

June 13, 2019
Reno County Courthouse
Hutchinson, Kansas

The Board of Reno County Commissioners met in an evening session at the Hutchinson Fox Theatre, 18 E 1st Ave. Hutchinson, KS with, Chairman Bob Bush, Commissioner Ron Hirst and Commissioner Ron Sellers, County Administrator Gary Meagher, County Counselor Joe O'Sullivan, County Clerk Donna Patton, County Planner Mark Vonachen, Public Works Director David McComb and Special Consultant Russ Ewy present.

At 6:30 p.m. Commissioner Bush called the meeting to order for the NextEra Wind Conditional Use Permit application.

Commissioner Bush covered some housekeeping items and reminded everyone to turn their phones down. He introduced the County staff that was present and wanted to give a quick shout out to County Planner Mark Vonachen for all his work and commented that he did a good job. He commented that they will have a vote tonight and that Mr. O'Sullivan will write up the resolution and the vote tonight will be in the resolution. Each side will be responsible if they choose to file an appeal with District Court. The first step would be District Court, the second step would be the Kansas Court of Appeals and the third step would be to request a final decision from the Kansas Supreme Court. Commissioner Hirst read a prepared statement, Commissioner Sellers had no comments and Commissioner Bush stated that it had been a long and strange trip.

Mr. Ewy went over the factors and conditions that were used. He also noted that there were considerable pros and cons with wind farms and there was a broad range of expertise on the matter. Some of the impacts were property value impacts, health impacts and the impact on citizens. He felt that we covered all our bases.

Mr. Meagher introduced County Appraiser Brad Wright, Emergency Director Adam Weishaar, and Health Department Director Nick Baldetti and said they would be available to answer any questions the Commission might have.

Planning Consultant Russ Ewy presented a Summary Report dated May 9, 2019, of the proceedings before the Reno County Planning Commission and the Planning Commission's recommendation for denial of the Conditional Use Permit Application.

Mr. Ewy then led a review and discussion of all eleven factors, lettered "A" through "K" as presented in the Planner's Summary Report. Mr. Ewy stated that the record of information presented in the case contained testimony and Exhibits both in favor of and in opposition to wind energy systems with a broad range of research and expertise. The information presented differed considerably in its conclusions as to the anticipated impact of wind turbines on adjacent or nearby property values and on health and safety issues.

Each of the County Commissioners analyzed each factor with Commissioner Bush generally agreeing with Commissioner Sellers that the proposed Conditional Use Permit, if approved subject to the specified special conditions recommended by the Planner and three additional special conditions recommended by Mr. Sellers, was an economic benefit to the entire County and remedied objections based on public health, safety and welfare concerns expressed during the public hearings.

Commissioner Hirst also analyzed the Conditional Use Permit in the context of the factors, the County Zoning Regulations, the County Comprehensive Plan, and the record of evidence presented. Contrary to the conclusion reached by Commissioner Sellers and Bush, Mr. Hirst concluded that public health and safety issues from turbine operations were not addressed and resolved, particularly because setback requirements between the residences and turbines were not adequate in his opinion. His objections focused on the residential nature of properties in the Project area, and the Project's impact on property values, health and the general welfare of the residents.

At 8:20 p.m., the meeting recessed for 10 minutes.

At 8:30 p.m., the meeting reconvened with all Commissioners, County Administrator Gary Meagher, County Counselor Joe O'Sullivan, County Clerk Donna Patton, County Planner Mark Vonachen, Public Works Director David McComb and Special Consultant Russ Ewy present.

Mr. Ewy again went over staff conditions and recommendations and provided the County Commission an opportunity to comment.

Mr. Sellers then moved to approve the Application by Pretty Wind, LLC for a Conditional Use Permit subject to the twelve special conditions as recommended by Planning staff and three additional special conditions which addressed Project design and

modeling so that the sound would be limited to 45dBA (annual Leq) and 50dBA (1 hour Leq), at a point that is 50 feet from the nearest external wall of a non-participating occupied residential dwelling. His second special condition was a requirement for a Development Agreement between the Developer and the County which would require the Developer to enter into a Property Value Assurance Agreement with a non-participating landowner in the Project area who owns an occupied residential dwelling assessed as real property which lies within 2,500 feet of the base of any wind turbine. His third special condition was to require the Developer or its successors to make periodic reports not less than once annually to the Kansas Department of Fish and Wildlife of all bird fatalities known to the Developer which resulted from impact with a wind turbine structure component. Mr. Bush seconded the motion. Some discussion followed the motion. Mr. Hirst advocated for additional setback requirements from airports, community buildings and churches and for lower maximum decibel readings. No consensus was reached on extending setback requirements as proposed. The motion was approved by a 2 to 1 vote, that being Commissioners Bush and Sellers in favor and Commissioner Hirst opposed. Because of the super majority or unanimous vote requirement resulting from the Protest Petition process previously determined by the Board, the Application for a Conditional Use Permit was not approved.

At 10:03 p.m. the meeting was adjourned until 9:00 a.m. Tuesday, June 18, 2019.

Approved:

Chair, Board of Reno County Commissioners

(ATTEST)

Reno County Clerk
dp

Date