

**SITING, RULES & ORDINANCE SUB-COMMITTEE MEETING**  
**February 6, 2014**  
**5:30 P.M.**

**MEMBERS PRESENT**

Jerry Potts  
Susanna Zimmerman  
Tim Dudley  
Bill Oliver (arrived at 5:33 p.m.)

**COUNTY PERSONNEL PRESENT**

Jay Dunn, County Board Chair  
Mike Baggett, State's Attorney's Office  
Jennifer Hoffman, Director of P&Z

**MEMBERS NOT PRESENT**

Jeannie Durham, County Board Office

Meeting was called to order by Chair Jerry Potts at the Macon County Office Building.

**MINUTES**

Motion to approve the minutes of prior meeting (11-12-13) made by Susanna Zimmerman, seconded by Tim Dudley, and motion carried 3-0.

**CITIZEN'S REMARKS**

None

**OLD BUSINESS**

None

**NEW BUSINESS**

*Macon County Board Ordinance Amending the Macon County Electrical Code and Electrical Commission Ordinance*

Jennifer Hoffman explained that it had been brought to her attention that there was an important word missing in the electrical code. It is on page 6 where it says, "existing buildings" and the word "new" is not there. The heading says, "other than dwellings" and it should say, "other than new dwellings".

Jerry Potts asked if someone had complained. Jennifer confirmed that it had been brought to her attention by a contractor.

Motion to forward the amended ordinance to the full board with recommendation for approval made by Tim Dudley, seconded by Susanna Zimmerman, and motion carried 3-0. Bill Oliver arrived at 5:33 p.m. and abstained from voting due to his absence during the presentation and explanation.

*Macon County Board Ordinance Amending the Macon County Wind Energy Conversion System Ordinance*

Jennifer Hoffman explained that there were two copies of the Wind Energy Ordinance in front of the committee with one being marked to show the changes proposed by the County (Jennifer

Hoffman & Mike Baggett) which was sent out to the committee for review a few days ago and one marked with changes proposed by EON. These changes were sent to Jennifer at 6 p.m. on Tuesday, 2/4. Wednesday, 2/5 was a snow day that closed the County buildings. Jennifer apologized for the short notice on getting the EON proposed changes to the committee members.

Jennifer said she would go through page by page and explain the changes:

- Page 3 – EON proposed a language change from, “the principle residential structure and non-accessory structure that is used or designed or intended to be used for the human habitation including, but not limited to living, sleeping, cooking or eating purposes or any combination thereof” to “the principle structure must exceed 6 months per year”. Jennifer said that she felt that the County needs to worry about protecting the houses that are out there in the County. As far as whether it is abandoned, someone could tear it down and build a new one. You still need to comply with setbacks. Chair Potts asked if EON had a comment. Brad with EON explained that the main point, as Jennifer mentioned, there are houses that are abandoned and falling down. In other project areas, those have not been classified as an actual residence. He said that they were just asking that those specific structures do not apply. Bill Oliver asked if the house had been posted by the building superintendent or whoever handles it, if it would still be a property included in this. Both Mike Baggett and Jennifer Hoffman asked for clarification because they were unable to hear. Bill said he wanted to know who determines whether a property is abandoned or whether it belongs to someone. Jennifer said it’s hard to say because if the roof is falling and windows are busted, that would be more of an abandoned house, but just because the doors are boarded up, nothing in the County Code says you have to live in a house. It’s very hard to tell. Bill asked if they were tagged by anybody. Jennifer said it is if the roof is falling in and that sort of thing. Mike Baggett said it was worth noting that this does not stop at abandoned and / or derelict residences. If a residence is not lived in for 6 months or more of a year, it would be considered a non-principle structure. He said he didn’t know who would be in charge of determining whether someone has lived there 5, 6 or 7 months. Brad with EON agreed that that was an excellent point and said their intent was directed toward abandoned or derelict. He said that something they do is a house verification, including looking at tax rolls, specifically to determine abandoned or derelict houses. Tim Dudley said he understood the concern, but even if the house is abandoned or derelict, it is still on a plot of land that is platted off by the county and there are setback rules to those plots. He said he thought if they strayed from the county rules, they would be opening a can of worms. He said the county wants to work with EON, but this is a bad precedence to set. If the county starts picking and choosing properties and picking setbacks, we are just asking for trouble. Brad said he understood and they would still adhere to the property line setbacks and they would be comfortable leaving that in as previously recommended.
- Under the Special Use Permit section, some changes had been made since EON had received their copy. Jennifer said she had fixed it with Mike Baggett’s advice, to do the large energy conversion systems. Right now, small ones are not permitted and Jennifer said she did not want to special use permit the small ones. Brad with EON said that their recommended language on that is that “the project itself, so the wind farm project as defined in the ordinance would be permitted and it would be looked at in its entirety as opposed to each individual turbine site. From a building permit standpoint, each site needs to adhere to the specifications and standards as laid out in the special use section. But as

the comment states, to avoid hearing after hearing for up to 100+ sites, EON is asking that the project itself be considered for special use. The conditions set forth in the special use would have to be met in each perspective building permit. Bill Oliver asked if there was a time limit on special use permits. Jennifer said that would be talked about later. Tim Dudley asked how he felt about it. Mike Baggett said he had not seen any of the proposed changes until he had walked into the room this evening. He said there are some things he's comfortable talking about, but he would need to look at some of the things in more detail before he could offer an opinion or any legal advice. Tim Dudley asked Brad if there was a time crunch that would require this be passed tonight or if it were tabled to allow a good look would be ok. Brad said no and that they wanted the committee members to have enough time to look at it. Tim said he'd like to see it tabled until they could get a good look at it. Jennifer apologized again for the short notice, but explained that she did not get it until Tuesday night at 6 p.m. Brad explained that they would like to still go through this tonight so they would have some context behind their suggestions. Jay Dunn requested that the committee continue going through all the items so they would have an understanding of the rationale from EON. Tim agreed that would be a good idea, but said he just didn't feel comfortable in voting on the changes until they and Mike Baggett had a chance to take a good look at it. Jay said he wasn't sure whether the whole page 4 of Eon's changes were dealing with the main special use permit covering the whole wind farm or if it has other things in it. Originally, the thought process was to do a special use permit for each tower individually which was going to be 115 – 118 special use permits that would have to be run through the Zoning Board. Rather than lump all into one meeting and try to get it through in a day, it would be beneficial to the county to have 115-118 different meetings. There was some concern about losing revenue off of it, but the whole farm versus one individually shouldn't make any difference in that respect. He said he didn't see any difference in the special use permit from one turbine to the next. The stuff we end up requiring should fit for all of them. Jerry Potts asked if Jay thought there would be mitigating circumstances by not having each individual one special permitted. Brad said that one thing they thought was that it is beneficial to look at the project as a whole. If and when it is constructed, it would be a project with numerous turbine locations. It is important for everyone to look at it in its entirety as opposed to parts and pieces. As an example, Brad said that when a house is permitted, it is not done in pieces with the garage in one hearing, the driveway in another and the house another. You have to look at it as a single project. He said they are not asking for any relief from the specific restrictions or obligations in the ordinance. The terms and conditions as provided in the special use permit for a project would apply to each and every turbine. It is an extensive, logistical and administrative cost, time, and resource savings. Greg, EON representative, made a statement that could not be picked up over the sound system. Bill Oliver asked a question that the sound system did not pick up. Brad responded, saying that the special use would be for the project, but would apply to all facilities in the project, but in order to get the actual building permit, they would have to show that each perspective turbine site adhere to the terms and conditions as set forth in the special use. Bill Oliver said that if there was a line of them, 8, 9 & 10 in one swat and you took all of those in at one time you wouldn't have to go through 10 different hearings. Brad agreed and said that is why they were requesting it this way so that it is a single look at the whole project as a whole. Greg, EON representative, explained that as it is currently written, the ZBA & EEHW

committees and the County Board would each have to review each individual windmill and approve. Bill Oliver asked if setbacks would be affected by geography such as creeks and hills etc... Brad said that was correct which is why they wanted it looked at as a project as a whole. You would be essentially going through the same criteria for every turbine. Each turbine will have its own site plan as described in the ordinance. The change in language would be to consider the project as a whole. We're saying, "This turbine meets all the criteria, This turbine meets all the criteria This turbine – the site project meets all the criteria". Bill Oliver asked if the turbines would be numbered. Brad said yes.

Mike Baggett asked to make a suggestion. He said that there are two proposed ordinances in front of the committee. One that Jennifer and Mike went over and modified the language from the original draft and one with the proposals from EON. He said that if EON wanted to explain the rationale behind the proposals tonight, it would be a good use of the committee's time as far as hearing why they want the language to read a certain way, but it would still need to be worked into the language that he and Jennifer worked on. He suggested that a meeting be arranged outside the committee hearing that would involve Mike, Jennifer, representatives from EON and members of the committee, but care must be taken in regard to quorum issues and open meetings act violations, so he suggested that a person or two people to attend. The committee would sit down and go through it together to draft a single proposed ordinance that the SRO could then review and vote on whether to pass on to the Board or not. Greg, EON representative, asked if it would be ok to continue to go through it the way they had been going through it and asked how that was different. Mike said that he agreed that they should continue with the explanations, but after the meeting is over tonight, he assumed there would be a motion to table the issue and then there would be a meeting where a single draft would be constructed for the SRO to review. He said that if they attempted to pass something tonight, it would be a horrific administrative mess. Brad stated that the comments they made were not specific to EON or to this project but to address wind energy development in the county in general. It kind of provides comments and language that would apply to any project. He said that they are not asking for this specific to EON, but do appreciate the opportunity to work with the county on it. It was agreed that they would continue with the discussion and explanations tonight and then schedule a meeting for later to come up with a proposal for the SRO to look at in a future meeting.

- Special Use Permit Section #2 where it says, "the name, address and phone number of the applicant's owner and operator of the WESC and all owners of the property where it is to be built", they are wanting to classify some language. Jennifer said that when they asked for participating lease only, we took care of that and said the property where it is to be built. She said that it was one of their changes that had been added in.
- #3g where it talks about the site plan, they have, "the location of the existing structures with their uses identified", and they want "location of all existing structures with principle residential structures identified. Jennifer said she was ok with that change. They just didn't want to address every shed and garage.
- Building Permit Section – they wanted to say the wells, septic field and tile location are all identified by the land owner or by aerial surveys. Greg, EON representative, explained that the rationale behind that is that they are going to do surveys prior to construction which will go into the site plan and give the final survey, but sometimes there are wells, septic fields or even tile locations that a farmer may not be aware of if they moved onto the

property at a later date. If the survey does not identify it, we may not know it's there. It's just to be protected against the ordinance. He said that they are going to do everything they can to find those via survey and landowner input, but if it is not known by the landowner or found by the survey, there is no way we can really be responsible. Brad said that especially with the tile, they have met with hundreds of landowners who have said they didn't know where the tile were located. He said they were just asking not to do something that is not realistic to do. Bill Oliver asked if the drainage tile (rest of question could not be understood). Brad responded that the County's drainage and regular landowner drainage would be treated differently. All of the County's drainage tiles would be identified and a crossing agreement would be entered into with the drainage districts saying, "here is where we'd like to cross; here is how we'd like to cross, etc..." Bill Oliver said that the drainage districts might have records on where the tile were located. Brad said that a lot of the districts do, but not necessarily for individual land owners unless it is relatively new tile. Jay Dunn asked if they checked with the Drainage Districts. Brad confirmed. Greg, EON Rep, explained that the leases with the land owners require that if any tile are crossed and destroyed, the tile is replaced to the standard it was before. The landowner is protected. Aerial studies are also going to be conducted if approval from the FAA is received. These will identify some field tile locations that otherwise might be unknown. He said it is definitely in their interest and plans to identify and avoid if possible, but fix if damaged.

- Expiration of Permits – We say that if it is not installed and functioning within 12 months from the date the special use permit is issued, it is null and void. They want 18 months. We are OK with that.
- Building Permit Section - "if the wind conversion system is not started within 6 months from the date of the building permit issue, it will expire within a year" is our language taken from our building permit codes. They want to do 12 months with it expiring in 18 months. We are OK with that too.
- Fees – The reason Jennifer changed this is because the fee schedule is separate from the ordinance so if we ever change anything in the fee schedule, we do not want it to create a need to change the ordinances too. So, the terminology of "current fee passed by the County Board" is to be used. Jay Dunn said he and Jennifer had spoken about a possible concern with EON about when the fee schedules are set up, it could be set up so that whatever the fee schedule is at the start of the project will remain constant until the end of the project. He said he thought maybe EON felt like the County was going to change them every month. Brad said they didn't think that, but wanted to clarify because they had already modeled the project based on the existing fee schedule and they wouldn't want that to change drastically. Jerry Potts questioned Jennifer about whether the small folks should pay the same fee as the large. Jennifer said the small fees are based on building permit fees and are based on the cost of the project.
- Financial Assistance (page 7 of EON changes) –The statement is, "the owner of the wind farm project shall furnish to the county a bond" and they want to add, "or other form of financial assurance". We say NO on that. The County has previously found that it doesn't always work to just have a letter. The wording was changed in all of the ordinances in 2010. Brad said that it's fine as long as it is consistent, they are happy to do that.
- Location – The language is, "A wind energy conversion system shall not be located within 1 ½ miles of an incorporated municipality" and they want to add, "unless waived by the

incorporated municipality”. Jennifer said it is her understanding that State Statute says you cannot be within 1 ½ miles of a municipality. Brad said that there have been other projects where the county has worked with a municipality where it has to be voted on. The municipality said they’d like to allow it within one mile. On a case by case basis, they have allowed turbines to be sited within that 1.5 mile. Brad said that if there is something from a legal standpoint that contradicts that, then obviously they wouldn’t ask for it. Bill Oliver asked if that was due to noise. Brad said he wasn’t sure. Tim Dudley said expansion. Brad agreed with Tim and said it has nothing to do with turbines themselves.

- Setbacks – Jennifer said she just tried to make this simple. It was wordy. The wording is, “the principle residential structure on adjoining properties is 1,000 feet or more” and they are fine with the setback, but want to add, “located on an adjoining, non-participating property”. Under the Principle Residential Structure, they’re ok with, “the setback of 1.1 times the total height of the tower or more from a principle residential structure” but want to add, “located on a participating property”. Brad said they thought that was what the intent was - to distinguish between a participating and non-participating property. He said they were just looking for clarification in figuring out the difference in principle residential structure on adjoining property versus principle residential structure. He said that their thought was that principle residential structure on adjoining property was written like that because it was a non-participating property versus a participating property. Jennifer said that they would look into the language. Jay Dunn said that he thought they were concerned a little bit about that a participating property might not care if it is next to their house, but they wanted to make sure all the setbacks were the same. Brad said they were fine with that and that was why they wanted to add the participating / non-participating language. He said that in their agreement, they are able to waive a setback and in past projects, they actually had homeowners say they would like to have it 800’ from their house so they could have a turbine. He said that in that case, they’ve gotten a letter from the landowner who was supplied with the building permit. He said they would not site it closer than 1.1 which is reflected in the ordinance and that is why they wanted to distinguish between participating and non-participating.
- Electrical Distribution Lines – Jennifer explained that this was all previous language, but EON wants where it says, “All electrical distribution lines associated with the wind energy conversion system, other than wires necessary to connect the wind turbine to its base and to overhead collection lines, shall be located underground” to add, “to the extent practical”. Jennifer said that Jay Dunn had wanted to add some wording so the County would have final say on what is practical. Brad explained that they prefer to have it all underground and the only reason it would be brought above ground is if there were some specific engineering or environmental need to do so. Otherwise, all the other collection is underground. Jay suggested Mike Baggett be consulted on that. He said that he wants to make sure that if there is a reason to not put it underground, they need to come and talk to the County, but the County would not withhold anything reasonable or practical. Jay said he just didn’t understand the language and who would determine what is practical. Bill Oliver agreed that it should be in writing. Jay agreed that the correct language could be determined.
  - The 2<sup>nd</sup> paragraph in this section was, “All electrical components of the wind energy conversion system shall conform to the applicable state and national codes including any relevant and international standards”. They want to cross off

international standards. Jennifer said she would probably like to just say, “conform to any applicable state and national codes.” Jerry Potts said he totally agreed with that.

- Equipment - They want, where it says, “facilities must comply with FAA minimum requirements” to add, “lighting will adhere to FAA requirements for reducing bird and bat collisions with turbines”. Brad explained that as it was previously written, it says, “facilities must comply with FAA minimum requirements and best practices for reducing bird and bat collisions”. He said this section is specific to lighting, but they wanted to clarify what the language was for – that it is specific to lighting and no other operations of the turbine. He said that when it was discussed a while back, there was a concern mixing permanent lighting versus intermittent lighting and that is why that section was written the way it was. Bill Oliver asked if it was the lighting that causes bat collisions. Brad said that the lighting on the turbine is intermittent and he said he recalled that there was some concern when it was written that we were going to have permanent lighting mixed with intermittent lighting. Permanent lighting at night actually attracts birds, so in order to adhere to the FAA lighting, which they specifically dictate intermittent lighting and that is to avoid bird and bat strikes. Bill Oliver said he had recently read an interesting article about how many bats were being crippled or maimed. Brad said the short answer was that they don’t know. Statistically, wind compared to other forms of general obstacles to birds and bats, wind actually kills fewer than buildings, cars, cats, etc... He said that they did do a pre-construction assessment to determine the number and type of bats in the area. A post construction mortality monitoring will be done to determine if there are bird or bat strikes. Jerry Potts pointed out that this addressed later in the ordinance as well.
- Decommissioning Section – Where it says, “if the turbines are out of service for 6 months, they will be deemed abandoned”, they want to add, “pending a force major event such as an earthquake or tornado”. Jennifer explained that if it takes over 6 months to get it back up and running, we don’t deem it abandoned after an earthquake or tornado. She said she was ok with that change.
- Decommissioning Plan – where it says, “within 6 months, notice of abandonment”, they want to change it to 12 months to get it taken down and removed on the decommissioning. Jennifer said she was ok with that too. Bill Oliver asked how decommissioning was guaranteed. Both Jay and Jennifer said it was by the bond.
- Standard Conditions of the Environmental Study (#10) – They want to remove “post-construction”. Brad said they didn’t want to remove it completely, but as it was written because it asks for pre & post construction monitoring as a condition of the permit. He explained that post construction can’t be done until after and they just wanted it to say that all the pre-construction surveys will be done pre-construction and they will do a post-construction following post construction. Jay asked if they wanted 18 months to do it. Brad said yes, but the point of the change was to pull the post out of where it was written because they could not provide post construction monitoring until after the construction was done. Jay asked Brad about deleting the last sentence on #14, where it says, “described by Anderson and others, 1999, etc...” Brad said they were comfortable taking that out because the guidelines are specified by the US Fish & Wildlife and IDNR. He said they adhere to all state and federal, so they would agree with that removal and even

specifically say to the extent that they will conduct pre-construction surveys and post-construction surveys as per consultation with IDNR and the US Fish & Wildlife.

- Drainage Farmland (first bullet) – where it says, “the applicant shall ok all existing agricultural tile lines”, they want to add, “to the extent practical based on wind farm project lease holder input or aerial survey”. Jennifer said she was ok with that.
- Page 18 of Eon changes – Shadow Flicker - Jennifer explained that she had done some research as far as what other counties require in their ordinances. She said she had modeled hers off of Sangamon County. Jay said that it seemed to him that Eon was concerned about the 1 hour per year, but in looking at the information from Jennifer’s research, one of the counties has a 1 hour per year. The other 2 have 30 hours per year. Brad said they’ve seen the 30 hours per year and are comfortable with that, but they’ve never seen 1 hour per year because there are a lot of things that go into consideration of shadow flicker such as the sun’s location relative to the turbine and relative to the house. There are a lot of components and it changes throughout the year as the earth and sun both move positions. One hour per year is extremely restrictive. The 1 hour inclusion may have been put in to restrict a project. The 30 hours per calendar year works. Jay asked who determines if there is a flicker problem. Brad said it is the landowner. He said they look at it early on try to make sure any potential flicker is avoided or minimized. Greg said that the shadow flicker study will tell, based on where the turbines are plotted and it will do a conservative estimate of cloud coverage. It has the sun shining more often than not, so it gives a higher estimate of where the sun will be shining on houses with the turbines. It will be able to tell you approximately how many hours per year a house will receive shadow flicker. Tim Dudley requested Jennifer get McLean County’s Shadow Flicker Ordinance since they have a lot of turbines and they are not included in her research. Greg pointed out that in two other Illinois wind projects, there was one individual who had some concern after the project was built, but since then, he said it only happens intermittently and there have been no other complaints. Jerry Potts said he did not think this should apply to the farmer that hooks up a small wind turbine. Brad said he agreed with that and made a comment about the language that spoke to shadows on roads that they asked to be removed because that would be very hard to calculate, capture and regulate. You can’t tell how many people are going to be on any given road at any given time and how much shadow flicker that person is going to receive while driving on that road.

Jennifer said that concludes all the changes.

Motion to table pending a review of the committee to be composed of 2 members of SRO, Mike Baggett, Jennifer Hoffman and EON representation made by Tim Dudley, seconded by Susanna Zimmerman, and motion carried 4-0.

Tim Dudley & Susanna Zimmerman volunteered to be the SRO members of the committee.

### **CLOSED SESSION**

None

### **OLD BUSINESS**

None



**ADJOURNMENT**

Motion to adjourn made by Tim Dudley, seconded by Susanna Zimmerman and motion carried 4-0, and meeting adjourned at 6:25 p.m.

Minutes submitted by Jeannie Durham  
Macon County Board Office