



Elko County Planning Commission

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ELKO COUNTY PLANNING COMMISSION SPECIAL WORKSHOP MINUTES

THURSDAY, FEBRUARY 10, 2011

5:15 P.M. CALL TO ORDER:

Chairman Judd called the special workshop meeting of the Elko County Planning Commission to order at 5:15 p.m. on **February 10, 2011**, in Suite 102, of the Nannini Administration Building, Elko, Nevada.

Members Present: Mike Judd, Chairman
Dena Hartley, Vice Chairman
Jack D. Larason
Wilde Brough
Milt Grisham

Absent : David A. Galyen– Excused
David Hough

Others Present: John Kingwell, Associate Planner
Kelly Watson, Planning & Zoning Administrator
Kristin McQueary, District Attorney's Office
Mary Royce, EnergyCo
Paul Bottari, Elko County Association of Realtors
Scott Baker, self
Ignacio Reyes, self
Lou Ash, self

I. PLEDGE OF ALLEGIANCE:

Allegiance pledged.

II. COMMENTS BY THE GENERAL PUBLIC:

NON-ACTION ITEM

There were no comments made by the public.

III. PUBLIC HEARINGS:

ACTION ITEMS

10-1500-0001, Wind Turbines & Towers – Code Development 3 Hr. Workshop

Elko County is in the process of developing a wind energy development code. The workshop topics will address minimum parcel sizes, setbacks and other health and safety concerns.

Chairman Judd indicated how the meeting was going to be conducted and explained after all of the items have been reviewed and discussed there would be time provided for the public to comment on any proposed revisions to the code before a final motion is made and voted on.

Mr. Kingwell started the review of the proposed code beginning with the item regarding the maximum wind turbine rotor diameter and wind energy systems being regulated to meet the established and proposed uses of the property and being flexible to allow for current model offerings.

All of the Planning Commissioners in attendance accepted the content of the proposed code as written by Staff through Tower and Facility Access and then the following discussion took place when addressing the item referring to roof mounted private wind machines and the items that followed:

Mr. Larason stated the board had dissected the size of the wind machines down and there are still wind machines that are smaller and the code says *all* wind machines and if he wanted to buy a \$300 unit and put it on his house he should be able to without regulation. He stated he felt there should be delineation between the wind machines that are being discussed and the small wind machines that are available to the general public.

Mr. Kingwell asked if the board would want him to research the difference and bring back some information.

Commissioner Brough asked how they would be separated and if Building Codes would regulate the differences.

Commissioner Larason suggested machines of 2,000 watts and lower be exempt from regulation.

Chairman Judd asked about ice shear from a small machine that would be sitting on a roof.

There were comments by the Commissioners about whether the ice shear was any different than from a television antenna or a satellite dish.

Commissioner Brough asked if the code is live and if it can be changed as technology provides information.

Mr. Kingwell stated yes the code could be changed but it would have to go through the same process.

MOTION: Commissioner Larason moved to exempt a 2,000 watt unit or less from the process. The motion died due to the lack of a second.

MOTION: Commissioner Brough moved to table addressing roof mounted private machines for a year. Commissioner Grisham seconded the motion and then after some discussion withdrew his second. The motion died due to the lack of a second.

Mr. Kingwell stated roof mounted private wind machines need to be addressed.

MOTION: Commissioner Brough moved to retain the item referring to Roof mounted private wind machines and remove all of the regulation except the one that referred to them being located to meet the clear fall zone requirement. The motion died due to the lack of a second.

Commissioner Judd asked if the ordinance is approved can the issue of roof mounted private wind machines be revisited.

Mr. Kingwell indicated private wind machines are being discussed and Commissioner Larason brought up a valid point of micro wind machines which could be a different issue and would need to be addressed by its own regulation in the ordinance. He indicated the ordinance could be passed as presented with direction to Staff to develop a code specific to micro wind machines.

Commissioner Larason asked if a motion could be made to exclude micro wind machines from the item referring to roof mounted private wind machines.

Mr. Kingwell suggested micro wind machines not be addressed on the specific item but that the definition of private wind turbines be changed to exclude micro wind machines of 2,000 watts or less. He further indicated micro wind machines are currently included in the ordinance because he felt the safety and welfare issues are the same. He added that if the Commission wanted to address micro wind machines separately he could research them and develop a portion of the code exclusively for them.

Commissioner Larason asked if the wording in the item could be changed to indicate roof mounted wind machines larger than 2,000 watts.

There was continued discussion regarding whether roof mounted turbines and/or 2,000 watt machines should be included in the definition of private wind machines or be addressed by itself in the code.

Commissioner Larason moved that a section be added to the specific item that would identify a micro wind machine as 2,000 watts or less.

Mr. Kingwell indicated the motion might be better served by changing the definition of a private wind machine to be any system more than 2,000 watts and less than 100kW.

There was continued discussion regarding the definitions that would need to be changed and/or added to address micro wind machines and if a separate portion of the code would need to be written to address them specifically.

MOTION: Commissioner Larason moved to revise the definition of a private wind energy conversion machine to be a wind machine with a rated capacity of 100kW down to 2,000 watts and is designed to offset energy costs of the existing principal uses on parcels of land for the purposes of the regulations. Commissioner Brough seconded the motion. The motion passed with Commissioner Hartley being opposed.

VOTE:

AYE:

Mike Judd

Jack D. Larason
Wilde Brough
Milt Grisham

NAY: Dena Hartley

ABSENT: David A. Galyen
David Hough

ABSTENTIONS: None

MOTION: Commissioner Brough moved to accept the portion of the ordinance regarding roof mounted private wind machines as presented by Staff in the draft. Commissioner Hartley seconded the motion.

VOTE:

AYE: Mike Judd
Jack D. Larason
Wilde Brough
Milt Grisham
Dena Hartley

NAY: None

ABSENT: David A. Galyen
David Hough

ABSTENTIONS: None

Mr. Kingwell continued the review of the draft ordinance with the item referring to the repair and removal of private wind machines.

Commissioner Brough asked how it would be determined what the previous use was if the wind machine had been on the property for a long period of time and why the property would have to be restored to its original condition when it is private property.

Mr. Kingwell stated building permits are taken out for 180 days and if it is not completed the building permit can be extended for another 180 days and at times two or three further extensions can be granted.

Commissioner Brough asked if the wind machine has been taken down why would the property have to be restored to its previous condition and who would decide what the previous state was.

There was discussion regarding what the definition is of restoring the property to its previous condition and if it could be rephrased to indicate the tower and the turbine would have to be removed without indicating the property would have to be restored to its previous condition. It was agreed by the Commissioners to remove the portion of the code referring to the property having to be restored to its previous condition and have it state that a private wind system must be removed within 180 days where the building permit and/or the conditional use permit has expired.

Mr. Kingwell continued the review of the ordinance with the item referring to Aesthetics and Maintenance.

Commissioner Brough asked why there are specific colors stated as acceptable when there may be other landscapes that would allow the towers to be a different color and still be compatible with the surroundings.

Mr. Kingwell indicated other colors could be reviewed during the conditional use permit process.

There was continued discussion regarding the acceptable colors and if there should be limits or not and it was agreed that the wording contained in the draft ordinance was acceptable.

Mr. Kingwell continued the review of the ordinance stating the next session had to do with noise and he had relied on information from other counties and used averages from the different counties for the draft ordinance.

Commissioner Larason provided information that when considering decibel sound limits, normal conversation is 50-55 db.

Commissioner Larason asked for clarification regarding the regulation that a private wind energy conversion system must not be artificially illuminated and what staff had in mind.

Mr. Kingwell indicated he was not speaking about illumination for aeronautical purposes but lights being mounted on the tower to illuminate a yard that would make the tower more visible to the public.

Commissioner Larason stated he felt a light should be allowed in the instance that someone would be walking or working in the area of the tower at night.

Commissioner Brough stated he doesn't understand why the tower could not be illuminated and felt that portion of the code needs to be changed.

Mr. Kingwell indicated the exclusion of lighting on the pole would be for the same reason that the tower would be painted a neutral color so it would not be a prominent feature on the landscape.

It was agreed that the wording for restricting a private wind energy conversion system from being illuminated as contained in the draft ordinance presented by Staff would remain as stated.

Mr. Kingwell continued the review of the ordinance addressing the items one at a time. He indicated he would contact the air ambulance company(ies) to inquire whether the towers should be lit for safety purposes in connection with their operation and provide an exception when addressing the towers not being artificially lit unless required, in writing, by the FAA or other applicable authority that regulates air safety.

Commissioner Brough asked Chairman Judd to return to the item that indicated feeder power lines from the turbine must be buried underground from the towers base to whichever structure houses the balance-of-system components and asked Mr. Kingwell why this item was included.

Mr. Kingwell indicated it looks cleaner and it would be difficult to run the wiring from the tower to the structure where the components would be housed in addition wind and weather could cause some problems with exposed wires.

Commissioner Brough indicated the same circumstances could happen with existing power lines that are located throughout the County.

There were comments that all new subdivisions require the power lines be underground and it was agreed by all of the Commissioners that the lines be buried underground.

Mr. Kingwell finished reviewing the portion of the ordinance that refers to private wind machines.

Chairman Judd called a five minute recess.

Mr. Kingwell stated all of the residential districts are redundant when it comes to the regulations of private wind machines which will include the Special Lands District, the Agricultural Residential District, the Agricultural Recreation District, AR-CRD-1, Agricultural-Residential Conservation Reserve District with a minimum of 2.5 acres, AR-CRD-2, Agricultural-Residential Conservation Reserve District with a minimum of 5 acres.

Commissioner Hartley asked Mr. Kingwell if a motion would be required to include all of the districts.

Mr. Kingwell answered that there would need to be a consensus and the other districts would be residential districts; Residential I is 6,000 square feet and no application as minimum and maximum parcel sizes do not contain enough area for a private wind machine, Residential II is 10,000 square feet minimum and the same situation and these are better suitable to solar applications.

There was discussion that as long as the criteria for a private wind machine could be met in the residential districts they would be considered and it was agreed the residential districts would be addressed at a later time.

Chairman Judd opened the meeting to public comment on the draft ordinance.

Paul Bottari, Elko County Association of Realtors and personally, stated when talking about smaller wind turbines that there needs to be a provision to allow the smaller units and be able to mount them to the roof and he has seen them used in areas. He added that parcel size should be a consideration because of the opportunity for more conflict with the neighbors and once it gets to 40 acres or more there shouldn't be as much conflict and would not need as much regulation. He indicated he personally has a problem with the provisions of removing the tower and he thinks if it isn't hurting anyone else the government shouldn't tell someone they need to take it down and it should be up to the property owner. He continued stating restriction of colors tied to the tower is fine but if it is tied to the motors it shouldn't be restricted unless it is in a subdivision and/or has CC&Rs. He explained that a tower has been constructed by the Moor exit and the adjoining property owners were not notified and it has a blue and red blinking light on top if it and stated if there is going to be a blinking light the neighbor should have input but not on the color of the tower. He indicated noise levels are hard to determine and if it is a larger parcel it is not as critical as a smaller parcel. He repeated that he felt larger parcels shouldn't have as many requirements as smaller parcels. He continued that he felt advertising should be allowed on the tower but the size of the parcel should be

taken into consideration. He further indicated illumination should be defined better because he doesn't understand if illuminating means just the tower so it can be seen by someone coming by or putting a light up that would bother a neighbor.

Mr. Kingwell stated the only light that would be allowed on the tower would be a rotating beacon or aircraft warning light approved by FAA and/or air ambulance. He indicated the tower that Mr. Bottari was referring to had gone through the Planning Commission and air ambulance requested the blinking light be placed on it for safety due to the fact that they fly that highway often for accidents. He added that the noise levels will be measured at the property line and if the parcel is 40 acres there wouldn't be any impact.

There was discussion about what would trigger the County to begin the measurement of time for the repair or removal of a wind machine if it was no longer in operation and if that should be different for different sized parcels.

Commissioner Hartley indicated the code is a baseline and a starting point for everyone and it can't be based on one person's desires over the majority of the county.

There was discussion about the neighbors being able to provide input during the conditional use permit process.

Scott Baker stated he didn't feel a person that has a 40 acre parcel has any more rights to use their property than someone that has a one acre parcel.

Commissioner Brough indicated one of the issues is shadow flicker and if you have a 40 acre parcel you can put a 90 foot tower where it doesn't shadow flicker on your neighbor.

There was discussion about where homes and towers could be located on a 40 acre parcel in comparison to a one acre parcel.

Mr. Baker asked what neighbors would be notified during the conditional use permit process.

Mr. Kingwell stated the thirty closest property owners are notified and if someone else wants to be notified they can contact the Planning & Zoning Department and request to be put on the distribution list for Elko County Planning Commission agendas.

Ignacio Reyes indicated he understood what Mr. Bottari was describing but felt it related to a reasonable person and not everyone is reasonable and that is why government has to be involved. He added the requirement to remove the tower would be an incentive to the owner to keep it maintained and operable which is the whole idea for the wind turbine.

Mary Royce, representing EnergyCo, asked if she could look at the definition of private wind machines in the code and identified a concern that a property owner may string numerous machines together that would be in excess of 100kW on one parcel of land if it is not addressed in the code.

Commissioner Larason stated there could be twenty machines but the total would not exceed the 100 kW.

Mr. Kingwell indicated it is addressed in the code which states not more than one (1) private wind machine or a combination of wind machines with a total capacity of 100 kW shall be allowed per parcel.

Lou Ash, member of the Committee of Architecture for Spring Creek, asked when the code is going to be completed.

Mrs. McQueary gave an overview of the process that would have to be followed before the draft ordinance could be adopted by the Elko County Commission and indicated she thought it would be April or May before the code would become effective.

Mr. Ash thanked the Commission from excluding micro turbines of 2kW or less and asked if it was reasonable to address more than one turbine on a tower adding that micro turbines lend themselves to more than one on a tower.

Mr. Kingwell stated he would have to look into the issue because he is not familiar with the concept and he is willing to accept comment and/or information on the idea.

Mr. Ash indicated he felt abandoned towers sooner or later would kill children and they should be removed. He further added he is looking forward to getting this done.

Mr. Kingwell continued with the review of the code addressing Commercial Wind Energy Conversion System Test Sites and indicated he would address any concerns the Planning Commission had instead of reading through the code.

There were no concerns identified by the Planning Commissioners for the Commercial Wind Energy Conversion System, Test Site Requirements part of the draft ordinance.

Mr. Kingwell again indicated he would address any concerns raised by the Commissioners regarding the portion of the code referring to Commercial Wind Energy Conversion System Requirements instead of reading through it all.

Commissioner Hartley indicated she felt the overall height of commercial wind machines being 600' was extensive.

Mr. Kingwell indicated after speaking with Washoe County and Douglas County he had changed the height from 400' to 600' because the industry has a design for a 600' tower to generate more electricity. He added if they are painted or are a color that is non-obtrusive they would blend in with the landscape after a certain distance.

Commissioner Hartley asked if there is a minimum parcel size that these types of towers would be allowed to be placed on.

Mr. Kingwell indicated once the setbacks are addressed the towers would only fit on larger parcels.

Chairman Judd asked what the minimum parcel size would be.

Mr. Kingwell read through the setbacks portion of the code relating to commercial wind energy conversion systems.

Commissioner Larason asked about the requirement of a setback of one mile from any structure and if it included the line shacks that the cowboys would stay in when out fixing fences.

Mr. Kingwell indicated it would include those structures but felt the location of the wind systems would not be in close proximity to these types of structures and didn't foresee it as a problem.

There was discussion regarding whether the requirement that the property be restored to its previous condition be included if a commercial system is not used and whose responsibility it would be to remove the tower(s) and do the restoration.

Commissioner Larason asked if a requirement of a performance bond could be used for the future costs of removal of a wind system for a commercial use.

Mrs. McQueary stated it could be but it would have to be restricted and it couldn't be open ended.

Mr. Kingwell continued the review with the permit application requirements for commercial wind energy conversion systems.

There was no comment or revisions to the permit requirements from the Planning Commissioners.

Mr. Kingwell indicated he would need to go through the code and change the wording to be similar in all of the residential districts.

Commissioner Hartley asked if Residential 1 and 2 needed to be addressed again.

Mr. Kingwell indicated Residential 1 and 2 would need to be addressed in addition to General and Light Industrial districts and suggested Residential 1 and 2 be addressed at the next meeting along with micro wind turbines. He continued reminding the Commissioners that any of the changes that had been suggested at the meeting will not be reflected in the industrial districts.

Chairman Judd called a five minute recess.

Chairman Judd indicated he was going to adjourn the meeting and Mr. Kingwell was going to revise the code to include the suggested changes from this meeting and bring it back for review at the next meeting. He asked for public comment on any other items of concern.

Mr. Bottari indicated he had a concern with the setback requirement of one mile from any off-site dwelling(s) or other occupied buildings and asked if there is a ranch house within one mile why it would have to be removed to accommodate the wind tower.

Mr. Kingwell informed Mr. Bottari he would contact him outside of the meeting and take his concern into consideration before the next meeting.

MOTION: Commissioner Brough moved to accept all of the revisions and changes made to the draft ordinance at the meeting. Commissioner Hartley seconded the motion.

Mr. Kingwell suggested the motion be specific to each zoning district.

Commissioner Brough asked if there would be a final draft presented to the Planning Commission for review and approval.

Mr. Kingwell indicated there would be a final draft and an opportunity for the Planning Commissioners to review it again.

Mrs. McQueary recommended that this item be continued to the regular meeting to be held next week to make sure to follow open meeting law and will also provide notice to the interested parties present at the meeting.

Commissioner Brough withdrew his original motion and Commissioner Hartley withdrew her second to the original motion.

MOTION: Commissioner Brough moved to review the changes made at the meeting in a final draft form until the next meeting and continue the item to the regular meeting to be held next week. Commissioner Hartley seconded the motion and the motion passed unanimously.

VOTE:

AYE: Mike Judd
Jack D. Larason
Wilde Brough
Milt Grisham
Dena Hartley

NAY: None

ABSENT: David A. Galyen
David Hough

ABSTENTIONS: None

IV. STAFF AND COMMISSIONERS COMMENTS:

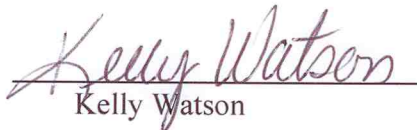
NON-ACTION ITEM

No comments

V. ADJOURNMENT

Chairman Judd adjourned the meeting at 7:40 p.m., as there was no further business.

Minutes Clerk,


Kelly Watson

Date Approved, March 17, 2011