

The Allen County Board of Commissioners met in regular session at 8:30 a.m. with Chairperson Jim Talkington, Commissioner Jerry Daniels (via conference call), Commissioner Thomas R. Williams and Sherrie L. Riebel, Allen County Clerk.

Bob Johnson, Iola Register, Bryan J. Murphy, Allen County Sheriff, Tom Nevans, Veteran's Day Committee representative, Marc and Virginia Peters, Mark and Virginia Spillman, citizens, Wayne and Nancy Chandler, citizens, Larry Walden, citizen, and was present to observe the meeting.

Commissioners approved the minutes of the October 24, 2017 meeting.

Ron Holman, Allen County House and Grounds Director, discussed the area around the clock and would like to put edging around it to match the bandstand. The bid is from Custom Borders for \$425 for a semi-circle in front of the wall. Commissioner Williams moved to approve the bid, Commissioner Daniels seconded,

Ron asked to donate extra lights to the Humanity House for the lights on the grounds, Commissioners approved him to loan the lights to them.

Tom Nevans, Veteran's Day Committee representative, requested to put green screens over the flood lights around the court house in honor of veterans. This would be from November 6<sup>th</sup> through the 16<sup>th</sup>. Commissioners approved.

Tom Nevans reminded the commission that other people will be wanting to put up other colors representing pink/blue and so on.

Tom Nevans requested to put up a sign on November 10<sup>th</sup> that says Happy 422<sup>th</sup> Birthday to the Marine Corp.

Larry Walden presented information from the USD #257 bond election in 2014. He wanted to thank the commission for paying for the bond issue that failed. Commissioner Williams stated he didn't agree with that statement.

Debbie Bearden, requested Chairman Talkington to sign the grant via electronic signature. Debbie will send to Allen County Clerk and she will get to him.

Chairman Talkington asked about a letter concerning Honor Flight's requesting donations. No action was taken.

Commissioners reviewed an application for Financial Assistance Public Transportation Program for operating funds for 2018. Commissioner Williams moved to authorize Chairman Talkington to sign the KDOT grant for funds. Commissioner Daniels seconded, motion passed 3-0-0.

Mitchell Garner, Poured deck on California and will get handrails done as well this week.

Mitch reported the old hanger is down, they had to add 4' concrete to make other hanger fit. Commissioner Daniels stated Cole Herder reported the debris under bridge looking good.

Sheriff Murphy discussed a request from Don Burns about the intersection on 1650 Road and Rails Trails has people parking there and the rise needs to have a small pullout so the cars aren't in the road. Mitch will go and look at it. Discussion followed.

Alan discussed the hospital bond refinance. He needs a motion and second and vote to give notice of the bond. "Thereupon, Commissioner Tom Williams presented a motion for the purpose of giving notice and instruction to the Allen County, Kansas Public Building Commission to provide for notice of conditional redemption of the Public Building Commission's Revenue Bonds, Series 2013 (Allen County Hospital Project) and to take all necessary actions in connection therewith; provided that the issuance of additional bonds of the Public Building Commission for the purpose of refunding the Series 2013 Bonds is subject to the passage of additional resolutions by the Allen County Hospital Board of Trustees, the County, and the Public Building Commission authorizing such issuance and the execution of a supplemental Trust Indenture prescribing the form and details of such bonds. The motion was seconded by Commissioner Jerry Daniels, and approved by the following roll call vote: Yea: Jim Talkington, Tom Williams and Jerry Daniels. Nay: None". Motion passed 3-0-0. Alan explained the next steps of the bond refinance to be expecting.

Alan asked about hospital trustee candidates. He will send out a list to the commission to see who they would like to have him contact concerning serving on that board. Harry Lee and Debbie Roe's term will be expiring on December 31, 2017.

Alan checked into opioid litigation with KAC. Melissa A. Wangemann General Counsel & Director of Legislative Services Kansas Association of Counties is checking into it. There would be a lot for the county to do if they join the lawsuit.

Commissioners adjourned to the assembly room for a decision on the Allen County Planning Board zoning recommendation on the CWEP application of Prairie Queen Wind Farm, LLC, a subsidiary of EDP Renewables due to so many people attending the commission meeting. Those present in the assembly room in addition to the commissioners were Jim Shetlar, Bryan Sloan, Patti Boyd, Wayne and Nancy Chandler, Virginia and Mark Peters, Larry Walden, Jenny and Mark Spillman, citizens or landowners, Sandra Drake, Allen County Appraiser, Steve Kennard and David Neely, EDP Renewables, Alan Weber, Allen County Counselor, and Sherrie L. Riebel, Allen County Clerk.

Alan stated the purpose of the meeting was for the commission to review the zoning board's recommendation to accept the CWEP Special Conditional Use Permit for property located in Allen County, Kansas. The property is currently zoned Agricultural. The requested Special Use Permit would permit: The construction and operation of a 200-megawatt Commercial Wind Energy Project (CWEP) to be comprised of approximately 56 wind turbines, a central collector substation, an operations and maintenance building, an overhead transmission line, underground collection lines and above ground access roads. The project is owned by Prairie Queen Wind Farm, LLC, a Delaware Limited Liability Company (f/k/a Moran Wind Farm, LLC) a subsidiary of EDP Renewables. This special use application was received on September 22, 2017. Last Thursday, October 26, 2017 the planning board met for a hearing. There were 265 notices sent within the area plus a one-mile radius outside the area. Publication notice was also made in The Iola Register and the Humboldt Union. At the conclusion of that hearing, the planning board unanimously recommended to the Allen County Commission that the CWEP be approved. Alan advised the county commissioners that they should accept the planning board recommendation unless they feel the Board acted arbitrarily. Chairman Talkington stated he hadn't had time to read everything yet and began reading the minutes of the Planning Board Meeting. Patti asked what he was reading; he stated the minutes from the CWEP meeting last Thursday evening. Mark Spillman asked if the planning board was 7 persons and 5 voted for it; the answer was yes, still a quorum. Larry Walden stated Roberts Rule of Order is if a person is absent then it is an affirmative vote. Not all agreed. Jim Shetlar stated that he felt that proper notice of the commission meeting was not

given. . Alan Advised that proper notice of the Planning Board meeting had been given by publication and by mail in accordance with law. The presentation of the matter to the commission was listed in the current agenda. Mr. Sheltar stated that he lives outside the CWEP area but adjacent to it and had no idea they were doing them that close. The first time he had notification was when Alan sent him a letter about the zoning meeting. He allowed that the commissioner agenda listed zoning as a topic but was not specific that it was on the windfarm! He discussed talking with a realtor in Emporia on economic impacts and asked if there had been a study of impact on livestock?

Commissioner Williams stated there might be legal issues if the commission did not approve the recommendation from the planning board unless they found that they were in some way arbitrary. Alan stated if the commission did not act upon the recommendation there might be issues. Jim Sheltar asked if the commission or Alan were aware of a case called the "Golden Case" and was advised that they were. He discussed not having proper answers about demolition and value of adjacent properties. Jim Sheltar stated he had visited with realtors from Emporia who said property values drop 15-20% in property due to powerlines.

Commissioner Williams stated he had not heard anything negative when he visited with individuals living by the Waverly Wind Farms. He referred to a farmer who had lived by one and the first 3 months heard them and after that was used to it; noticed it when they stopped them for maintenance. Commissioner Williams visited with people who live there that reported the roads are better than ever. He talked to people in Anderson County and they stated it was more about placement than not wanting wind farms.

Mark Spillman questioned the commission on whether they considered the health, people, animal & wildlife or any property values. Whether they would show a drop in property value of 30 to 40% or more. If he gets headaches and he decides to move who is going to make up the drop in value of his land; the commission/county or the wind farm owners. If the county commission makes the decision to have the wind farm is the county commission going to make up his net worth on his property?

Commissioner Williams stated as a commissioner he has to look at what is best for the entire county of Allen.

Jenny Spillman asked if the commission was going to sell out all the people for just a few hundred bucks; to sacrifice these people? Patti Boyd asked about the PILOT (Payment In Lieu Of Taxes) the county would be getting; just how much. Commissioner Williams stated that isn't something they want to look at at this time.

Stevee Kennard, EDP representative, stated in year 11 the company would be paying over 1 million dollars in taxes.

Jim Sheltar asked about open records. Bryan Sloan commented there is usually several meetings before a decision is made. Nothing was covered on possible devaluation of adjacent property; there was no fact finding done. He continued on the possible decrease in the values of property. Patti stated she thinks the commission should send back to the planning board and make them look at these. Patti stated all three of them, (herself, Jim Sheltar, and Bryan Sloan) are attorneys. Jim Sheltar stated there are statutes regarding taking of property. He presented exhibits: 1. The letter he received for notification for zoning hearing; 2. Patti Boyd's letter to the editor of Iola Register; 3. Email from Mark Spillman to the county commission; and 4. A picture of Wayne Chandler's property effected.

Chairman Talkington asked Sandra Drake, Allen County Appraiser, about property values. Sandra replied there is no way of knowing if values would drop. Ag values are up and not effected by overhead lines. She acknowledged that people said Monarch would hurt their property values if they

put in a quarry and it didn't; people said if there is an airport by them it would hurt their property values and it didn't. She did say none of the zoning board members asked her about property values.

Alan explained that there is exposure to litigation whichever way the county goes. The standard to consider is did the Planning Board act reasonably and not in an arbitrary or capricious manner in making its recommendation. Alan also pointed out that the issues raised today were all considered by the Planning Board at their meeting last Thursday and multiple times during all of the public meetings held when the wind farm criteria were developed in late 2016 and early 2017.

Patti asked Alan to clarify his comment! Did the planning board act reasonably? Alan explained that the zoning powers of the county must be exercised reasonably and not arbitrarily or capriciously.

Mark Spillman asked the commission if they had to do what was recommended to them by the planning board? Alan has advised the commissioners that they do not have to follow the planning board recommendation but should unless they find those recommendations were arbitrary. Commissioner Williams asked if Mark Spillman knew any of the planning board. Mark advised that he did. Mark further commented that there was talk upstairs (in the commission room) about the Revolutionary War protecting people from the decisions made by the government. He felt this is the same.

Bryan Sloan requested once again to send it back to the planning board for review of the possibility of devaluation of property.

Chairman Talkington stated he thought all had a concern over property values.

Mark Spillman discussed his concerns how the turbines would run off wildlife, cause headaches and overview of all sorts along with property values. How there wasn't much discussion on the negative effects.

Larry Walden commented planning is not new to the procedures of planning board. That there was only 3 out of 30 persons in attendance at the hearing that even protested the wind farm.

Commissioner Williams stated all the planning board are neighbors, friends and no one of them are underhanded.

Stevee stated she has a background in environment, doing the best they can. She chose to work for a company because they are stewards of the environment. Otherwise she would not be working for them. She explained there are all types of land with wind farms on them; none of the landowners have ever complained about land values, wildlife and so on...just clean source of energy for the future.

Jim Sheltar commented that yes, he did know about the wind farm due to rumors of one but a year ago but was not concerned then as he thought they would be located in a different area in Allen County not around him and his neighbors. Most of the landowners within the area of the wind farm are smaller and they need to slow down and make sure all needs are met. Since internal reports are proprietary and not being shared how do they know they were done at all.

Stevee stated the reports from the individual companies are not public record but the letters sent by public agencies are. Mark commented of course any studies done by the company would support the company because they are paying them for the report; hired by them.

Wayne Chandler stated he lives west of US Hwy #59 and there will be 6 turbines within a couple of miles of him and a high voltage power line on the property north of his which he felt would probably cause his television to have bad reception.

Stevee stated Mr. Chandler expressed concern about his TV reception if a line went in by him. They sometimes compensate the individual with a getting them satellite T.V. to provide good reception and \$300 a year compensation if they participate in a neighbor agreement.

Larry pointed out that Jim Sheltar didn't have an issue with the wind farms until they were located in his area.

Jenny Spillman discussed that no one checked out the pros and cons she found listed on the internet. Sandra asked her what state the land valuation studies came from? Jenny replied Wisconsin. Sandra stated people cannot blame things on wind farms it could be economics, you can't predict it, everything would have to match up to be able to tell and you can't match anything up.

Mark Spillman stated he would have to make a decision whether the area would be safe for his children; not to sell out to move to the city but another place away from the wind farms.

Jenny stated for the record they should look at the cons.

Alan stated there would be significant problems for landowners if there was no zoning but Allen County has done zoning as a part of its comprehensive plan. Further, the wind farm criteria was developed over a period of over 6 months with multiple public hearings.

Patti asked if she could speak or if that was the conclusion of the hearing. She has letters with comments from her. They need to look at and determine if the planning board was reasonable without insulting the planning board. Commissioner's need to consider people living right next to the wind farms, EDP was able to present their case, did not cover what other options have been. They have been stewards of the land being connected to their area. They will live in the area adjacent to the wind farm Owners with smaller acreages may want to sell their property in this area! Look, flicker, flash, flash, flash- Waverly told them and they can't complain about it due to them contracting away their rights to complain – under contract they (EDP) could require them to testify for them in favor of the wind farms. She has way less faith in EDP because they wouldn't tell people how much the turbines cost or make. Some people are going to move and there is growing resentment over this wind farm project. Maybe even have direct health problems. Main thing is it is not a little zoning problem; there are thousands of acres, Commissioners don't know how much these landowners will be making; few actually live on their property where the wind farms are located.

Stevee stated that the distribution of the turbines is because they have set back regulations they have to follow.

Commissioner Daniels stated he has reviewed all the paper work and there are over 500 parcels and 70 landowners dealing with the wind farms; all of which will help supplement the farm income unlike rock quarries and pipelines that others deal with. Approve or disapprove, the zoning board made a recommendation to the county commission.

Patti stated by using the zoning the county does tell people what they can or can't do with their own property. She stated there was not enough outreach they should have included LaHarpe, Gas, and Lola in the notifications. The conversation was too narrow.

Chairman Talkington stated he would like to send it back to the planning board for more research on property values, land nearby, overhead lines.

Commissioner Williams moved to approve the recommendation by the planning board. Commissioner Daniels seconded, motion. Chairman Talkington called for a vote: Commissioner Williams and Commissioner Daniels voted yea, Chairman Talkington voted nay.

Commissioners adjourned to reconvene in the commission room.

Commissioners approved the following documents:

- a) Clerk's Vouchers -\$63,408.93
- b) Payroll Changes
- c) Clerks Journal Entry - #65

With no further business to come before the board, the meeting was adjourned until November 7, 2017 at 8:30 a.m. in the Commission room of the courthouse.

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Jim Talkington, Chairperson

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Thomas R. Williams, Commissioner

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Sherrie L. Riebel, County Clerk

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Jerry Daniels, Commissioner