

**ELLIS COUNTY  
JOINT PLANNING COMMISSION MEETING  
MINUTES FOR March 24, 2010**

**Members Present:**

Bill Poland, Chairman  
Paul Baier, Vice-Chairman  
Keith Campbell  
Kendall Krug  
Gary Luea  
Dick Klaus  
Dean Haselhorst  
Kirk Dickinson  
Ken Richmeier

**Members Absent:**

**Staff Present:**

Dale Wing, Zoning Administrator  
Karen Purvis, Environmental Associate  
Carla Meier, Recording Secretary

**Counsel Present:**

Dennis Davidson

No County Commissioners present at this meeting.

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The March 24, 2010 meeting of the Ellis County Joint Planning Commission was called to order by Chairman Bill Poland at

7:00 p.m. The meeting was held at the 601 Main Street meeting room.

**Roll Call** was taken. All members were present. There was a quorum.

**Minutes:** It was moved by Keith Campbell that the minutes be amended to correct Mr. Bannister's first name to Mark. Dean Haselhorst seconded the motion. Motion carried. It was moved by Dean Haselhorst and seconded by Ken Richmeier to accept the minutes as corrected. Motion carried.

**Staff Report:** Dale Wing, Zoning Administrator, reminded the members about the Planning Commissioner's Workshop to be held on Saturday, May 8, 2010.

There will be 3 Conditional Use Permits at the April meeting. He also stated where the Hays Wind LLC stands.

There will be an application for 15 towers in the near future. The main item for this evening is to review the Regulation changes. The Zoning Code deals with the use of the land and any inclusion of changes to noise and pollution standards should be for the entire county and not be wind specific.

**Old Business:** Chairman Poland brought up Article 27-108 2a which was discussed at the 2-24-10 meeting. It was suggested the word 'except' be removed from line 2 of the above mentioned Article. Legal Counsel stated if any changes were made there would need to be a Public Hearing. Discussion followed. It was decided if the word 'except' would be a grammatical error, its deletion could be recommended to the

County Commissioners for their approval. Kirk Dickinson so moved. Gary Luea seconded. Motion carried.

**New Business:** None

Discussion started on the Regulation changes.

Page 1. No changes

Page 2. In the first paragraph the fourth line, Chairman Poland recommended the word ‘Applications’ be changed to ‘Applicants,’ in “B3” ‘guyed wire’ be changed to ‘guy wire’ and in “D” the word ‘expected’ be deleted. Dean Haselhorst so moved the recommendations be made. Paul Baier seconded. Motion carried.

Page 3. Legal Counsel said the changes to the document were not the consensus of the County Commissioners and felt the Committee Members should take action on each of the Commissioners’ suggestions.

Keith Campbell moved that “Section E” at the bottom of Page 2 be left in, Kendall Krug seconded the motion. Motion carried. Chairman Poland questioned Legal Counsel on the crossed out ‘including, but not limited to, those items identified in Article 20 of these Regulations.’ Legal Counsel recommends that it be left in. Ken Richmeier so moved and Dick Klaus seconded. Motion carried.

Page 4. “Section 8 A” Much discussion . Kirk Dickinson doesn’t think “Section 8 A” needs to be in the Regulations. Keith Campbell wants to leave “Section 8 A” in. Kirk Dickinson moved not to have “Section 8 A” in the regulations. Gary Luea seconded the motion. Vote was 6 in favor and 1 against. Keith Campbell did not vote.

“Section 8 B” Kendall Krug questioned Legal Counsel on State Statutes. Gary Luea moved to strike everything after the word ‘statutes.’ Ken Richmeier seconded the motion. Vote was 7 in favor and 1 against. Motion carried.

“Section 8 C 4” Kirk Dickinson moved that ‘per Natural Resource Conservation Services (NRCS) recommendations and guidelines’ be added. Ken Richmeier seconded. Motion passed.

Page 5. “Section 8 C 6” Leave as written; “Section 8 H” Leave as written; “Section 8 J 2” Dick Klaus moved to add the word ‘public’ before county road, delete words starting at ‘or and ending with and,’ and delete everything after the word height. Dean Haselhorst seconded the motion. Motion carried. {Each tower shall be set back from the nearest federal, state, rural secondary, minor collector and any other public county road from its middle a distance of no less than one and one half (1½) times its tip height. }

“Section 8 J 3” Gary Luea moved to leave at ‘1.5 times its tip height.’ Kendall Krug seconded. Motion carried

Page 6. Keith Campbell had concerns about the definition of residences. Much discussion followed. Kendall Krug wants the word ‘primary’ residence added. Gary Luea agreed with Member Krug. Keith Campbell wants guidelines for zoning which protect residences and people. Chairman Poland wants 5280 changed to ‘2000’ feet. Dean Haselhorst made a motion the setback should be ‘2000 feet from non-participating residences.’ Ken Richmeier seconded the motion. Keith Campbell strongly opposes. Much discussion followed.

Motion carried. Keith Campbell wants to go on record that he supports Industrial Wind and has the potential to make several hundred thousand dollars from industrial turbines. Much more discussion followed. Kirk Dickinson moved to add the word

‘primary’ {Towers measured at the center of the base, shall be setback a minimum of 2000 feet from non-participating primary residences existing at the time of the conditional use permit application. These non-participating primary residences must be occupied the majority of the year at the time of the conditional use permit application.} Ken Richmeier seconded the motion. Keith Campbell strongly opposes. Motion carried.

Keith Campbell moved to adopt the definition of residence as {Structures not currently inhabited will be classified as a residence if 1) the Ellis County tax roll lists and taxes the property as a residence and 2) the owner provides documentation (to the Ellis County Commissioners or their designee) that he/she has engaged in construction or improvements consistent with human habitation before a met tower was placed in the area.} Chairman Poland wanted to go on record in support of this motion. Ken Richmeier seconded. Vote was 2 in favor 4 against. Motion failed.

Legal Counsel questioned that there was no definition of participating residences and non-participating residences. Dean Haselhorst made the motion that the definition for a participating residence was a ‘residence which would have a lease or contract’ and ‘a non-participating residence would be a residence which would not have a lease or contract.’ Kirk Dickinson seconded the motion. Motion carried.

#5 leave alone

#6 leave alone

#7 leave alone

#8 leave alone

#9 Ken Richmeier moved ‘Wind Energy Towers shall not be artificially lighted beyond FAA requirements using red lighting.’ Dean Haselhorst seconded. Motion passed.

#10 just spell out (WEF) Wind Energy Facilities

#11 Gary Luea moved to delete. Ken Richmeier seconded.

Motion carried.

Page 7

#12 Leave as deleted

#13 This number will change to second 12--- leave in.

Noise Management --- The Zoning Administrator stated Planning & Zoning Regulations deal with the use of land. Noise codes should be a distinct and separate code, not part of the Planning and Zoning Code. Chairman Poland said the wind management needs to meet Federal and State standards. The Zoning Administrator advised that the Board of County Commissioners had requested a copy of the World Health Organizations Noise Standards Code and the Planning Commission had directed the Zoning office to forward same to the Board of County Commissioners which was transmitted to them April 29, 2008 as directed. Gary Luea made a motion to follow the World Health Organization Standards related to Wind Energy Facilities. Kirk Dickinson seconded the motion. Much discussion. Dick Klaus made a motion to amend Gary Luea's previous motion to follow the World Health Organization Noise Standards related to Wind Energy Facilities. Kirk Dickinson seconded the motion. Motion passed. Keith Campbell abstained. (This motion deletes pages 8-9)

Page 10 Keith Campbell wants something for noise pretesting in the Regulations. Keith Campbell moved {Industrial wind companies will pay for all noise and vibration pretesting (to document baseline data), but will not conduct these tests. These tests will be conducted by an independent contractor selected by the Ellis County Commissioners.} Motion died for lack of a second.

“Section G” Much discussion. Kirk Dickinson moved to change the distance to 2000 feet delete center section starting with words The Background Noise Survey... Gary Luea seconded. Motion carried.

Kirk Dickinson moved to delete “Section H.” Dean Haselhorst seconded. Motion carried.

Page 11 “i” Kirk Dickinson moved this read ‘Operators of a Commercial Wind Energy Facility or Commercial Wind Turbine operation shall submit a Post-construction Sound and Vibration Measurement Survey corresponding with the pre-construction background noise survey. The study shall be conducted at the wind energy facility owner/operators expense by a noise consultant contractor acceptable to the Ellis County Zoning Administrator.’ Kendall Krug seconded. Motion carried.

11 “j” Ken Richmeier moved to delete “j” and “k.” Dean Haselhorst seconded the motion. Motion carried.

Page 12 “l” Dick Klaus moved to strike the bottom half as per Legal Counsel recommendation starting at ‘If the applicant.’ Kirk Dickinson seconded the motion. Motion carried.

Page 12 Kirk Dickinson moved to strike “Section m.” Dick Klaus seconded the motion. Much discussion followed. Vote was 6 in favor and 2 against. Motion carried.

Page 12 “#14” Kirk Dickinson made a motion to leave at a period of ‘12’ months. Gary Luea seconded the motion. Much discussion followed. Motion passed.

Keith Campbell made a motion to add Decommissioning ---  
{ After the first year of operation, Commercial Wind Turbine developers will place money in escrow in Ellis County to pay for the costs of decommissioning of each turbine. Money placed in escrow will total at least 20% of decommissioning costs after year 2, 30% after year 3, 40% after year ..... 100% after year

10.} Gary Luea seconded the motion. Much discussion followed. Motion passed.

Page 16 "A" Kirk Dickinson moved that this remain at 1/2 times the height of the tower. Paul Baier seconded. Motion carried.

Leave "D" as is (no action required)

Gary Luea made a motion to delete the last line of "F." Kirk Dickinson seconded. Motion carried.

Next meeting date will be April 28, 2010 at 7:00p.m. at the 601 Main Street Meeting Room.

Dean Haselhorst moved to adjourn at 11:20 p.m.

Carla Meier, Recording Secretary

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Chairman

Date