

BRIEFING NOTES

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND Wednesday, January 12, 2011, 1:10 p.m.,

PLACE OF MEETING: Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Leirion Gaylor Baird, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington, Lynn Sunderman and Tommy Taylor; Marvin Krout, Steve Henrichsen, Mike DeKalb, and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Briefing on "Wind Farm Legislation"
Discussion on future workshop on "Enforcement"

Mike DeKalb of Planning staff provided information on the upcoming legislation dealing with large commercial wind energy conversion systems. A couple of years ago, the staff brought forward a text amendment in the city and county that streamlined and removed barriers relative to wind machines (WECS - Wind Energy Conversion Systems) and allowed wind machines to be treated the same as television antennae, dish antennae and chimneys, which are allowed by right, and allowed to exceed the height of the District in AG.

At that time, the staff did not think too much about the big power-generating wind machines. The wind regime is quite mild in this part of the state so we did not anticipate anything. There has since been an inquiry from a group that was on an exploratory trip and looking at Lancaster County as a potential for investment in a wind farm in the south part of the County in the Firth/Hallam area. They discussed possibly 30 machines, 262' tall to the hub, 400' tall to the tip. They began research, talked to landowners and towns, and installed monitoring devices.

DeKalb suggested that the previous WECS amendments would probably allow these commercial structures by right, but some concerns have been raised such as visual impact, and there is some evidence of sensitivity to low frequency noise vibrations, audible noises, etc. And the environmentalists are rightfully concerned about environmental issues with adverse impacts.

The County Board has been briefed on the potential issues and has directed the staff to bring a text amendment forward for the county jurisdiction. It is also possible that a similar text amendment will be prepared for the City's three-mile jurisdiction.

The proposal is to add the Commercial Wind Energy Conversion Systems/Turbines only in the AG district by special permit with conditions (see attached text).

Esseks asked for an explanation of the "tie-in codes" set forth in Condition #4. DeKalb explained that if the wind machine is going to tie into another power line, they must comply with the specific connection requirements of that utility, whether it be LES, Norris Public Power or others. There are state requirements as well.

If the project were to locate at the Lancaster/Gage County line, e.g., Esseks wondered whether the research has been done such that they do not overwhelm the utility system. DeKalb responded that in theory, they would have their own line and the distribution would not affect the local electrical service. This provision requires them to match the local utility to protect that local distribution system.

In regard to the potential affect on migratory birds, DeKalb advised that Lancaster County is not in a major migratory bird flight area, but there is an issue with potential hits. There will be an environmental discussion on all rural special permits. DeKalb suspects that a proposed wind energy farm around Branched Oak or the wetlands up by Ceresco would kick off a review by other agencies, i.e. Parks, US Fish and Wildlife, etc. Any conditions requested would be built into the staff report.

Lust inquired whether Condition #3 is designed to take care of the rural frequency vibrations. It talks about a noise study and 35 dBA noise level. How are they measuring the low frequency vibrations? DeKalb explained that 35 dBA is the audible standard. The noise study relates to noise scales that pick up the low frequency. The impact diminishes with distance. The newer machines have much less of this type of problem. If we get 30 machines with a lot of houses, the Health Department will require some follow-up or further study.

Larson inquired about height restrictions in the special permit. DeKalb stated that there are none, as long as it is approved by special permit; however, they will be required to meet the 1:1 fall zone.

Esseks expressed concern about a large project making the property unusable for housing development and a decrease in property values. DeKalb suggested that question cannot be answered and that is why it is being proposed as a special permit, i.e. a unique use with potential unique impact on properties, with a case-by-case review and public hearing. The neighbors will be notified. It is assumed that the perceived impacts would be discussed during that public hearing process.

Partington suggested that the same problem exists now with high voltage power lines. DeKalb also referred to feedlots. There is some level of conflict with all special permits.

Larson inquired whether the developer buys or just leases the land. DeKalb stated that in Nebraska, they are typically buying an easement for every one of the wind machines. The landowner continues to own and farm the entire tract. It is typically a lease situation. Most of the literature has been pretty positive as far as being favorable to the landowner.

Taylor inquired about the number of wind farms that we have now. DeKalb stated that there are just two commercial wind machines (LES) on North 70th Street. He also pointed out that private wind machines do not require a special permit, thus he does not know how many exist, although he believes there are probably about 15 to 20 private smaller wind machines. There are no current proposals for the large commercial wind machines. It is only the inquiry that has prompted this proposal.

Partington suggested that economics do not support the smaller wind machines so there probably are not going to be very many.

Larson inquired about how critical the height is as to the functioning of the wind machine. DeKalb stated that it is very critical. The higher you go, the more the wind power.

The text amendments for the city and county will be prepared and brought forward to a future Planning Commission meeting for public hearing.

Marvin Krout, Director of Planning, then approached the Commission about a workshop on "enforcement" in relation to conditions of approval on special permits, etc.

Larson stated that he brought this up because he had been thinking about the land mining operations that promised to restore the topsoil to its original condition, and he believes this has been violated many times. He wondered about requiring a bond. Krout explained that bonding is already in use in many situations.

Lust suggested that she would be interested in the statistics or studies where it has been determined whether the bond posted was adequate to cover the city's costs if the city installs the improvements. Krout does not believe a formal study has been done; however, if the improvements are properly monitored, he believes there is an opportunity to "refresh" the bonds and increase the amounts, where necessary.

Upon further discussion, Sunderman asked that a workshop be scheduled.

Esseks commented that it would be helpful to have some type of annual review to the Planning Commission on enforcement. Fred Hoke, when he was the Director of Building & Safety, had promised a regular report on the soil mining issue and we've never seen it.

Meeting adjourned at 1:45 pm.

Commercial Wind Energy Conversion Systems/Turbines by Special Permit

Definitions, 2.030 Commercial Wind Energy Conversion Systems/Turbines are defined as: a commercial grade wind energy conversion system (WECS) of over 100 Kilowatt (KW) plate rated capacity and intended to be used primarily to provide off-site power.

Article 4, AG Agriculture

4.007 Permitted Special Permit

dd) Commercial Wind Energy Conversion Systems/Turbines

Article 13, Special Permits:

A Commercial Wind Energy Conversion System(s) (CWECS) may be allowed in the AG District by Special Permit under the conditions listed below.

1. Each CWECS machine shall be no less than 1,000 feet from any property line of a dwelling unit not associated with the project.
2. The distance from all external boundary lot lines of the special permit to any tower support base of the CWECS shall be equal to the height of the tower plus the rotor radius.
3. Each CWECS machine, including all equipment, shall have a sound emission rating of no more than 35 dBA. Noise levels caused from the CWECS machine(s) shall not exceed 35dBA at the property line of any dwellings within a one mile radius of a CWECS machine. A noise study, incorporating both A and C weighted noise impacts on property within one mile may be required. Noise rating shall conform to International Electrotechnical Commission (IEC) standards unless otherwise directed by a government agency.
4. Machines shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non reflective finish.
5. All applicable electrical, building, utility tie-in codes and other government regulations shall apply.
6. The distance from any tower base of a CWECS to any tower support base of another CWECS under other ownership shall be spaced no less than a minimum of five (5) rotor diameters distance figured by the size of the largest rotor.
7. Each CWECS shall have a decommissioning plan outlining the means, procedure and cost of removing the machine(s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment.

8. Said CW ECS shall meet all Federal, State and local rules and regulations.

The Planning Commission may amend, modify or adjust any condition of this special permit or impose additional conditions as appropriate to preserve or promote the public health, safety and general welfare.

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