

DRAFT MINUTES
JACKSON COUNTY ZONING COMMISSION

6:00 p.m.

Monday, December 16, 2024
Community Room, Jackson County Courthouse
201 W Platt Street, Maquoketa, Iowa

Commissioners Present: Chair Monica McHugh, Vice Chair Tom Stewart, Mike Burke, Sandra Gerlach, John Manson, Kristine Pfab

Commissioners Excused: Emerita Kies

Commissioners Absent:

Staff Member Present: Zoning Administrator Lori Roling and Administrative Assistant Becca Pflughaupt

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chair McHugh at 6:01 p.m. and roll call taken. A sign-in sheet was distributed. The Zoom meeting was launched. There were three people noted attending the meeting via Zoom.

- Brian Venema, Sabula
- Nin Flagel, Jackson County Supervisor
- Brenda Tebbe, Bellevue
- James McDonald (Zoom)
- Joan's iPad (Zoom)
- Icarstens (Zoom)

MINUTES: Motion by Stewart, seconded by Burke, to approve the minutes of the 11/18/2024 Zoning Commission meeting as submitted. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

SECTION 1. PURPOSE

Roling had added the words tourism, and other economic draws to the Purpose and it now reads: The purpose of this ordinance is to establish guidelines for the siting, design, and construction of Wind Energy Conversion Systems (WECS) and substations which generate electricity for use at the location of the WECS or to be sold to wholesale or retail markets while balancing the concerns of preserving the natural beauty, visual resources, protecting natural resources, water quality, wildlife, tourism and other economic draws of Jackson County, Iowa. The requirements of this ordinance shall apply to all WECS constructed after the effective date of this ordinance. Before construction of a WECS is started, a properly issued permit is required. No modification or alteration to an existing WECS shall be allowed without full compliance with this ordinance. It was decided to add the words tourism, and other economic draws.

Roling stated that last month in definitions, Fall Zone had been discussed, but no decision had been made. McHugh thinks it should come out. Pfab motions to remove Fall Zone, Stewart seconds. No further discussion. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

Moving on to the definition of Viewshed. There was not a definition before, Roling consulted with the County Attorney and the following definition has been added. Viewshed: A geographical area that is visible from a specific location. It includes all

surrounding points that are in line-of-sight with that location and excludes points that are beyond the horizon or obstructed by bluffs, hills, buildings or trees.

Stewart motions to accept Viewshed as a definition, Burke seconds. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

For the definition of Visual Resources: The natural character of the county including the topography, waterways, wetlands, scenic views, natural vegetation, wooded areas and viewsheds. Viewsheds was added to this definition. Pfab motions to add viewsheds to visual resources, Stewart seconds. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

Moving on to SECTION 3. A. 15. There was text added, and it now reads: A detailed decommissioning plan shall include a means of providing a means of financial assurance, in the form of an irrevocable letter of credit, bond through an "A rated bonding company," cash, escrow or other form of security or guaranty acceptable to Jackson County Board of Supervisors and County Attorney. The decommissioning costs and bonding amount shall be reviewed by a third party to be a licensed engineer specializing in the construction or decommissioning of C-WECS units to be chosen by Jackson County Board of Supervisors, (expenses to be covered by the owner of the C-WECS unit), and the Jackson County Engineer and approved by the Jackson County Attorney and bond secured before issuance of a zoning permit. The required financial assurance will be the estimated cost of decommissioning plus 10%. De-Commissioning costs shall be reviewed by a licensed engineer every 3 years.

Burke states the text in parentheses seems like it's not in the appropriate spot, he feels it needs to be there, but not where it is. There was discussion about moving it. It was decided to move the text. It will now read: A detailed decommissioning plan shall include a means of providing financial assurance, in the form of an irrevocable letter of credit, bond through an "A rated bonding company," cash, escrow or other form of security or guaranty acceptable to Jackson County Board of Supervisors and County Attorney. The decommissioning costs and bonding amount, with the expenses to be covered by the C-WECS owner shall be reviewed by a third party to be a licensed engineer specializing in the construction or decommissioning of C-WECS units to be chosen by Jackson County Board of Supervisors, and the Jackson County Engineer and approved by the Jackson County Attorney and bond secured before issuance of a zoning permit. The required financial assurance will be the estimated cost of decommissioning plus 10%. De-Commissioning costs shall be reviewed by a licensed engineer every 3 years. Burke motions to add the language with the changes, Gerlach seconds. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

Gerlach pointed out to get decommissioning consistent throughout.

Moving on to SECTION 3. A. 16. Description of potential impacts on nearby C-WECS and ~~Non C-WECS~~ and wind resources on adjacent properties. Rolling added a strike through on text and it will be removed. Burke motions to remove the text "and Non C-WECS

and", Pfab seconds. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

Roling reads SECTION 3. A. 21. The Applicant shall provide mapping of any "sensitive areas" within 1320 feet radius of the proposed site and follow water quality protections as indicated in Section 8.

This section has been condensed from the previous draft. Motion by Stewart to change 21. with revisions provided, second by Burke. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

SECTION 4. A. 3. Lighting. C-WECS sites shall not be artificially lit, except to the extent required by the Federal Aviation Agency (FAA). The developer shall request within the filing of the application with the FAA, that Aircraft Detection Lighting Systems (A.D.L.S.) be installed on all C-WECS. Since A.D.L.S. will reduce the impact of continuous red flashing nighttime lights upon residents, communities, and migratory birds. Permits will not be allowed for towers where the FAA won't allow A.D.L.S. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators. Tower not eligible to have A.D.L.S. shall not be permitted.

Roling added the text: Permits will not be allowed for towers where the FAA won't allow A.D.L.S. as she felt the previous version didn't go deep enough to prohibit anything without A.D.L.S. Burke states to take out the word towers and put in C-WECS. Motion by Burke to add the additional wording and to change towers to C-WECS, second by Stewart. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

SECTION 4. A. 6. Waste Disposal. Solid and hazardous wastes, including but not limited to crates, materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site within 15 days and disposed of in accordance with all applicable local, state, federal regulations and not affect neighboring landowners land, waterways, surface / ground water or leech into sinkholes.

Roling added the text, "and not affect neighboring landowners land, waterways, surface / ground water or leech into sinkholes." Roling stated it's a little broad but sums up what has been discussed. Burke states it covers it. Pfab points out to change leech to leach, McHugh points out landowners' apostrophe addition. Motion by Burke to add text with the corrections, second by Pfab. Discussion followed. Stewart was hoping for more of a definitive answer on their mitigation, this is pretty broad, he wishes it was more clear. McHugh states the broader we go, the more we cover it. Pfab states we have more leeway. Stewart would like it a little more clear cut. Roling will see if there's something else. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

Moving on to a discussion regarding SECTION 4. A. 11. Setbacks. Roling added additional language of: "No waivers from neighboring property owners will be allowed to request closer property line setbacks." After consulting with the County Attorney, it was determined that it is ok to state that no waivers will be allowed. Stewart states that we are not allowing waivers for property line setbacks, but we are for shadow flicker. Burke understands if the neighbor is going to benefit why does that restrict him, it needs

to be fair all around. Roling states it would go against what we're saying preserving the natural beauty with natural resources. McHugh agrees with Stewart. Manson asks what if they sell the property, discussion followed. Roling states viewshed could come into play. Stewart states he would personally rather not go into restricting land rights. Motion is to keep additional language for the section to read: 11. Setbacks. The following setbacks and separation requirements shall apply to all C-WECS and meteorological towers: a) Property Lines. Setback from any neighboring property lines shall be no less than 1500'. b) Public Right-of-Way. Setbacks from public right-of-way, railroad right-of-way, power lines and structures shall be no less than 1500'. c) Communication and Electrical Lines. Each C-WECS and meteorological tower shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1500', determined from the existing power line or telephone line. No waivers from neighboring property owners will be allowed to request closer property line setbacks. A roll call vote was taken, Burke-no, Gerlach-no, Manson-yes, Pfah-yes, Stewart-no, McHugh-no. The no's have it and the additional text: No waivers from neighboring property owners will be allowed to request closer property line setbacks., will not be added.

Roling reads SECTION 4. A. 12. e) The owner(s) of adjacent property may voluntarily agree, by written and recorded waiver, to a higher average hourly decibel level as measured from any property line of a non-participating parcel. Roling states there is similar language under shadow flicker.

Pfab has a question regarding the shadow flicker and the sound and it's stated that those are addressed in the application process. Stewart states it's at the property line unless a neighbor decides that it's to his benefit to grant waivers and he's comfortable with that.

SECTION 4. A. 12. d) Roling states that there is other language that has every 3 years, and she would like to keep everything consistent for ease of zoning department. Motion to change to 3 years by Stewart, second by Gerlach. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfah, Stewart, McHugh; Nay – None.

SECTION 4. A. 14. (i) Formatting issues were pointed out. Roling states to have it read the same as 12. Sound Analysis. e) "To exceed zero hours." Motion by Burke, seconded by Gerlach. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfah, Stewart, McHugh; Nay – None. Gerlach notes to eliminate commas.

SECTION 5. Roads. The County Engineer re-read through his previous suggested language and found issues with it. He found the new language, from a larger county that he finds solid and not full of arbitrary figures. Stewart states SECTION 5 has the stamp of approval from our County Engineer. Burke motions to approve as written, Stewart seconds. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfah, Stewart, McHugh; Nay – None.

SECTION 6. Roling pointed out the text, "All C-WECS and accessory facilities shall be removed to four (4) feet below ground level within ninety (90) days of the discontinuation of use." Discussion took place as to property owners' rights and the contract between the property owners and the turbine companies. Discussion followed

regarding nuisance violations. Stewart asks in regards to old barns that are falling down and old farm houses that are falling down, but because they're on agricultural ground, you don't have recourse on them? Roling states that would be a specific question for our County Attorney. Discussion followed regarding ag exempt and nuisance violations. Roling stated she will follow up with the County Attorney to see if we have authority regarding farm exempt. Discussion followed regarding underground and if it is a zoning issue or a property owner contract. Stewart states he is still in favor of if it's out of service, to take it down to ground level. McHugh states she is not opposed to that. More discussion followed.

Stewart states we need to clean this up. Roling states to leave in "The soil grade will also be restored following disturbance caused in the removal process." She says it's good language. It was discussed to take out, "to four feet below ground level"

Roling add the text, "every three (3) years" as there is 3 years in other places and it would be easy for the administration to monitor if all the reviews were on the same review cycle.

Roling pointed out the text, "Jackson County reserves the right to verify that adequate decommissioning terms are contained in the landowner easement." Roling states that after speaking with the County Attorney, they would like the Commission to consider removing this language.

Burke motions to remove the text: "to four feet below ground level", to leave in the sentence, "The soil grade will also be restored following disturbance caused in the removal process.", to add, "every three (3) years.", and to take out the sentence, "Jackson County reserves the right to verify that adequate decommissioning terms are contained in the landowner easement.", Stewart seconds. Gerlach questions what we have in place for radio towers. Roling states nothing at this point, but some of that may be changing. Discussion followed. Manson states that foundations and silos are farming operations. It's not a fair comparison to compare agriculture items with wind turbines. Farming operations should be farming operations. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

SECTION 7. 2. e) (i) The word developer was added, but it was determined that it was not in the correct placement, it should be after owner and the text "every third year" was added. Discussion followed regarding definitions. The paragraph will now read: At the cost of the owner/ developer, post construction avian and bat fatality monitoring is conducted by third party licensed professional for three years and then every third year following completion of the project construction phase. Issues or concerns in need of correction to be identified by the licensed professional shall be presented to the Jackson County Board of Supervisors and the C-WECS owner. It is the responsibility and cost of the C-WECS owner to make the appropriate corrections.

Stewart motions to change owner/developer and add every third year, Pfab seconds. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

SECTION 8. Roling reads the section and explains the added language. The added language is, "The work of installing and ensuring the buffer around the sensitive area is to be done by a County approved independent 3rd party that is qualified to install and maintain buffer which controls run off. Reports of compliance shall be provided to the Jackson County Board of Supervisors at the time of project completion and every three years after. Cost of installing and maintaining the buffer around the sensitive area incurred by the C-WECS owner. Completion of the buffer strip shall be completed before the C-WECS is operational." Minor punctuation changes that did not change the intent are pointed out. The section will now read, 1. C-WECS shall not be built within 1000 feet of a known mapped "Sensitive Area." C-WECS built within 1320 feet of a known sensitive area must adhere to a water protection plan which includes installing and maintaining a buffer strip of perennial grasses and/or native trees with a minimum 30-foot width around the sensitive area. The work of installing and ensuring the buffer around the sensitive area is to be done by a County approved independent 3rd party that is qualified to install and maintain buffers which controls run off. Reports of compliance shall be provided to the Jackson County Board of Supervisors at the time of project completion and every three years after. Cost of installing and maintaining the buffer around the sensitive area incurred by the C-WECS owner. The buffer strip shall be completed before the C-WECS is operational. If there are more restrictive water quality setback restrictions by the State or another National regulatory agency, that will supersede this part of the ordinance. Motion by Burke to add wording as written with corrections, second by Stewart. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

SECTION 9. STATE AND NATIONAL SCENIC BYWAY VISUAL RESOURCE PROTECTIONS & INTRINSIC AREAS Roling states that Intrinsic Areas was added to the section header as that's one of the biggest things in the Corridor Management Plan that they're trying to protect with the scenic byways. It makes the 5-mile buffer less arbitrary. Burke requests to define what the CMP and the GWSB are. McHugh states to put GWSB in parenthesis after Grant Wood Scenic Byway and to put CMP in parentheses after Corridor Management Plan. Gerlach pointed out some formatting and punctuation issues. Pfab questioned the National Great River Road and the Iowa Great River Road and received clarification from McHugh. Discussion followed to also state the Iowa Great River Road as the All American Road. Motion by Burke to add additional text, Stewart seconds. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

SECTION 10. Section 10 reads: "It is recognized that 3 cities in Jackson County have co-jurisdiction over subdivisions (including plats of survey) within 2 miles of their cities. (Preston, Bellevue and Maquoketa) This co-jurisdiction approval is to prevent locking up land for potential future city expansion. Other towns in the county have passed resolutions asking for buffers around their town for C-WECS development. To maintain a consistent buffer around the communities in our county and as to not impede future expansions to allow for possible future city development, no C-WECS shall be built within 2 miles of an incorporated city limits." Roling suggests taking out the sentence; "Other towns in the county have passed resolutions asking for buffers around their town for C-WECS development." Burke suggests taking out all text except, "no C-WECS shall be built within 2 miles of an incorporated city limits", Stewart seconds. Discussion followed.

McHugh suggests, "To maintain a consistent buffer around the communities in our county and is not to impede future expansion to allow for the possible future city development, no C-WECS shall be built within two miles of incorporated city limits." McHugh states that it spells out why we're doing this and shows that we put thought into it. Burke withdraws motion, Stewart withdraws second. Gerlach questions city limits and gets clarification. McHugh asks for a motion and a second. Burke asks for clarification as to how it will read, McHugh states; "No C-WECS shall be built within 2 miles of an incorporated city limits to prevent locking up land for potential future city expansion." Burke motions to reword SECTION 10 to that wording, Stewart seconds. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Stewart, and McHugh; Nay – Pfab.

Pfab referring back to SECTION 9., questions whether we want to specify the "more than a dozen recognized intrinsic or supplemental points of interest". Roling states she does have a list, and Roling states there is a viewshed map in the Corridor Management Plan. Discussion followed.

5-minute break

Resume at 7:42.

Roling points out that there is an insert for the Commissioners to look at that includes a new section which will now become SECTION 11. HONORING BUFFERS ESTABLISHED BY NEIGHBORING COUNTIES. Roling reads the section, "Jackson County shall honor any protection buffers that are placed around specified areas by neighboring counties, should that buffer extend into our county." Roling states this goes back to when we had our joint work session with the Board of Supervisors. McHugh states she has an issue with following buffers because we're not restricting what this is about, so they could put anything in not related to a wind ordinance. McHugh states it is not specific enough. Roling states she will add the text "C-WECS Ordinance". Burke motions for the new section to read: "Jackson County shall honor any protection buffers that are placed around specified areas by neighboring counties in relationship to their C-WECS ordinance, should that buffer extend into our county.", Stewart seconds. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

ITEMS FROM PUBLIC: McHugh asks if anyone has any discussion other than wind ordinance, they may speak now. There were no speakers

ITEMS FROM COMMISSION: Other: Roling asks if the third Monday of each month works for the Commissioners to keep the Zoning Meeting scheduled, discussion followed to keep it the third Monday of every month.

New business: Laura Carstens, ECIA, has a contract to update the zoning ordinance, no action necessary from the Commissioners in this meeting, we are starting the process and will be coming to meetings from January to June. Laura states she does not have a presentation for this meeting, just wanted to let the Commission know that the process has started. Stewart asks what's the scope of this? Roling states it's to re-write our zoning

ordinance, re-do definitions, we need broader descriptions and addition Special Exceptions, we are looking at re-zoning specific areas of the county that the Board of Adjustment sees the most cases on. McHugh asks if all of the ordinances that are out there can be sent to all of the board members to review so we can see starting point. Carstens will show what we have and then what she's recommending we change. McHugh states what we have is not well organized. Carstens state she wrote the Delaware County ordinance and recently the city of Asbury. Stewart asks if the timeline is realistic and Carstens states she believes it is, we have a pretty good idea of what we need to get done. Discussion followed.

ITEMS FROM STAFF: Next Meeting: January 20, 2025. McHugh stated we are ready to hold our public hearing in January for the Wind Energy Conversion System Ordinance and then send it on to the Board of Supervisors. Discussion followed. It was decided to start the next meeting with the public hearing.

ADJOURNMENT: Motion by Gerlach, seconded by Burke, to adjourn the December 16, 2024, Zoning Commission meeting. Motion carried by the following vote: Aye – Burke, Gerlach, Manson, Pfab, Stewart, McHugh; Nay – None.

The meeting adjourned at 8:21 p.m.

Respectfully submitted,

Lori Roling

Zoning Administrator

Adopted: 1/20/2025