

## Marion County Planning Commission & Board of Zoning Appeals

### Record of Proceedings

March 5, 2020

#### Members (Present)

Derek Belton  
Dwight Flaming  
Glenn Thiessen  
Kathy Inlow  
Jim Schmidt  
William Kroupa  
Brad Gorsuch  
Chasen Gann  
Larry Cushenbery

#### Members (Absent)

Mel Flaming

#### Staff (Present)

Sharon Omstead, Secretary  
Brandon Meierhoff, Recording Sec.  
Russ Ewy, Consultant

1. **Call To Order~** Belton called the meeting to order at 7:01 p.m. with 9 members and 3 staff present, 1 members absent.
2. **Approval of Minutes~** In review of the February 13<sup>th</sup>, 2020 minutes, Inlow states “new” should be stricken from the record on the first page. There should be a comma after Ewy states on the second page. Inlow made a motion to approve the February 13<sup>th</sup>, 2020 Record of Proceedings with corrections. M. Flaming seconded, motion carried (9-0)
3. **Case PC-20-01 Vacation Petition~** Notice of the public hearing was published in the Marion County Record on February 5<sup>th</sup>, 2020. Property owner notification letters were mailed on February 5<sup>th</sup>, 2020, and again on February 21<sup>st</sup>, 2020 to notify of the rescheduled meeting. Gorsuch recused himself due to a direct conflict. He serves on the Rural Water District #2 Board, who is also the applicant. Omstead presents the Staff Report. D. Flaming asks, what the reasoning for the proposed setbacks are? Gorsuch states that the West boundary is 10 feet. This is due to the building on Lot 1, Block D is being used as a garage. 10 feet will give the owner enough of a driveway to turn into. There is a 20-foot easement that runs along the East side of Block G and Block H. The board discussed how that easement is already encroached upon. Gorsuch stated that happened way before Omstead and myself were involved in Eastshore. The water tower shown in the aerial photograph has been taken down. The water tower lot will be sold and be a part of the tax base for the county. The building currently on the property will be the responsibility of the buyer. Belton opens the floor for public comment. Richard Meisinger, property owner to the East, raised concern about the easement on the East side of Blocks G and H. Ewy recommended a 20feet easement between Blocks G and H. Gorsuch pointed out that changing the easement to 20feet wouldn’t change the situation. A utility company would not be able to get through the existing easement because of encroachment and a tree that has grown in the middle of the road. Jan Hoffer, lives at Lot 1 Block H at Eastshore and owns the property on the South side of the vacation petition. She has been mowing the ‘road’ for the last 11 years. Hoffer states most of the tracks on Meisinger’s property are from four-wheelers. Hofer would work with Meisinger if they

ever needed utility repair. Gann asks, what would happen if Meisinger doesn't allow utilities to access from his property? Gann states that a 12 feet easement should be enough to get a utility vehicle through. Gann asks, if they don't abide by the easement, who enforces it? Ewy states it would become a civil issue. Belton states, we have to look at the lot like it's empty. A 12 feet easement would be enough for a utility vehicle to get through. Gann motions to make the setback on the South side, a utility easement and everything else as presented in the recommendation by staff, outlined in the Staff Report. Kroupa seconds the motion. Gann amends the original motion to make it a utility access easement. Kroupa seconds and the motion passes (8-0). Original motion carries (8-0). Omstead states the County Commission will hear the Vacation Petition on March 23<sup>rd</sup>, 2020.

4. **Continued Discussion Concerning Marion County Regulations, Article 27- Wind Energy Conversion Systems~** Omstead handed out a packet depicting 500-foot and 2,000-foot residential buffers, remaining buildable turbines sites after buffers, and a graph of setbacks from roads depicting "usable" acres. Thiessen was in favor of changing the setbacks to 1,000 feet from the property boundary or 1,500 feet from residential structures of non-participating property owners. This will help the property owners that have built houses near the property lines. Inlow states, in her research, she found Marion County has the tallest turbines in the state. Setbacks differed from state to state. Inlow wanted to look at setbacks that change with the size of the turbine. The bigger the turbine, the greater the setback; and the smaller the turbine, the lesser the setback. We would also set a minimum setback for non-participating properties. Ewy states our regulations need to have some consistency and continuity. Pratt County has 3,000 feet setbacks because their county is less populated. Cushenbery asks what would happen if someone wanted to build a residence on their land after wind turbines are constructed? Ewy stated, it is a first-come basis. Gann asks why the setback from the road is 500 feet or 1.1 times the height of the turbine? Ewy answered, that is an industrial standard. Cushenbery asks if railroads are included to have setbacks? Trains carry lots of hazardous chemicals and could cause a huge mess if a turbine falls on a train. Gorsuch asks about the probability of the turbines falling. It was stated that it depends on the research you find, and can be biased depending on who the research is from. The technology is still new and there isn't a lot of data. The board agreed to setbacks on railroads of 500 feet or 1.1 times the height of the turbine. Thiessen asks Ewy what standard he has found on setbacks within the state. Ewy states, property setbacks are varied throughout the state. They are getting more refined each day. Ewy states, people opposing the wind farms say, "I want it 'X' feet away from my property." Cushenbery asks how they came up with the 1,320 feet setback. Ewy stated the industry standard was a ¼ mile. D. Flaming stated, we need to protect both sides (proponents and opponents). Nothing will affect the visual of the turbines. What it will affect, is the noise and shadow flicker. Omstead noted that posing a 1,000-foot setback from property boundaries would make it impossible to site a turbine on a 40 acre tract. Gann states wind companies would have to offer more of an incentive to the landowners to participate in the project. More participation would make it less of an issue. Money is the driving factor for everyone. Cushenbery asked if any of the regulations had changed from the time the Diamond Vista Project was permitted to the Expedition Wind Project permitting. Omstead states the only change was an amendment

requiring a construction permit to be applied for by April 1<sup>st</sup> of 2020. Ewy states the current setback regulations are a minimum for any wind farm project. In the last two applications both companies volunteered to increase setbacks. Belton reiterated that is one of the reasons we decided to look at amending the current regulations. The board agreed they are in favor of changing the setbacks to 1,000 feet from property lines or 1,500 feet from an existing non-participating residence. Omstead states once the Planning Commission finalizes an Article 27 draft, a public hearing will be set and the public will be able to make comments on the proposed amendments. Gann asks what is meant by 'reasonable measures' in Section 27-105(12). Omstead explains that this portion of the regulations is helpful during the initial development plan phase. The WECS developer will strive to mitigate certain issues before the project is even built. Then if there is an issue with one of the turbines after construction, they must work to remediate the issue. Gann states in Section 27-105(13), "in accordance with a written prescription" should be changed to "in accordance with County rules and regulations." Omstead suggested the following changes: in 27-105(1B), a line should be added to include, "All setbacks shall be certified in writing by a licensed professional land surveyor." In 27-105(8), Adding, "Applicant must apply for an Aircraft Detection Lighting System, and if granted by the FAA, such system shall be used." This way the lights on top of the turbines are not always blinking. It will have proximity lighting that activates when aircraft, detected by radar, come into the proximity. 27-105(14) adding, "Clearing and grading within a Special Flood Hazard Area requires special permitting from the County, State and other affected agencies." Changing the decibel level in section 27-105(18) to an A-weighted decibel measurement. Ewy states that 55 decibels is the average and this helps developers to select the turbine make and model. Kroupa states there should be more regulations concerning the decommissioning of towers. Belton states that Decommissioning is covered in a separate agreement. The County Commissioners make all of the ancillary agreements with the applicant. Kroupa states we don't want someone to be stock piling turbine blades on their property. Omstead states, they would need a Conditional Use Permit to have a junkyard on their property. The Board agreed to look at the rest of the regulations at the next meeting. A redlined copy of what was discussed at the meeting tonight will be provided for the board members to look over at the next meeting.

- 5. Adjournment~** Motion to adjourn made by Cushenbery, seconded by D. Flaming. Motion carried (9-0). Belton adjourned the meeting at 9:26 p.m.

**Passed and Approved (Date)** \_\_\_\_\_

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Derek Belton, Chair

**Attest:**

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Sharon Omstead, Secretary