

**Planning Commission Meeting
November 13, 2018**

Members Present: David Berglund, Ed Andersen, Richard Morrell, Melanie Staton, Tate West and Fred Kautt. **Absent:** Charlene Sims, George Teagarden

Staff Present: Andy Mayhugh - Planning & Zoning Director, Jessica Hightower - Economic Development Director, Jackie Messer - Public Works Administrator & Courtney Calkins - Secretary.

Ed Anderson Meeting called to order at 7:00 p.m.; Pledge of Allegiance led by Fred Kautt.

Chili Dinner provided by Andy & Karla Mayhugh.

Dave Berglund motioned to approve the minutes from September 11, 2018, Richard Morrell Seconded. 6-0.

NEW BUSINESS:

- **Attendee: Paul Werkowitch** asked to speak regarding Windmills. Paul lives in 2 Miles North of Blue Mound and can see the test tower from his window. Fred Kautt provided a photo of the test tower for review.

Paul expressed his concerns about having windmills near his property which included economic feasibility for the county, the 30% tax credits for the company, validity of facts about jobs and revenue produced and reduced property values which lead to less tax revenue for the county.

Paul asked Dave Berglund to stand with them against the windmills. Dave Berglund responded that farmers are facing economic hardships and will need income from somewhere to survive.

There was a brief discussion about the pipeline project that helped reduce the debt in the county.

Paul questioned the facts regarding out of county attendees at the last meeting regarding windmills. Ed Anderson confirmed that he asked for residential information at that meeting.

Fred Kautt: Brought a magazine from Kansas Commerce, article by Amber Frailey called "*The Wind Way*" https://issuu.com/sunflower_publishing/docs/kdc17fa . The photo shows no one living around the windmills. Fred is in agreeance, one person gets one windmill makes money, it's a windfall. You don't have to drive very far in Linn Co. to see a farm in this county. When people try to sell their property and there are 4-5 windmills next to them, they will have trouble selling their farm.

- **Attendee: David Fisher** asked to speak regarding Windmills also. He is a land owner in Linn County and shares a lot of the concerns that Paul has. David expressed his concerns about the view from his property and windmills. David brought his research handout titled "*Proposed Amendments to Zoning*" to the Planning Commission.

Handout Items discussed:

- Distance from wind turbines. Sound is 107 decibels. At 3000 feet away, you will still hear it.
- Adverse impacts from sound include nausea, headache and vertigo.

Andy Mayhugh questioned at what wind speed those numbers were based off, but the information was not known.

- Shadow Flicker.
- Ice projectiles that can fly 1000 to 1600 feet. Defining Rime Ice, when blades develop ice without moisture.
- Fire. They are 500-600 feet tall and you must let it burn and then it falls.
- Proper setbacks must be put in place to protect our residents. Paul asked that the commission not just copy regulations from other counties but do their own research. In Denmark the setbacks are 2 times the turbine height.
- The handout lists current setback regulations in other locations such as Germany's 1 mile set back.
- This room to the Linn County jail is 500 ft. If you considered that as a setback, it would basically be right on top of you. *(Handout provided of windmill next to house distributed).*

The group then discussed the following topics:

Ed Andersen asserted that right now the only thing being done is a study. The company will have to apply for a permit to have a wind farm and these regulations are being quantified to protect Linn County and its residents.

Fred Kautt proposed that the people in that townships where the wind farm is attempting to locate should be the ones to vote on the issue, not all of Linn County.

Tate West responded the problem with that is there aren't township regulations, they are county regulations. He also pointed out that the people didn't buy their property with the understanding that they have the right to control their neighbor's property.

Paul Werkowitch mentioned that the studies show that these windmills drop property value by 30% and that he could provide those studies for review.

Tate West countered that as far as he is concerned, if windmills don't drop the value of your property then there is no argument if it's simply about aesthetics.

David Fisher remarked that the Denmark study shows that the land owners are paid for the loss in property value.

Jessica Hightower asked to know who paid that fee, the country or the company. David Fisher said he would have to find out.

Paul Werkowitch passionately discussed Chicken farms and property tax bills directly being affected by dropping property values.

Tate West replied that dropping tax revenues are a valid concern and stressed the need to minus the emotions from the subject and look at the facts. Stating, "I understand it's difficult, I do it at Tanglewood. Let's fight with facts! There are real concerns for health issues, property values, etc."

Old Business:

Discussion - Proposed Amendments to Zoning Regulation – Andy Mayhugh Reviewed all.

- 2.01 Definitions Preface
 - Adult Entertainment Business
 - Agricultural Purpose
 - Agricultural Uses
 - Basement
 - Bed and Breakfast
 - Board of Co. Commissioners
 - Board of Zoning Appeals
 - Bulk Regulations
 - Campground
 - Certificate of Occupancy
 - Code Enforcement Officer
 - Comprehensive Plan
 - Confined Animal Feeding
 - Conditional Use
 - Contractor's Shops/Yards
 - Density
 - Floodplain Regulations (standalone document)
 - Modular Home
 - Nonconforming Lot
 - Planning Director
 - Public Nuisance
 - Recreational Vehicle
 - Salvage Yard
 - Sanitation Code
 - Solar Array/ Panel (*Right now we don't require permits for solar panels or roofs. They don't add sq. ft to the structure. Solar array could be 25 acres.*)
 - Trailer
 - WECS Commercial & Non-Commercial
 - Wind Farm
 - Wind Turbine
- **Article 10** - Conditional Uses (Removed Enumerated) and changed to "Listed". Adult entertainment business was not listed. The ones in red are the amendments. Andy added Solar Array Comm. Vet Clinic was not included. WECS/Windfarm for CUP also. Daycare regulations were briefly discussed.
 - **Article 13** – Changed back to Planning Commission. Home Occupation Standards. Previously hard to find and are now in the correct chapter. Radio, Cellular, TV towers. Andy Has received an application for a cell tower and he sent these regulations to the applicants. Wind Energy: *See Also Appendix A* it addresses intent. Andy Found similar regulations with several other counties.
 - **Fred Kautt**: Questioned Article G and how many towers can be erected. It is 1 tower per 10 Acres or it would require a CUP. Minimum set back 1.1 x the total height. That means set back from the property line.
 - **Dave Berglund**: asked about regulations stating that no MFG home be attached to another MFG home. Should that also include attaching a MFG home to another structure? Andy and Dave discussed building in compliance with 1-2 family building codes in terms of attaching MFG homes to structures. Anything that doesn't comply with the code would not be allowed. Andy Mayhugh is searching for a copy of the code currently.
 - **Appendix A** – Commercial Wind Energy Conversion. This appendix was modeled from Anderson, Allen and other counties. There are 50 or less counties in the state have adopted county wide zoning. Andy contacted the Allen County Zoning Dept. They have started North of Moran working on their Wind farm. (*This is not the same company testing in Linn Co.*)

The Appendix requires any commercial wind energy company to address land use, birds, reception, native vegetation, wildlife, cultural heritage (*Indian artifacts or site history*) public health & safety, decommissioning and has a financial security agreement. Andy Mayhugh had several other counties review the Linn County Appendix. The main feedback was to omit "Industrial" because the County may have higher and better use for industrial zoned properties. Andy would like to strike Industrial (*he initially added it*). Anyone wishing to bring a wind farm to Linn County will have to compile all the required information before the application will be considered. Fred Kautt asked to have the process clarified. The steps are as follows:

- 1) Planning Director OK's the application.
- 2) The Planning Commission hold a public hearing on the application and makes a recommendation to the Board of County Commissioners.
- 3) The application is presented to the Commissioners for a vote. (The vote will pass with majority, it doesn't have to be unanimous.)
- 4) If the owner(s) of 20% of the area required to be notified file a protest petition, then it must be a unanimous vote. (*Technically, 1 land owner could equal 20%*).

Comments and discussion – Appendix A:

Ed Anderson expressed his gratitude to Andy Mayhugh for going through all the codes and updating them. Richard Morrell discussed the definition of Wind Farm and the possibility of clarifying it. Tate discussed the term "same location" as meaning "same piece of property" and potentially changing that to "Constructed for the purpose of" in order to clarify the meaning.

Other discussion:

Tate West: Did you define "Tiny Homes"?

Andy Mayhugh: No, we don't have a building code for them and we don't have a minimum sq. foot in the county.

Dave Berglund: We've discussed min sq. ft. so many times and the people from the lake communities have so many regs. They didn't come back. 600 Sq. ft. is the min at Tanglewood, Sugar Valley and Linn Valley.

Tate West: Also, the prefab structures are not all built the same, some of the structures can be repossessed and hauled off. These are built off site.

Melanie Staton: We run into a terrible amount of issues trying to insure these things as well.

Tate West: if we don't wrap our hands around it we are going to live with these structures for the next 20 years.

Dave Berglund: Are there foundation requirements for the tiny homes?

Tate West: We are trying to start there at Tanglewood, with footings. We've made some strides. We'd like to see it county wide, but then comes in Enforcement. Tanglewood has a semi-container and the owners are modifying it as a dwelling. We are suing them in court because there's no other form of

enforcement. County policy says the lakes must try to litigate and abate the situations on their own. What is the definition of litigate? Lakes have the highest building rates in the county.

Ed Anderson: That's where lakes and the Planning and Zoning Commission need to come together and agree that we all need to have the same regulations.

Tate West: It must be the county. Tanglewood covenants requires 2/3rd of the residents to vote to change a covenant. Based on actual voting numbers, that will never happen.

Richard Morrell: The out is the covenants must capitulate to higher regulations.

Andy Mayhugh: The 1st way to accomplish this is to Change Zoning regulations. The 2nd way is to form district regulations.

Tate West: District regulations is the most interesting thing he has heard. Right now, there's no way to enforce gun discharge in Tanglewood beyond turning someone's gate card off.

Andy Mayhugh: We can table this until next month and we will have applications to review as well.

The group discussed escrow funds being enough to decommission Windfarm's 25 years after they are erected. It was suggested to contact the state office and see if they use a projection formula of some sort to account for inflation. They also discussed the pitfalls of trying to re-estimate decommission costs every 10 years. The commission also discussed tying the decommission to gross revenue like a percentage of megawatts produced. Additionally, they discussed direct competition for windfarms and the powerplant's responsibility to contribute to "Green" projects.

The group discussed the process and time line for deciding on the revisions. The commission needs to make a recommendation (all/part/none) in December. *(Any correction requests/suggestions can be sent directly to Andy Mayhugh, so they can be worked up before the December meeting.)* Then it will be submitted to the Board of Commissioners for Public Hearing in January. The required Notice of Public Hearing must be published 20 days in advance. Once the County commissioners review the changes they can approve by Resolution or send it back to the Planning & Zoning Commission with a written statement as to what they want reviewed and why.

Richard Morrell motioned to adjourn, Tate West seconded at 9:20 PM. 6-0.

Chairman

Attest:

Secretary

clc