



Elko County Planning Commission

540 COURT STREET, SUITE 104, ELKO, NV 89801
PH. (775)738-6816, FAX (775) 738-4581

ELKO COUNTY PLANNING COMMISSION SPECIAL WORKSHOP MINUTES

THURSDAY, MARCH 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 **March 10, 2011**, in Suite 102, of the Nannini Administration Building, Elko, Nevada.

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

Absent : Wilde Brough – Excused
David A. Galyen– Excused

Others Present: John Kingwell, Associate Planner
Kelly Watson, Planning & Zoning Administrator
Kristin McQueary, District Attorney’s Office
Paul Bottari, Elko County Association of Realtors and self
Bert Gurr, self

I. PLEDGE OF ALLEGIANCE:

Allegiance pledged.

II. APPROVAL OF MINUTES:

ACTION ITEM

January 13, 2011- Special Meeting

MOTION: Commissioner Larason moved to approve the minutes as written. Commissioner Hartley seconded the motion. The motion passed unanimously.

VOTE:

AYE: Mike Judd
Jack D. Larason
Dena Hartley
David Hough
Milt Grisham

NAY: None

ABSENT: David A. Galyen
Wilde Brough

ABSTENTIONS: None

III. COMMENTS BY THE GENERAL PUBLIC: NON-ACTION ITEM

There were no comments made by the general public.

IV. 10-1500-0001, Wind Turbines & Towers – Code Development Workshop, Review and possible approval of final draft. ACTION ITEM

Elko County is in the process of developing a wind energy development code. The workshop topic is review and possible approval of the final draft.

Mr. Kingwell began review of the code with the requirements for a micro wind energy conversion system and private wind energy conversion system and recommended the Commissioners interject if they had any questions or comments during the review.

There was discussion regarding under what circumstance the placement of a wind energy conversion system would be required to apply for a conditional use permit as contained in the draft code and how many systems could be placed on a parcel.

Commissioner Hartley expressed concern about micro wind machines that will be allowed without a conditional use permit.

Commissioner Larason asked what the portion of the code indicating the wind energy system having to be an accessory use to an existing principal use would mean to someone who wanted to utilize a wind energy system on a vacant parcel of land as opposed to paying the power company to run power to their property.

Mr. Kingwell stated this is what the application is for; parcels that it is too expensive to bring power to because of its location to existing power. He added that parcels zoned Open Space allow principal uses to be ranching and related uses which could be almost anything and he didn't see that being a problem.

Mr. Larason explained the County has had a policy in the past where a building permit would not be issued until the power has been installed and when he was going to develop his property in Lamoille

he was told by the power company he couldn't get power until he had a primary use and he would need to go back to the County. He added that once he explained he needed it for his well for his cattle he was able to obtain a permit to put the power in.

Mr. Kingwell indicated a principal use could be ranching and/or stock watering.

Commissioner Larason stated he didn't want to stop someone from using a wind energy system because they didn't want to get power from the local power company.

Mr. Kingwell indicated the purpose for the wind energy systems was to provide electricity to homes and have a way to produce power that is cheaper or be off grid or if the regular system goes down they will still have power but at the same time protect from wind towers being constructed on parcels that are never developed. He added that the language had already been approved in other portions of the code including the setbacks.

There was further discussion regarding the need for a principal use to be established before an accessory use and how that would be viewed in a residential area compared to an open space area and how the County has been handling the different situations.

Commissioner Hartley asked what was behind the creation of the item that allowed wind machines to be closer to a property line if the abutting property owner(s) grant written approval of the proposed setback.

Mr. Kingwell indicated on Mountain City Highway there was a cell tower within a couple hundred feet of the road but for the person to be able to utilize their piece of property they wanted to place it within the setback and close to the fence line of the BLM and they obtained written permission from the BLM to allow it and this requirement is similar to that example.

Commissioner Larason quoted the item indicating lighting may be permitted when requested by an air ambulance service and asked what was meant by the word "may" because he felt it was discretionary and not a requirement.

Mr. Kingwell indicated it may be required by the air ambulance service but it would be up to the board to make the decision.

There was continued discussion about the requirement and the instances of when lighting may be requested by air ambulance services.

Mr. Kingwell continued with the portion of the code regarding the permit application and what would be required for submittal.

There was discussion regarding the requirement of a maintenance plan being submitted with an application and whether it would cause some level of liability for the County or not and that the responsibility of the maintenance would be the owners and their successors.

Mr. Kingwell explained the reasoning behind the addition of the portion of the code regulating non-commercial meteorological towers.

Upon complete revision of the portion of the code for non-commercial meteorological towers, Chairman Judd opened the meeting for public comment.

Paul Bottari, representing Elko County Association of Realtors and himself, indicated one of their biggest concerns is the requirement of a conditional use permit and renewal of that when the property sells. He added their preference would be once the towers are constructed there wouldn't have to be any renewal upon change of ownership. He continued stating other counties requirements are less complicated and only require a special use permit and building permit instead of an ordinance that could require numerous employees to administer if all of the rules are followed through. He continued with his personal concerns and the concerns of the Elko County Association of Realtors.

Mr. Kingwell and the Commission addressed questions and concerns expressed by Mr. Bottari.

Mr. Bottari added that upon sending a copy of the draft ordinance to a company that had asked him to look for property for a wind farm, the company indicated that Elko County was too restrictive and he could stop looking for property. He summarized that their major concern is a conditional use permit being required to be applied for by any subsequent owners of the property after the tower has been constructed and in use.

Commissioner Grisham noted that Mr. Bottari had a valid point regarding a conditional use permit being required for every subsequent owner of the property.

Commissioner Larason interjected that the point was brought up by him during the process and the outcome could be different for each application depending on the members of the board and the opinion of the neighbors.

Commissioner Hartley stated since it is already in the code for other conditional use permits, if the property sells then someone has to come in and apply under their name and the contract can be contingent upon receiving approval and it needs to be consistent. She added that she couldn't see the Commissioners denying a request once someone has made the investment because a couple of neighbors had changed their mind and again stated it needs to be consistent.

Mrs. McQueary indicated as long as she has been council for the Planning Commission, renewals of variances and permits have not been a problem as long as the conditions of the permit have been followed. She further added that there will be strong presumption if someone comes in for a renewal of the permit and all of the conditions have been met and the neighbors will need to make a strong argument for the Commission to deny the permit particularly after an established use.

Mr. Kingwell reviewed specified conditions of approval of a conditional use permit as currently contained Section 4-9-6 (D) of the code and asked how someone would know the terms and conditions if they didn't have to apply for a conditional use and how would Staff know if something has changed regarding the use.

Bert Gurr indicated in the requirements where the plans must be stamped by an engineer licensed in the State of Nevada, it would be beneficial to state the NRS that supports that requirement. He asked about the one mile setback required in the commercial portion of the code that Mr. Bottari had expressed concern with indicating Mr. Bottari asked a question and was not answered.

Mr. Kingwell indicated if land is parceled into smaller parcels the placement of the tower could cause a non-conformance issue if the regulation was not in place and he added that he felt this would not be an issue due to the placement of commercial wind machines on ridges where houses would not be constructed.

There was continued discussion regarding the setback requirement within the commercial wind energy conversion systems portion of the draft code and the amount of land that would be excluded due to that regulation.

Commissioner Hartley asked if there is any way to increase the parcel size because within the code it indicates a private wind energy conversion system can be placed on a one acre parcel and she has a problem with that.

Mr. Kingwell indicated it could be changed if that was the pleasure of the board.

Commissioner Hartley indicated since the system would not require a conditional use permit the neighbors would not have the opportunity to provide input.

Mr. Kingwell indicated there wouldn't be a requirement of a conditional use permit only if the tower was forty feet (40') or less which is about the height of a three story house.

There was no further discussion.

MOTION: Commissioner Larason moved to forward the proposed draft ordinance as corrected to the County Commissioners for their review and determination. Commissioner Grisham seconded the motion and the motion passed unanimously.

VOTE:

AYE:	Mike Judd Jack D. Larason Dena Hartley David Hough Milt Grisham
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NAY:	None
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ABSENT:	David A. Galyen Wilde Brough
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ABSTENTIONS:	None
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V. STAFF AND COMMISSIONERS COMMENTS: NON-ACTION ITEM

There were no comments by Staff or the Commissioners.

VI. ADJOURNMENT

Chairman Judd adjourned the meeting at 6:59 p.m., as there was no further business.

Minutes Clerk, *Kelly Watson*
Kelly Watson

Date Approved, April 21, 2011