

Wind Turbine Facility (WTF) Committee Meeting 11-24-09  
2:30 p.m. to 3:45 p.m. – Tom Baker Room – City County Building

Committee Members Present:

- Brian Bitner, Burleigh County Board of Commissioners
- Tony Gleich, Chairman of Croft Township Board of Supervisors
- Ray Ziegler, Burleigh County Building Official
- Gregg Greenquist, Community Development Planner

Committee Members Absent:

- Tim Atkinson, Chairman of Burleigh County Planning Commission

Others present:

- Jake Spitzer, rural Bismarck
- Milo Schuler, rural Wilton
- Dennis R. Murphy, Bismarck
- Edward Geiger, Bismarck
- Wade Mann, Crowley Fleck PLLP

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Meeting Notes:

Commissioner Bitner asked those attending to move up front closer to the committee table and then proceeded to discuss concerns with nondisclosure agreements between wind turbine companies and landowners. He provided information on a committee hearing that was held at the State Capital that morning. The concern with nondisclosure agreements is that people can't talk to anybody about their problems. Those in attendance were aware of this issue and agreed it was a problem.

Commissioner Bittner emphasized that any development process in the county has to be public and transparent and asked if anybody attending had any recommendations on how to address this problem.

Jake Spitzer said he came to a county board meeting and asked for help before the first wind farm was built near Wilton. Others present wondered why the county was only getting involved now.

Gregg Greenquist explained that because Ecklund Township has its own zoning authority, the county could not regulate the wind farm near Wilton. But the newly proposed expansion of that wind farm extends southward into Crofte Township and Crofte has relinquished its zoning authority to Burleigh County. That's why the county is getting involved now.

Greenquist went on to explain the reasons why the county was establishing standards for wind farms and how the process would work. The typical format for zoning ordinances across the

country includes listing uses and activities that are allowed. There are two categories of uses in each zoning district, permitted uses and special uses. If something is not listed as a permitted or special use, it is not allowed. Wind farms are not mentioned in the Burleigh County Zoning Ordinance. The purpose of the Wind Turbine Facility (WTF) Committee is to develop ordinance language that would allow wind farms and establish reasonable standards such as setback distances between wind turbines and dwellings. The committee is interested in hearing from residents to get information which will help them make these determinations.

Greenquist explained that the ordinance to regulate wind farms would be set up to require that approval of a special use permit would be needed prior to any building permits being issued and prior to any construction occurring. An applicant wishing to build a wind farm would apply for a special use permit and submit documentation on the proposed project. The applicant would be expected to comply with the standards established by the county. After the submittal documents are reviewed by staff, the request for a special use permit would be placed on the agenda of the Burleigh County Planning Commission. The Planning Commission would hold a public hearing on the request and then take action and vote on the proposed wind farm.

Because the Planning Commission is an advisory board, their decision becomes a recommendation to the County Board of Commissioners. The County Board would take final action on the proposed wind farm. The only required public hearing is at the Planning Commission level. After a completed application is received, the entire process usually takes about five to six weeks.

Milo Schuler asked if there was any review of the existing wind farm before it was built. Because it was built in Ecklund Township, the committee members did not have any information on the process that was used at Ecklund Township.

Mr. Schuler indicated that the wind company had a map showing locations of all of the wind chargers but they didn't stick to their plan. He said they put a wind charger 1500 feet away from his house and if they had stuck to their plan, the closest one would have been ½ mile away and that's why he didn't object. If he had known a wind charger was going to be built that close to his farmstead, he would have objected.

Mr. Greenquist explained that under the County's Special Use Permit process, the applicant is required to submit a site plan or a map of the proposed project. Then the applicant is bound to meet compliance with that site plan. Last minute changes are not allowed under the County's Special Use Permit process.

Commissioner Bitner raised the lease agreement issue. He related what had been discussed that morning at the committee hearing at the Capital. He said a group of farmers in another area of the state had organized themselves to create an area for a wind farm and when the wind farm was built they all shared in the profits. They created a pool. He addressed the issue of how people with a wind turbine on their land get paid for it and a neighbor nearby does not get paid.

Mr. Schuler said if somebody can draw royalties from a wind charger that's located 1500 feet away from my place I should get the same royalty because I have to look at the red light spinning around and listen to it.

Mr. Greenquist related an issue that had been discussed that morning at the committee hearing at the capital. One of the committee members said he had formerly been a property appraiser and in his opinion, there was a clear difference between the values of a farmstead in open country and a farmstead with a wind turbine nearby. That committee member also said he didn't know how to quantify the value difference but the construction of a wind turbine near a farmstead would definitely depreciate its value.

Mr. Greenquist went on to say the wind company representative had responded to that committee member's comments by citing a study showing that wind turbines did not affect property values. Mr. Greenquist said he was familiar with a study that said exactly that. The study compared resale values of houses in neighborhoods before and after a wind turbine was installed on a neighboring property. The study did show that there was no depreciating effect on the values of neighborhood houses caused by the wind turbine. The only problem was that the study Greenquist was familiar with was not at all about rural property values in the vicinity of an industrial sized wind farm, the study was of an urban environment and the turbine was a small, household sized unit.

Commissioner Bitner asked those in attendance for their comments on this issue of a wind farm effects on nearby property. Mr. Schuler indicated that during the first phase of the Wilton Wind Farm project, the access roads they built blended into the landscape but then they started digging deep cuts through the hills for some roads and that changed the natural lay of the land.

Mr. Schuler said the main question for him was whether having the wind chargers would devalue his land. He indicated problems with his TV reception had started after the turbine was built 1500 feet away from his house. The TV with a satellite dish was okay but his other ones weren't. Commissioner Bitner asked if Mr. Schuler's lease agreement had indicated whether or not the wind company had stated in the contract if they would resolve any TV reception problems. Mr. Schuler didn't know.

Mr. Schuler did indicate that technicians had been working on the turbine close to his house and it was quieter now. The noise had been bothered him but they did something to it to make it quieter.

Another issue that came up was the use of scoria on the access roads. Those in attendance said that scoria was a real problem because it was so dusty.

On the issue of property values, Jake Spitzer discussed his proposed subdivision development. He said three of the lots had been spoken for. People were planning to buy the lots if and when the subdivision was approved. But then the wind turbines were put up and all three of those buyers changed their mind because they didn't want to live near wind turbines.

Mr. Greenquist said that one of the main purposes of zoning regulations is to provide protections for neighboring properties. Zoning considers the compatibility of adjacent land uses and the effects on property values. Some landowners may consider breaking their land up for residential lots. The rural water system is building a huge water main that they expect will be used to serve rural residents. What is the highest and best use of the land? A resident of Croft Township had told Mr. Greenquist he was concerned about the long range effects of the increasing pattern of converting production farmland into residential lots - - because the world population and demand for food is rapidly increasing while production farmland is steadily decreasing.

Jake Spitzer said he had worked for John Deere for decades and in his opinion, the surface hadn't even been scratched yet on the world's agricultural production potential. Conversion of farmland to residential lots was not a valid concern.

Commissioner Bitner raised the issue of setback distances. He explained that when a separation distance is agreed upon a wind turbine could not be built any closer to a house than that minimum allowable distance - - but the reverse would also apply - - that once a turbine was built, a new house couldn't be built any closer than that same separation distance.

Commissioner Bitner went on to raise the issue of a potential situation where a turbine might be constructed close to an abandoned farmstead. What if an abandoned farmstead with an established tree grove and a barn provided the potential for a new house? How would a wind turbine built close to that farmstead affect the development potential?

Mr. Schuler contributed that it's not only the tree grove and any outbuildings that would go to waste, what about the driveway that was built to get in there. Nobody would want to live there.

Commissioner Bitner indicated that he was aware of many smaller, unoccupied tracts in Crofte Township and was concerned with the issue of how wind turbines might affect those parcels.

Commissioner Bitner asked what is a reasonable setback?

Mr. Schuler said 1400-feet is too close and ½ mile is better – but because of the prevailing northwest winds, wind chargers located upwind of a farmstead should be farther away than chargers located downwind.

Commissioner Bitner raised the issue of the wind company paying people to put the turbine closer to the house and whether that was appropriate or if the county could just establish a standard separation distance and stick to it.

Attendees indicated they were concerned about the effects of wind turbines on property values and even though people are paid attractive sums of money now, how will wind farms affect the future viability and value of land.

Commissioner Bitner said the next committee meeting will be held on December 10<sup>th</sup> at the Baldwin School from 7:00 to 9:00 p.m. and the purpose of that meeting will be to obtain input from the people to assist the committee in developing standards for wind farms.

Subsequent committee meetings were set for December 17<sup>th</sup>, January 7<sup>th</sup> and January 21<sup>st</sup>, all to be held in the Tom Baker Meeting Room from 9:00 a.m. to 10:30 a.m.