility to remove the turbines. Mr. Henkel thinks there should be something that states what should be done if finances are not there to decommission.

Mr. Robery confirmed Mr. Henkel's recommendation and referred to a recommendation on the summary he handed out that every five years, an engineer appraises the scrap value of the turbines and an escrow account is adjusted according to whether or not the scrap value exceed the cost of decommissioning.

Mr. Henkel recommended that the independent evaluations begin at 10 years, and should occur every five years after that.

Mr. Pratt wanted to know if the County has money set aside for decommissioning, does the County get the money from scrapping the turbines.

State's Attorney Henry Dixon warned the committee about the County interfering with the contractual rights of two different entities. If something was challenged in a court of law, argument may not hold up. The land owners and the wind companies are free to negotiate and the County has no right to interfere with their negotiations. If the County is going to interfere, it better have the authority to do so.

Mr. Robery had concerns that the land owners are not aware of the responsibility of decommissioning that they are taking on by entering into a contract. Mr. Bolen explained that the land owners have these contract reviewed by attorneys and that nobody is forcing them to sign the contracts.

Mr. Robery wanted to know how the contract read but was asked why it mattered. The terms of the contract are negotiated between the land owner and the developer and the County has no control over or say in those terms.

Mr. Pratt asked about taking the zoning back after the turbines have been decommissioned. Mr. Henkel explained that the zoning does not change, it is still Ag-zoned. The terms of a special use only apply to that special use. If the turbine is removed, so are the special uses.

Chairman Conderman said that he has a cell tower located on his property. The decommissioning of that tower is covered in his contract with the cellular company. If the tower goes 12 month without being use, the tower is decommissioned.

Mr. Henkel asked Chairman Conderman if the County had anything to do with that contract he has with the cellular company. Chairman Conderman said no.

Mr. Pratt stated that Chairman Conderman's cell tower is zoned for special use, but the County doesn't have a decommissioning plan for this tower. The decommissioning plan existed between Chairman Conderman and the cellular company only.

Chairman Conderman asked if there was any other business.

Mr. Robery referred to the first page of the County's current standard,

"Topographic Map. Petitioner shall provide the Zoning Administrator a topographical map including the project site and surrounding area."

He thought the phrase, "prior to the approval of the special use application" should be added to this sentence.

Mr. Robery recommended the zoning board look at the application requirements for these projects and "beefing up" the requirements.

He recommended that this section be expanded to include the various application requirements that they need to bring to the zoning board at the time of the petition, including a general description of the project including total generating capacity; equipment manufacturer, type, size, number and model of the proposed wind energy system; proposed turbine location rather than merely identifying the affected parcel (preliminary guess or good-faith estimate); locations of all residences and residential zoned properties within two miles of the proposed development; all proposed setback dimensions; all proposed locations of substations; proposed utility line locations and utility interconnection details; proposed locations of access roads; the topographical site information for the subject property and adjacent properties; location of all drain tiles; description of public roads to be used as haul routes for the construction for the project; and affidavits of property owners' acceptance of decommissioning responsibility. These things are required but Mr. Robery feels that should be made available early in the project.

Mr. Pratt said the names and addresses of all the participating and non-participating land owners within the project's footprint should also be made available.

Mr. Robery suggested changing the notification procedure to include more property owners because the impact reaches far beyond the current requirements. He was informed that the notification of adjacent property owners is defined by State statute. He noted that this is a minimum requirement and asked if more could be included in the notification. Mr. Henkel said yes.

Mr. Bolen again questioned the workability of Mr. Robery's recommendations by the wind developer. He questioned why Mr. Robery covered drain tiles. He said to protect the land owners from having damage done. Mr. Henkel pointed out that such a term should be covered in the contract between the land owner and the developer.

Mr. Robery wanted to know whether or not LESA (Land Evaluation & Site Assessment) should be a part of this process. The ordinance reads that a LESA needs to be done for every special use.

Bill O'Keefe, Chairman of the Lee County Regional Planning Commission, address this issue by memorandum, stating wind turbines are exempt from having to do a LESA. Mr. Henkel said he would e-mail Mr. Robery a copy of the memorandum.

Mr. Buhrow stated that the things addressed by the LESA are non-agriculture, such as sewer, water, and roads, have nothing to do with wind turbines or wind energy systems. Further, he said LESA is weighted to work from the municipality on out and is not pertinent to wind mill discussion.

As there was no further business, Chairman Conderman announced the dissolution of this ad hoc committee. He thanked everyone for their time and commitment.

Mr. Henkel said the recommendations from these meeting will be compiled and forwarded to the State's Attorney for review. After his review, Mr. Henkel will send out copies. The next stage will be the public hearing process for the Zoning Board of Appeal.

Respectfully submitted,

Alice Henkel

By: _____

**Wind Energy Ad-hoc Committee
Recommendation Summary
(As of 3-11-11)**

These recommendations were compiled by Committee member Steve Robery following the 3/11/11 Ad-hoc meeting by reviewing all of the Ad-hoc meeting minutes to date.

Public Services –Roads (Initial discussion 11/18/10)

Recommendation that the ZBA and /or County Board should not approve the zoning until a satisfactory road agreement has been approved by the County Board. **(David Anderson 1/6/11- Pg 1)**

Roads: All routes on either county or township roads that will be used for the construction, maintenance, and transportation of supplies for the WECS purposes shall be identified on the site plan. All routes for either egress or ingress need to be shown. The routing shall be subject to the approval of the designated Lee County Engineer in coordination with the township road commissioners. The developer shall provide and complete a preconstruction baseline survey to determine existing road conditions for assessing potential future damage due to development related traffic. If any damage or change to the roadways will occur a Road Use Agreement must be entered into approved by the County Engineer. The applicant shall provide a road repair plan to ameliorate any and all damage, installation or replacement of roads that might be required subject to the approval of the County Engineer. The Applicant shall provide cash or an escrow account in an amount and form approved by the highway/roadway official(s) and approved by the County Board sufficient to cover all potential future damage. Any road construction and repair shall be completed in accordance with recognized standards for road construction and are subject to the approval of the County Engineer. If the Lee County Highway Engineer determines at any time that any road construction or repairs have not been completed in accordance with these recognized standards, the Applicant will be responsible for correcting the work to the satisfaction of the Lee County Highway Engineer. If any vehicle will exceed the maximum allowable weight limit to a roadway such will only be permitted upon the entry of a road use agreement recommended by the County Engineer and approved by the County Board. **(Mark Wagner 1/6/11-Exhibit A attached to minutes)**

The existing Ordinances for Wind Energy Conversion Systems should be amended to **include a requirement that Road Agreements be executed for the construction, maintenance and repair of all roads to be used in the development of the project** under the jurisdiction of the County Engineer and appropriate Township Supervisors. Preliminary draft agreements, agreed to by the County Engineer and appropriate Township Supervisors, should be included as part of the approval process for Special Use Petitions, and with the final agreement signed by all parties following approval of the Special Use Petition by the County Board. The ordinance should further specify that additional road agreements will be required for any expansion of the wind farm and for the decommissioning phase. **(submitted by Mark Wagner 3/11/11 via memorandum)**

The existing wind ordinances should be amended to include a requirement that Road Agreements be executed for the construction, maintenance and repair of all roads to be used in the development of the project. **(Robery: 3/11/11- pg 14)**

The ordinances should specify that the County Board must approve the Road Agreement at the same time as the Zoning. **(Pratt: 3/11/11-pg14)**

Waste Management - (Initial discussion 11/18/10)

1. Solid Waste. Accepted as- is (Fassler: 11/18/10- pg 4)
2. Hazardous Waste. Accepted as-is (Bothe: 11/18/10- pg 4)

Concurred leave Waste Management section as-is (Fassler: 3/11/11-pg11)

Signage - (Initial discussion 11/18/10)

- High voltage signage - accepted as- is (Fassler: 11/18/10- pg 4)
- No signage allowed including manufacturers name. (Robery: 3/11/11-pg 11)
- No advertising paid or otherwise but manufacturers name allowed. (Conderman: 3/11/11-pg 11)

Aesthetics - (Initial discussion 11/18/10)

Aesthetics 1: Coatings and Colorings

- Delete reference to black blades (Wagner: 11/18/10-pg 5)
- Add that turbines must be kept in a reasonable condition. (Fassler: 3/11/11-pg 13)
- ... to the satisfaction of the County (appropriate County authority). (Robery: 3/11/11-pg 13)
- Turbines need to be maintained. (Conderman: 3/11/11-pg 13)

Aesthetics 2: Turbine consistency-County should consider limiting the height of the blades (11/18/10-pg 5)

Aesthetics 3: Lighting

Projects shall use minimal lighting. No tower lighting other than normal security lighting shall be permitted except as a minimum required by the FAA. The net effect of that lighting shall be to minimize the effect to the night sky. (Pratt 11/18/10-pg 6)

For all WECS that are required to be lighted by the FAA, lights shall meet FAA requirements at the lowest intensity allowed. In addition, the best available technology that is approved by the FAA to limit impacts on the night skies should be used. This includes lights that are only activated when aircraft is approaching (AVWS- Audio Video Warning System) or other available and approved technology that accomplishes the same result. Any available and approved technology that limits emission of the lights in the downward direction, so as to minimize impacts to those at ground level, shall also be implemented. (submitted by Mark Wagner 3/11/11 via memorandum)

Any available and FAA approved technology that limits emission of the lights in the downward direction (i.e. shields), so as to minimize impacts to those at ground level, should also be implemented. (Robery: 3/11/11-pg 13)

Aesthetics 4: Intra-project Power and Communication Lines:

All power lines used to collect power from individual turbines and all communication lines that are to be buried should be at a depth consistent with local utility and telecommunications underground line standards until the same reach the property line or substation adjacent to the property line . A variance is required through the Zoning Board of Appeals for all overhead transmission lines to be installed before the substation and shall follow local utility standards for pole height and design. (Pratt: 11/18/10-pg 7)

Aesthetics 5 (NEW):

No paid advertising shall be permitted on any part of the wind turbine. (Fassler: 11/18/10-pg 7)

See also comments under Signage above.

Fire - (Initial discussion 11/18/10)

Recommendation to remove part b. reference to twisted cable. (Pratt: 11/18/10-pg 8)
Coordination with Local Fire Departments is needed including circulating current phone numbers.
(Fassler: 3/11/11-pg 15)

Dust Control - (Initial discussion 12/2/10)

Recommendation that this is adequately covered in the Road Agreement (Henkel 12/2/10-pg 3)
Deferred to County Highway Engineer (Conderman 12/2/10-pg 3)
Recommended that it be left as-is (Robery: 3/11/11-pg 15)

Sewer and Water - (Initial discussion 12/2/10)

Deferred to County Health Department (Conderman 12/2/10-pg 6)
Recommended that this section be removed (Conderman: 3/11/11- pg 15)

Drainage Repair - (Initial discussion 12/2/10)

Add repair to original condition or better (Wagner 12/2/10-pg 7)

Repairs to any public or private drainage facilities should be completed within one month of the detection of the fault or as otherwise agreed to by the owner of the drainage facility.
(submitted by Mark Wagner 3/11/11 via memorandum)

How is this monitored? Should it indicate that it must be acceptable to the landowner? (Pratt: 3/11/11-pg 15)

Recommendation to leave paragraph on Drainage Repair in. (Henkel: 3/11/11- pg 16)

Engineer's Certificate - (Initial discussion 12/2/10)

Recommendation that last sentence be removed regarding self supporting tubular towers. Suggested moving to a more appropriate section – perhaps the section on tower height (Pratt: 12/2/10- pg 7)

Recommendation to leave paragraph on Engineer's Certificate in. (Fassler: 3/11/11- pg 16)

Tower Height (New) - (Initial discussion 12/2/10)

Not discussed past Pratt's recommendation from 12/2 (see above)

The total height of the WECS tower shall not exceed 450 ft.
(submitted by Mark Wagner 3/11/11 via memorandum)

Certificate of Contracts - (Initial discussion 12/2/10)

Recommended that it remain as-is (Conderman: 12/2/10- pg 8)
Recommended that it remain as-is (Henkel/Conderman- 3/11/11-pg 16)

Decommissioning- (Initial discussion 12/2/10)

There is nothing in the present conditions that states that a turbine that has not been producing electricity for a certain period of time has to be removed. (Fassler 12/2/10- pg 11)

Pfeifer understands the current condition to mean that the security money should stay for the removal of the improvement and should not be released during the entire term of the special use, until those improvements are removed (Pfeifer 12/2/10-pg 11)

Recommendation to have a structural engineer come out every 5 years to evaluate value of turbines... scrap value and decommissioning cost ... the difference between the two would result in a security bond pledged by the developer/owner to the satisfaction of the county . (Bolin 12/2/10-pg 11/ Fassler-Pratt agreement -pg 11)

Recommendation to log into GIS system (Pfeifer: 12/2/10-pg12)

The existing Ordinances for Wind Energy Conversion Systems should be amended to require a decommissioning plan that covers the entire life of the wind turbine project from construction to removal of the turbines when they are beyond their useful life. The decommissioning clause should specify that the decommissioning process shall be initiated after a period of non-use not to exceed 6 months and that the removal shall be completed within 90 days. It should further specify that **funds equal to the estimated cost to remove the WECS prior to the consideration of any salvage value** be provided by the wind developer at the beginning of the project and be placed in an escrow account held by the county for the duration of the project. (submitted by Mark Wagner 3/11/11 via memorandum)

Need a legal document for every lease agreement verifying that the landowner has knowledge that it is their responsibility to remove the turbine at the end of the lease. (Fassler: 3/11/11-pg 16)

Recommendation to consult State's Attorney Henry Dixon. (Conderman: 3/11/11-pg 17)

Additional Conditions for Special Use - (Initial discussion 12/2/10)

1. **Access easement:** recommend that they be logged into County GIS. (Pratt 12/2/10-pg 12)
2. **Appurtenances:** recommendation that owner should be required to get permission from the Zoning Board of appeals for any such appurtenances. (Wagner 12/2/10-pg 13)

Add wording that no appurtenances associated with the wind tower operation shall be added without approval of the appurtenance by the Zoning Board of Appeals.
(submitted by Mark Wagner 3/11/11 via memorandum)

Substantial improvements/changes to the turbine should also be addressed here. (ex: increase in tower height or blade length). (Pratt: 3/11/11-pg 18)

3. **Coordination with rescue authorities**
Accepted as-is. (Conderman 12/2/10-13)
Move to section on Fire. (Conderman 3/11/11-pg 18)

4. Shadow Flicker (topic originally presented 1/6/11)

The word "petitioner" should be changed to "current owner". **(Fassler: 3/11/11-pg 18)**

This section should be moved behind the setback provision. Shadow flicker should be its own section.

(Pratt: 3/11/11-pg 18)

Shadow Flicker to be discussed more later. **(Conderman: 3/11/11)**

5. Signal Interference

Recommendation that everyone that will be affected by signal disruption should be notified in advance of the problem. **(Wagner 12/2/10-pg 14)**

Recommendation that it should not be allowed to the adjacent landowner unless the adjacent land owner has agreed to it. **(Wagner 12/2/10-pg 14)**

Recommendations that studies be required to predict the problem so that ways to mitigate can be determined **(Wagner 12/2/10-pg 14)**

Recommendation that everyone within a wind farms footprint should be notified of possible problems prior to construction and of what can be done to remedy the problem **(Pratt 12/2/10-pg 14)**

Recommendation that complaints be made to a third party to ensure problem is being satisfactorily resolved **(Pratt 12/2/10-pg 15)**

As part of the petition and approval process, a study should be completed by a third party independent consultant to predict the impacts on digital and analog communications. The WECS should be positioned to minimize/eliminate the disruption of these various communication signals. Any problems must be mitigated by providing a replacement signal to the affected party that will restore reception to at least the level that existed prior to the operation of the WECS or otherwise to the satisfaction of the affected party. All property owners within two miles of the nearest WECS shall be notified of potential problems prior to construction and shall be informed of potential mitigation techniques and complaint resolution procedures. **(submitted by Mark Wagner 3/11/11 via memorandum)**

Complaint Resolution: The applicant shall develop a complaint resolution process to resolve any complaints that may arise from neighboring property owners during the construction or operation of the WECS. The process may include an independent mediator or arbitrator and shall include a time limit on addressing any complaint that is received. The process shall not preclude the local government from acting on the complaint.

Permit fees should be collected by the County from the Wind developer and held in an escrow account for a period of 5 years from the operation of the turbines. Fees should be sufficient to handle costs for complaint resolution including costs for third party independent studies on noise, shadow flicker, signal reception, property appraisals, mitigation measures etc. Any funds remaining after the 5 year period, provided that there has been a period of at least 6 months with no valid complaints, shall be refunded to the developer. **(submitted by Mark Wagner 3/11/11 via memorandum)**

Recommendation to revise the condition to state that the disruption in television/radio signal or other communication interference should not be allowed unless approved by the affected property owner. If interference does occur, the wind company should restore the signal to equal or better quality. **(Robery: 3/11/11-pg 19)**

A study should be conducted in advance to predict where problems are going to occur. The wind company should have to submit this as part of the petitioning process. **(Robery: 3/11/11-pg 19)**

If complaint is levied, the turbine owner must respond in 5 business days **(Pratt: 3/11/11-pg 19)**

A boundary needs to be established to determine whose complaints should be mitigated by the wind company. Need to set a parameter for the project **(Pratt: 3/11/11-pg 19)**

6. Compliance with Ordinance

Recommendation that this be removed because it is automatic **(Henkel 12/2/10-pg 15)**

7. Property Values

Problem with “Petitioner has provided evidence” wording. Needs to be reworded **(Wagner 12/2/10-pg 16)**

Recommendation that appraisers, not assessors should be specified in this section **(Wagner 1/25/11- pg 19)**

Recommendation to consider revising wording requiring that qualified property be contiguous on at least 2 sides **(Wagner 1/25/11- pg 19)**

Should be expanded to 2 miles from footprint. **(Wagner 1/25/11- pg 19)**

Recommendation that a new paragraph be drafted **(Wagner 1/25/11- pg 20)**

This provision should remain in the Conditions **(Fassler 1/25/11-pg 19)**

Recommendation for 5 year home protection plan **(Fassler 1/25/11-pg 21)**

Property Value Guarantee: The WECS application should include a plan to protect the property values of any non participating real property owner within 2 miles of a WECS tower. Prior to approval of the application, written affidavits must be provided by the applicant indicating that all non participating property owners within 2 miles of a WECS tower indicating their acceptance of the agreement. The property value guarantee shall run for the life of the wind turbine project, until the turbines have been decommissioned and removed. **(submitted by Mark Wagner 3/11/11 via memorandum)**

8. FAA lighting (see aesthetics item 3)

9. Disputes

Recommendation for review by States Attorney **(Pratt 12/2/10-pg18)**

The ability to handle the dispute judicially should be added back into the ordinance (removed from a prior version of the Conditions). **(submitted by Mark Wagner 3/11/11 via memorandum)**

Topographic Map (Not discussed as of 3/11/11)

The Zoning Board should review the application requirements currently included in the Wind Energy Systems Ordinance 10-15-15. Consideration should be given to requiring additional specific information regarding the proposed wind farm at the petition stage rather than the permit stage. This includes: general description of the project including total generating capacity, equipment manufacturer and type, size, number and model of the proposed WECS units; proposed turbine locations rather than merely identifying the affected parcel; location of all residences and residential zoned properties within 2 miles of the proposed development; all proposed setback dimensions; proposed locations of all substations included in the project; proposed utility line locations and utility interconnection details; proposed locations of access roads; **topographic site information** of subject properties and adjacent properties; locations of all known drain tile; and a description of public roads to be used as haul routes for the construction of the project. **(submitted by Mark Wagner 3/11/11 via memorandum)**

Setback Requirements (Not discussed in detail as of 3-11-11)

Recommendations submitted to the Properties Committee on 8/10/11 have not been discussed by this committee. Recommendation to review these previously submitted recommendations.
(Wagner- 1/25/11-pg 20&21)

Committee was presented with setback recommendations made by various experts. **(Robery 3-11-11)**

Committee was presented with three documents outlining recommendations submitted to the Properties Committee on 8/10/10 by Lee County Informed, The Informed Farmers Coalition and Mark Wagner Recommendation to review these previously submitted recommendations.
(Robery 3-11-11)

Noise Standards - (Originally presented 1/6/11)

Presentations made on 1/6/11 **(Tom Dishno)** and 2/23/11 **(Leslie Frank)**

Additional information provided by committee member **Robery** on 3/11/11

Noise Recommendations not discussed in detail as of 3-11-11

Shadow Flicker - (Originally presented 1/6/11)

Presentation made on 1/6/11 **(Tom Dishno)**

The existing Ordinances for Wind Energy Conversion Systems should be amended to require a shadow flicker study be provided by an independent third party qualified professional. The ordinances should further require that shadow flicker should not be allowed on any non-participating property without written approval and shall not be allowed on public roadways. **(submitted by Mark Wagner 3/11/11 via memorandum)**

Shadow Flicker Recommendations not discussed in detail as of 3-11-11

TO: Ad-Hoc WECS Committee

FROM: Steve Robery

SUBJECT: Requested 2/23/11 meeting minute revisions.

DATE: March 11, 2011

I request the following revisions to the meeting minutes for the February 23, 2011 Ad-hoc Committee meeting:

1. Revise Page 12/paragraph 4 to include **Bold** text below:

To conclude his presentation, Mr. Frank said that using computer modeling during design of wind power projects, provides a viable "desk top" approach to predict anticipated sound levels; can account for different wind speeds that affect sound generation; can account for seasonal variations and different meteorological and ground cover conditions that affect sound propagation. **Which ones you pick are up for grabs and sometimes that involves a lot of negotiated agreement between the industry and the landowners.** ... and can yield accurate prediction of compliance to regulatory requirement or other design targets.

2. Revise Page 14/paragraph 2 to include **Bold** text below:

...The fluff which is actually "aerodynamic modulation" is very annoying to people and causes stress due to its repetitiveness. **I agree with all the residents who say that this is the most annoying and causes a lot of stress.**

3. Revise Page 14/paragraph 3 to include **Bold** text below

... What he has read, **and this material was included in the binders provided to the committee,** is that the low frequency component is a large portion of the problem in terms of the annoyance factor.

4. On Page 14, between paragraphs 5 and 6, insert the following:

Mr. Robery stated that the issue in front of the Zoning Board should be the human annoyance factor.

To: Ad Hoc WECS Committee
From: Steve Robery
3/11/11

5. Revise Page 14, second to last paragraph to include **Bold** text below:

...He feels it has something to do with population density within a wind farm. **It does not appear that the combination of the State Standards and the noise modeling are doing their job.**

6. Revise Page 15, paragraph 3 to include **Bold** text below:

.. He understands what Mr. Robery is saying but it is not up to him to decide what regulatory limits should be, **but he understands that is why you (the committee) are here.**

7. Revise Page 16, paragraph 7 to include **Bold** text below:

Mr. Frank stated that the sound a wind turbine makes is so far below the level of human hearing mechanism that there is no chance of damage to the inner ear. **Totally separate from that is what I stated earlier regarding human health assessment. Are people annoyed? You bet. Does it cause lack of sleep, stress, annoyance in some people? Yes. There is even a smaller percentage of people that could get sick from this. This is another study. This is what the literature is full with these days. I am not a medical doctor, so I am not going to touch that.**

8. Revise Page 16, paragraph 8 to include **Bold** text below:

... if a person is annoyed to the point that he or she cannot sleep on a regular basis, it becomes a health issue. **From the literature you read, this could be occurring as low as 35 to 40 decibels, significantly below the decibel level for hearing loss, 70 dB. Hearing loss is irrelevant to what this committee should be considering.**

GOALS:

- 1. To promote and protect the public health and safety interests of Lee County.**
- 2. Be consistent with the area development plan established by our 2010 Comprehensive Plan, focusing on residential development and strategically located commercial and industrial development.**
- 3. Protect the inventory of historical and natural heritage sites throughout Lee County, identified in our Comprehensive Plan as contributing to the intrinsic value of the county and to its future development.**
- 4. Retain for the people of Lee County, the right to determine our own approved orderly development.**
- 5. Support the development of safe, reliable, financially-viable, and environmentally-friendly, renewable energy sources that contribute to the overall goals of our community.**
- 6. Develop a regulatory mechanism that maintains and protects the health, life, safety and quality of life that our county residents have known and now experience without the need for litigation to secure and preserve those benefits both now and in the future.**

COMMITTEE COMMITMENT TO BEST PRACTICES: *It shall be the purpose of this committee to seek the best practices being used today by governing bodies in order to form the basis of a recommendation to the Lee County Board, to adopt a policy to regulate the construction, operation and maintenance of Industrial Wind Energy Systems within the zoning jurisdiction of Lee County.*

GUIDING PRINCIPLES:

1. We will become informed so that we know the process, the history, and the issues concerning Industrial Wind Energy Conversion Systems so that we are prepared to make well-reasoned, consistent, principled and fair recommendations. In other words, we will participate in a governmental process that exemplifies the utmost integrity.

We accept the charge and responsibility of setting responsible public policy. We are committed to earning the trust of those who elected or selected us, believing we have the necessary character, experience and ability to gain the knowledge needed to make good recommendations in their stead and on their behalf.

2. We understand we will be faced with issues and surprises and often pressured, even intimidated by special interests on either side of an issue, to make decisions on the spur of the moment without the benefit of thoughtful consideration. In these matters, our Lee County Zoning Code, Illinois Compiled Statutes, Lee County Comprehensive Plan, Rev. 2010, research documents, informational reports, anecdotal evidence and media documents will provide the essential information we need to make a

reasonable decision.

3. We will attempt by following good principles to avoid litigation in the conduct of our public affairs. We will not be intimidated by unsubstantiated threats of "potential" litigation. We recognize that we can always negotiate from a position of strength better than a position of weakness.

We also recognize that our policies should not be developed under an undue sense of urgency nor in anywise be construed as an attack on individual persons or projects, that may provide the basis for an allegation of discriminatory action.

DECOMMISSIONING CONSIDERATIONS

BEST PRACTICE

Establish Escrow Account for Decommissioning Paid by Responsible Party (ies) w/County as beneficiary

Wind Energy Company

Farmer/Landowner

Combines Wind Energy Company & Farmer/Landowner

MINIMUM

Establish statement of liability applicable to first person(s) and all heirs and assigns to go with land transfer if it is with farmer/landowner or with subsequent wind farm owner(s) upon sale or transfer. Statement of liability acceptance for transfer/reemitting.

SALVAGE

Decommissioning guidelines based on projected salvage costs are unreliable due to life expectancy. No subsidies for take-downs.

If the margins of profit are real, the county should accept liability as a means of adding revenue. If not then find a place to place responsibility.

Decommissioning costs are likely significantly higher if there is no advantage of multiple towers being decommissioned at the same time. The loss of economies gained by multiple decommissioning at the same time are lost when you make individual farmers responsible.

One can not count on twenty to twenty-five years before action is needed. The last large wave of wind towers around the USA resulted in a life span half that projected for the current towers.

FINANCING OVERSIGHT

The fact that your decisions will necessarily burden an already over-worked zoning officer should not be a consideration in establishing regulations that protect health and safety.

Outside professionals should be contracted, responsive to the county, paid for by the permit holders, not only for initial construction, but for regular review, no less than annually to insure that standards are met before approved to operate and that standards continue to be met throughout the life of their operation.

An annual administrative fee based on actual costs, (governing bodies are not for profit organizations), should be assigned to each wind tower to insure that funds are available for oversight.

The question arose concerning how to handle paint chipping or other deterioration. I believe the County already has a nuisance ordinance, but if enforcement is desired for wind towers in particular, the regulation of this type of nuisance could be delegated to the "Green Energy Coordinator to the Zoning Officer. They can be considered a nuisance that can be enforced with a daily fine. Costs of enforcement by administrative fee administrative fee to provide assistance to zoning officer.

SIGNAGE CONSIDERATIONS

Reference should be made to the county sign ordinance, and again permits are required.

If the identification plate is no larger proportionately than that on a John Deere Tractor or Combine, or the Manufacturer/Owner Identification Plates on a School Bus which is proportionately similar to a turbine, no sign permit would be needed.

One should consider the density of “billboard” signage as a relevant issue if larger name plates are desired.

PERMITS FOR CHANGES/ALTERATIONS

Before any changes or alterations are made that alter the height, length of blades, or rated output of turbines to previously permitted towers an additional permit should be issued.

Taxes are based on rated out put. Changes in taxes are driven by building/special use permits.

Set backs are determined by overall height of wind towers.

These are the types of issues to be dealt with by a paid assistant, professional or otherwise to the Zoning Officer.