

***FULTON COUNTY
AREA PLAN COMMISSION***

FULTON COUNTY OFFICE BUILDING
COMMISSIONERS/COUNCIL ROOM
MONDAY, SEPTEMBER 25, 2017
7:00 P.M.

CALL TO ORDER

**AREA PLAN COMMISSION MINUTES FOR:
AUGUST 28, 2017**

OLD BUSINESS:

**NEW BUSINESS:
Amendments to Wind Ordinance**

PLAN DIRECTOR REPORT:

PUBLIC COMMENTS:

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY AREA PLAN COMMISSION
August 28, 2017

**FULTON COUNTY
AREA PLAN COMMISSION**

MONDAY, AUGUST 28, 2017

**7:00 P.M.
COMMISSIONERS/COUNCIL ROOM**

CALL TO ORDER

**AREA PLAN COMMISSION MINUTES FOR:
June 26, 2017**

OLD BUSINESS

NEW BUSINESS:
Emil Oberg (#26-0817)
Amendments of Wind Ordinance

PLAN DIRECTOR REPORT:

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY AREA PLAN COMMISSION

August 28, 2017

The Fulton County Area Plan Commission met on Monday the 28th day of August 2017, at 7:00 P.M. in the Commissioners/Council Room located within the Fulton County Office Building. Chairperson, Eric Straeter called the meeting to order at 7:00 P.M. The following members were present: Mark Kepler; Bob Cannedy, Debbie Barts, Rick Ranstead, Rachael Moore, Crystal Weida, Jim Widman, Duane Border, Kathy Hobbs, Don Towne, Karen Miller and Eric Straeter. Also in attendance were: Plan Director, Casi Cowles; Board Attorney, Greg Heller, and Administrative Secretary, Heather Redinger.

It is duly noted the following was absent: Paul Studebaker.

IN RE: MINUTES

June 26, 2017

Eric Straeter asked for any additions, deletions or corrections to be made to the June 26, 2017 minutes. Debbie Barts moved to approve the June 26, 2017 minutes as written. Jim Widman seconded the motion. Motion carried as follows: Mark Kepler; Bob Cannedy, Debbie Barts, Rick Ranstead, Rachael Moore, Crystal Weida, Jim Widman, Duane Border, Kathy Hobbs, Don Towne, Karen Miller and Eric Straeter being in favor and no one opposing.

IN RE: NEW BUSINESS

Emil Oberg
(#26-0817)

Waiver from sub-division codes

Emil Oberg (#28-0817) is requesting a waiver from the sub-division codes for the purpose of a split, on property located at 6303 S 250 E, Macy, within the Agricultural (AG) District. The waiver is being requested for the existing home with approximately 1 acre be split off of a parent tract split.

The 10.46 acres was split from 52.83 acres in 2003. Mr. Oberg was required to sell the property, however the code allows only one hassle free split per 80 acres, therefore a waiver from the sub-division code is being requested, to allow the remaining 9 acres to carry the adjoining lot split designation, even though new owner does not own land that adjoins it.

Eric Straeter asked for any Board questions or comments, being none at this time he entertained a motion to open the public hearing. Jim Widman moved to open the public hearing. Debbie Barts seconded the motion. Eric asked if anyone would like to speak in favor or oppose the petition. Being no one to speak, he then entertained a motion to close the public hearing. Debbie Barts moved to close the public hearing. Karen Miller seconded the motion. Motion carried as follows: Mark Kepler; Bob Cannedy, Debbie Barts, Rick Ranstead, Rachael Moore, Crystal Weida, Jim Widman, Duane Border, Kathy Hobbs, Don Towne, Karen Miller and Eric Straeter being in favor and no one opposing.

Eric Straeter asked for any Board discussion.

Being no further discussion, Eric Straeter entertained a motion. Debbie Barts moved to approve Emil Oberg (#28-0817) requesting a waiver from the sub-division codes for the purpose of a split, on property located at 6303 S 250 E, Macy, within the Agricultural (AG) District. The waiver is being requested for the existing home with approximately 1 acre be split off of a parent tract split. Rick Ranstead seconded the motion.

Administrative Secretary, Heather Redinger took a roll call vote.

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Rachael Moore	Yea
Duane Border	Yea
Karen Miller	Yea
Rick Ranstead	Yea
Mark Kepler	Yea
Debbie Barts	Yea
Jim Widman	Yea
Crystal Weida	Yea
Don Towne	Yea
Bob Cannedy	Yea
Kathy Hobbs	Yea
Eric Straeter	Yea

Motion to approve Emil Oberg (#28-0817) are requesting a waiver from the sub-division codes for the purpose of a split, on property located at 6303 S 250 E, Macy, within the Agricultural (AG) District. The waiver is being requested for the existing home with approximately 1 acre be split off of a parent tract split. Passed with 12 votes being in favor and no one opposed.

IN RE: NEW BUSINESS Amendments to Wind Ordinance

**Attached are the changes to the proposed amendments as discussed during the meeting.

Eric Straeter stated the Area Plan Commission will recommend the changes to the Fulton County Commissioners, who must approve or if they do not agree, it would then come back to the Area Plan Commission for further discussion.

Casi stated she would be discussing, 5-1.4. Wind Energy Conversion System (WEC) Standards (WE). She told the Board she had pulled Tipton, Benton, Miami, Cass and White County Codes and compared them to Fulton County. She then stated the language in red is language from other counties. She had also pulled Clinton and Wabash prior to the meeting.

WE-01 had no changes from the existing ordinance. All Board members in favor with WE-01 (12-0)

WE-02: Applicability; she stated there are two versions; the first one would encompass the entire project regardless of the number of phases. The second version would encompass each phase of the project.

After Board discussion the board agreed to the second version with the addition the entire proposed project is presented, with each phase to be approved as presented for development. All Board members in favor with the changes to WE-02 (12-0)

WE-03 Prohibition; the Board in favor with WE-03 (12-0)

WE-04 Height;

Casi stated the Board had received copies of definitions defining the difference between a non-commercial and commercial tower.

The Board discussed how to better define the difference, and agreed to add the language on non-commercial “independently consumed and does not receive monetary compensation for commercial energy” they then added the language on commercial “receives monetary compensation for commercial energy”

All Board members in favor to the definitions with the added language. (12-0)

Eric Straeter asked Casi to define “height” so all Board members and public understand the definition.

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Casi stated WECS Tower height is the distance from the rotor blade at its highest vertical point to the top surface of the WECS foundation at its grade.

A. Non-Commercial; Casi asked the Board if they would like it to be greater than 140' or greater than 200' shall be permitted as a special exception.

Mark Kepler asked where 200' came from.

Casi stated it is language of other counties.

After little discussion they agreed on greater than 200'. All Board members in favor. (12-0)

B. Commercial; no further discussion on the commercial definition, all Board members in favor. (12-0)

WE-05 Setback Regulations; Casi stated she added in the table, other County requirements to compare with our current code.

She then discussed A, B, C, D, E.

Eric asked the Board if they had any discussion or concerns.

Lida Moeller, 9301 S St Rd 25, asked about C, she stated she felt the reciprocal setback is incongruent with the residential setback. She stated she had purchased an additional 2.2 acres, and with the setbacks a residence would not be able to be built upon it.

Casi stated she is correct; a new home would not be able to be built within 1000' of a tower.

Eric Straeter stated he hasn't heard of anyone wanting to build near a tower, but an interested party could apply for a variance to build.

Lida Moeller stated that's her concern, if a tower goes in then she won't be able to sell her property to someone who wants to build a home.

Rick Ranstead asked if they could make the setback from a residence 1000' as well.

Casi stated the setbacks to be discussed are in the table under E.

Eric Straeter asked if there was any further discussion on A-E. There was no further discussion. All board members in favor. (12-0)

Casi then discussed the table of setbacks for Commercial WECS towers.

The distance from a property line is measured from the center of the WECS tower to the property line. Currently Fulton County's setback is 1.1 times the total height. She stated a 600' tower would have to be 660' from the property line. Cass, Miami and White County setback is the length of a blade, which could be 250' to 350' depending on the tower height. Tipton County setback is 1500' and Benton County is the greater distance between 350' or 1.1 times the total height.

Eric Straeter asked about Clinton County.

Casi stated Clinton Count is also 1.1 time the height.

Eric Straeter asked for Board or public discussion.

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Rick Ranstead stated our setback is 1.1 times the height, he asked if they could just change it to a footage distance.

Eric Straeter stated he felt the current code allows towers to be too close to the property line. He feels like it should be at least 2 times the height of the tower, but he is more in favor of Tipton County setback of 1500'.

Rebecca Vanhorn stated she felt the Board needs to think about how they would feel to have to look at these towers if they were next to their property.

Russell Phillips stated he had a procedural question, the Board has already approved certain sections of the ordinance.

Eric Straeter stated the Board will vote after they have discussed the whole Ordinance, he is only taking a hand vote for each section to see if it's an agreement of each individual section.

Russell Phillips, stated to help judge the distance, the height of the Courthouse is 160'; a 600' tower would be approximately 4 courthouses tall. He then stated if the setback is 1.5 the height, a 600' tower would have to be 900' away. He stated from 9th Street to First Federal Bank is approximately 900'.

Terry Lee, FEDCO asked if the setback from the property line applies to participating and non-participating land owners.

Casi stated it would be for non-participating land owners, unless they sign a waiver.

Barry Hazel, stated he understands the reason for the setbacks is for safety.

Eric Straeter stated safety is part of the reason.

Brad Lila, RES, stated the setback being discussed is from the property line, not a residence. A setback of 2 times the tower height or 1500' would make it almost impossible for development.

Glen Bode, if as a farmer I choose not to participate, would my farming procedures be adversely affected, such as crop dusting.

Eric Straeter stated in his own opinion he feels it would be affected.

Jay Powlen, stated crop dusters are special exempt air craft.

Eric Straeter asked him to clarify his statement.

Jay Powlen stated being special exempt air craft means basically they can do whatever they want. He looked into because he had the same concern. He then stated he had concerns about ice built up on the blades and it flings it off.

Brad Lila, stated the newer blades now flex or they are heated to prevent ice buildup, if the ice does happen to build up the tower will shut down.

Eric Streater asked if all new turbines have that technology.

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Brad Lila stated they are all flexible, and they shut down if any build up; ice throws are not an issue.

Casi stated she had gone to White County and spoke with them about GPS in tractors, GPS on irrigation units, crop dusters, and problems with farms. They hadn't had a single complaint on any of those. She stated each project has different factors to consider.

Eric Straeter stated he has done a lot of research in a short amount of time. He stated he had spoken with some experts for GPS and drone technology, they had stated the consensus was there was no significant impact of the GPS for farming or automobiles. Farm use drones are only allowed to go up to 400' per FAA, and it may limit your ability to use the drone with turbines in the field. He then stated he spoke with pilot, and asked him about his concerns, he stated his concerns were emergency landing of helicopters.

Jeff Moeller stated the reason you won't hear a lot of complaints, is because the company puts a gag order on the contracts. He feels that is a real serious issue, if the Board passes this without making it right.

Walt Talbott, asked what are the restrictions for a private pilot flying close to the turbines.

Brad Lila, stated he was unsure of the answer.

Walt Talbott stated he was told it was 2 miles.

Brad Lila stated there are numerous towers all over the United States and he has never had an issue with crop dusters.

Walt Talbott stated there have been 4 crop dusters killed in the last few years, he then asked if there were lights on the tips.

Brad Lila stated they are lighted on the top.

Walt Talbott stated he felt that was illegal; it should have lights on the tips.

Brad Lila, stated that is not accurate.

Russel Phillips stated with regards to the crop dusting, with his research he stated the farmers should expect an additional cost, due to being more risks.

Matt Berry, stated Townsends Aviation, a crop duster company in White County uses helicopters for crop dusting if the towers are too close. He has not heard of any issues.

Eric Straeter stated he would like to have Board discussion on the property line setback. He stated he felt he was more in favor of 1500', mainly for safety reasons, that have been discussed.

Terry Lee, asked how does 1500' fit in with the other counties. If it is 1500', the Board is doubling of the current setback. The setback is a very important factor.

Eric Straeter stated they have a few counties for comparison, but he doesn't feel that was enough.

Mark Kepler, stated he felt the length of the blade is too short.

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Debbie Barts agreed.

Casi stated Tipton had changed their code, due to political reasons. The code was changed to restrict the turbines into the county, because of the political issues. She asked the Board to keep that in mind.

Eric Straeter, stated he felt the current distance is too small, and he thinks it should be 1500'.

Lida Moeller, stated she had other setbacks, Wabash is 2640' to the property line, Whitley 2640', Wells is 1800', Rush is 2300'. She stated she felt the Board need to have a wide research of counties.

Eric Straeter agreed they needed more counties comparison.

Brad Lila, stated if 1500' is chosen, it is most likely you would be banning the towers from coming onto Fulton County.

Russell Phillips, asked if they were discussing property line setbacks or residential.

Eric stated they were discussing property lines.

Josh Francis, Miami County Commissioner, stated Miami, Cass, White and Benton Counties have the lower setbacks to encourage development; the counties with the larger setbacks are to discourage development. He stated if the Board did not want to discourage the development, they may want to consider a smaller setback.

Jeff Moeller, stated he was informed a Miami County Commissioner was payroll of the wind company.

Josh Francis stated he is and he makes that clear and he does not vote on anything that comes in front of Miami County and is not a part of any discussions.

Jeff Moeller, stated he felt he was here to encourage Fulton County.

Josh Francis, stated he just stated the facts about how the setbacks would encourage or discourage the development.

Houston White, stated if Fulton County setback is 1500', it would basically stop a tri-county project.

Russell Phillips, stated he felt the property line and residential setbacks intermingle, he then stated there hasn't been discussion on the quality of life as it pertains to noise. He asked if he could play a 15 second audio clip for the Board.

Eric Straeter stated they will discuss noise when they get to that part of the ordinance. He again asked for Board thoughts.

Duane Border stated he was thinking 1.5 the total height, instead of a minimum footage, due to the towers are different heights.

Debbie Barts, asked Duane what his thoughts would be for the dwelling setback then.

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Rick Ranstead stated 1000’.

Lida Moeller, stated she doesn’t think 1000’ is far enough. She thinks they should go with Tipton’s setbacks. Eric Straeter stated he thinks they should go with 2 times the tower height.

Casi stated the Board needed to ask themselves why they want a larger setback verses the smaller one. That is really the question, what are they gaining by making a larger setback. There are codes in place for shadow flicker and noise dba in the ordinance. Setbacks are typically for safety, not shadow flicker and noise.

Eric Straeter stated he felt the farther away the less noise and flicker.

Casi stated they have to meet the allowed noise dba also.

Jim Widman stated he doesn’t feel 500’ will make a difference. He doesn’t feel the setback should be the same from the property line and residence.

Eric Straeter asked for vote on 2 times the height of the tower, for property line setback. 1 Board member in favor and 11 opposed. (1-11)

Eric then asked for a vote on 1.5 times the height of the tower, from property line.

Debbie Barts, stated she felt they need to discuss the residential setbacks first and then discuss the property line setbacks.

Eric Straeter asked the Board if they would like to proceed with the residential setback and then go back to property line setbacks.

The Board agreed, Eric asked Casi to proceed to residential setbacks.

Casi stated residential dwellings are measured from the center of the WECS tower to the nearest corner of the structure. Currently Fulton County is 1.5 times the height of the tower, Cass, Miami, and White is 1000’, Tipton is 2640’ and Benton is 1.1 times the height.

Eric Straeter asked for discussion or comments.

Rebecca Vanhorn, stated she was commenting on Russell Phillips comment on noise. She stated the turbines hum constantly and you don’t get use that. That is why they need the larger distances. She then stated the Wild Cat wind farm came into the county and the wind farm was approved before the public had a chance to oppose it and that is why Tipton County changed their setbacks. People in that area can’t sell their homes because of the wind towers. She stated the Board needs to consider those facts.

Duane Border, stated he agrees with Tipton setback for residential.

Debbie Barts, then asked about the requirements for the dba, she stated that normal conversation is 55 and the allowance for dba is not greater than 55 dba.

Lida Moeller stated her daughter has hearing loss and she has learned a lot about sounds. She stated Debbie is correct normal conversation is 55 dba, but there is a pause in syllables, a break between sentences, and a silence between conversations. There is no pause, break or silence in the constant hum of the tower. She

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compared it to your dryer running constantly in every room in your house. The health organization recommends no higher than 40 dba at night, and if the Board allows 55 dba people won't get any sleep.

Brad Lila, stated 2640' is a half mile, essentially if there is more than one home in the area, a tower would not be able to go in that location. If the setback is 2640' it would stop development.

Russell Phillips, stated the reason of the setbacks may be to squash the project, but the people in the area would like to maintain their quality of living, before the towers were allowed.

Casi stated to the public to please direct their comments to the Board, tonight is a discussion amongst the Board, not among the audience members, everyone in the audience has a right to speak and give the Board their opinion, so please address your comments to the Board. I understand emotions are high but let's be polite, let's have a constructive conversation.

Judy Kelams, asked the Board, if two members would explain why they voted down the 2 times the height of the tower.

Duane Border stated he felt it was too large for properties without dwellings, that's why they moved onto residential setbacks.

Debbie Barts stated she felt they needed to discuss residential setbacks before deciding on the property line setback.

Judy Kelams, stated that no one wants to live or build a home near a wind turbine. She stated we want people to come in our County.

Eric stated Duane Border was stating he was in favor of the 2640' setback from dwellings.

Jim Widman asked if that only pertained to residents that do not sign a waiver.

Eric stated that was correct. He then asked for a vote on the 2640' setback. Three Board members in favor nine members opposed. (3-9)

Eric Straeter then asked for a vote on 1500' setback

Debbie Barts asked what the property line setback would be then. She stated she would like to know other thoughts on the property line setback.

Don Towne stated his thoughts were 1200' on the residential and 1.5 times on the property lines.

Eric Straeter stated the 600' is based on the proposed height of the towers, but this company may decide to go elsewhere and another company could come in with a proposed tower height. He would recommend footage, not an amount based on the tower height.

Rick Ranstead stated his thoughts were 1200' residential and 1000' property lines.

Debbie Barts stated her thoughts her 1500' residential and 1000' property lines.

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Eric Straeter asked for a vote on 1500' residential and 1000' property lines setbacks. 9 members in favor and 3 opposed. (9-3)

Eric Straeter asked Casi to proceed with the public right of way. Public ROW and other right of ways, such as railroads, and public utility easements: measured from the center of the WECS tower to the edge of the ROW. The current regulation is 1.2 times the height of the WECS tower, (where the blade is in vertical position at its highest point.

Eric Straeter asked if there was any discussion on the public ROW. Being none, he took a vote, all members in favor. (12-0).

Casi stated the next three were not currently in the ordinance, Public Conservation Lands measured from the center of the WECS tower to the nearest point of the public conservation land property boundary. Cass, Miami, White is 750', and Tipton is 1500'.

Eric Straeter asked for discussion.

Mark Kepler disagrees with having it in the ordinance.

After discussion, the Board agreed on 1000'. Eric asked for a vote 11 members in favor and 1 opposed.

Wetlands as defined by the US Army Corp of Engineers: measured from the center of the WECS tower to the nearest wetland in question. The Board agreed to not add it to the ordinance. (12-0)

Tippecanoe River: measured from the center of the WECS Tower to the top of the bank. 1/2 Mile
No Board discussion, all members in favor (12-0)

Incorporated Limits of a municipality, (except Town of Kewanna and Town of Fulton) platted community, or Residential District as defined by the Fulton County Zone Map: measured from the center of the WECS Tower to the nearest incorporated boundary line, platted lot boundary line, and/or residential district boundary line. Currently the code is 1.5 times the height, Cass, Miami, White, Benton, 1500', Tipton 5280', Tipton 1500' from any residential district.

Eric asked for Board discussion.

Russel Phillips asked if the Town of Fulton has requested 1/2 mile.

Rick Ranstead stated he felt they should make it 1500'.

Eric Straeter asked for a vote on 1500', all members in favor (12-0)

Incorporated limits of the Town of Kewanna, 1/2 mile, unless and executed and recorded waiver with the town is granted. All members in favor (11-0)

Incorporated limits of the Town of Fulton, 1/2 mile, unless and executed and recorded waiver with the town is granted. All members in favor (11-0)

Caston School Property Boundary 660' - unless an executed and recorded waiver

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with the Caston School Board is granted. All members in favor (11-0)

Superintendent of the Caston School stated during the last School Board meeting it was discussed, and primarily the school looks out for the safety of the children and the 1.2 times in excess of the height of the tower, so they felt it was reasonable. They did not want to put too many restrictions on the landowners, they felt like the taxpayers in the school district support the school and they did not want it to be too prohibitive for them. And this crowd could maybe use a little humor, we felt if there was a little bit of wind created by those it could help our football teams.

Above ground electric transmission line: measured from the center of the WECS Tower, currently 1.2 times the height. All members in favor (11-0)

2. Minimum setbacks for all Non-commercial WECS and micro WECS towers.

Property line:, currently 1.5 times height,
Residential Dwellings, currently 1.5 times the height
Public ROW, currently 1.5 times the height.

Eric asked for any discussion on these. No discussion he asked for a vote to keep them as is. All members agreed (12-0)

Public Conservation Lands measured from the center of the WECS tower to the nearest point of the public conservation land property boundary. Cass, Miami, White is 750', and Tipton is 1.1 times the height
Eric asked for discussion Debbie Barts stated her thoughts are to keep it at 1000'. Eric asked for a vote, all members agreed (12-0)

Remove the wetlands, Eric asked for a vote all members agree. (12-0)

Above ground electric transmission line, currently 1.1 times the height. all members agreed (12-0)

3. Minimum setbacks for all MET towers

Property line, 1.1 times height
Residential , 1.1 times the height
Public ROW, 1.1 times the height
all members agreed (12-0)

WE-06 Commercial WECS power collection and transmission system.

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-07 Public & Private Airstrips

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

Nancy Crow, stated she has a private airstrip, she asked if they have to stay 2640' from the airstrip.
Eric Straeter stated they have to comply with the FAA requirements.

WE-08 Equipment type.

4. change "may" to "shall" be approved by the BZA.

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

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WE-09 Controls and Brakes

Casi stated there are two versions for the Board to look at. The Board agreed on the second version. Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-10 Electrical Components

Mark Kepler stated he felt, in the first version, the sentence "or as negotiated with the land owner or the land owners designee" should be removed.

Eric asked for any further discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-11 Color and finish

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-12 Warnings

Debbie Barts stated she is unsure why they have the fence around it.

Jack Kelam, stated they put a fence to mark the clearance of the guyed wire.

Eric asked for any other discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-13 Climb Prevention

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-14 Blade Clearance

- A. Commercial WECS, minimum clearance between blade tip measured at the lowest point of the arc of the blades and ground level is 30'. Casi stated 30' seems to be fairly standard with the other Counties. She was checking on Clinton County code.

Eric asked what is the normal clearance for a current wind turbine.

Brad Lila state he was unsure, but he has not seen anything other than 30' for a requirement. It really depends, the blades are longer than they use to be, and it depends on the tower height.

Eric asked for any Board discussion.

Casi stated Clinton County has a requirement of 50'.

Jim Straeter stated he felt 30' was too low and would generate more sound being that low, he suggested the Board consider 100'.

Brad Lila stated they have sound setbacks that have to be met, if the requirement was 100' the tower would have to be much taller.

After little discussion, the board agreed to change it to 50'.

Eric Straeter asked for a vote with the change to 50'. All members agreed (12-0)

WE-15 Lighting

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-16 Shadow Flicker; On-site-use wind system shall not create a shadow flicker for more than 30 hours per year on any non-participating house located within a one mile radius of the WECS tower location.

Rick Ranstead asked who polices that.

Casi stated it would be her office.

Rick asked if they would get fined.

Casi stated they would, however there must be evidence of more than 30 hours per year. It is a very difficult statute to enforce, unless it was an extreme case.

Eric asked of the tower would be shut down.

Board Attorney, Greg Heller stated besides the fines they are other actions that could be taken.

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Brad Lila stated in other instances he had read in other ordinances, the company can mitigate with the land owner to correct the issue, such as put up an awning or plants trees and such.

Russell Phillips, stated 30 hours per year is less than 5 minutes a day and the enforcement of that may be an issue. He asked Brad Lila if in a specific instance could a tower be shut down at certain times if shadow flicker is an issue.

Brad Lila stated they do have the ability to shut a turbine down, and they do have staff on site. With shadow flicker, it is very difficult with the weather, but yes they do have the ability to shut them down.

Casi stated Clinton County language talks about the maximum wind turbine shadow flicker experiences at a non-participating dwelling, residential lot, or public schools, or public libraries may not exceed 30 hours per year or 30 minutes in a single day located within a 0.6 mile radius or 3168 feet of the turbine. If shadow flicker exceeds these levels then a shadow flicker mitigation plan must be submitted.

Eric Straeter asked for Board discussion.

Jim Straeter asked what happens if I built a house within the 1 mile radius of the turbine, and didn't think shadow flicker would be an issue, but was wrong and it is an issue, what happens. He stated they may want to add only the existing homes are grandfathered.

Eric Straeter asked if the Board liked Clinton County language.

Debbie Bart stated she like it better than our language.

Eric Straeter proposed to use Clinton County language, with the addition it pertains to existing home owners at the time the project is built.

Lida Moeller, asked if a person wanted to build or buy a home, how would they find out information on shadow flicker, will the information be in a disclosure from a realtor.

Brad Lila stated a very detailed modeling for shadow flicker is done.

Shawn Flannery, there would be a map showing the area in the shadow flicker study report.

Casi stated currently Fulton County has a 1 mile radius, Clinton County has .6 of a mile, she asked which distance the Board wanted.

The Board agreed with 1 mile.

Eric Straeter asked for a vote to use Clinton County language, with the change of 1 mile and the addition it pertains to existing home owners at the time the project is built. All members agreed (12-0)

WE-17 Material Handling, Storage and disposal

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-18 Septic & Water

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-19 Noise & Vibration; All WECS shall be located that the level of noise produced by a wind turbine is not greater than 55 dba when measured at the nearest non-participating dwelling. This level may only be

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exceeded during short term events such as, utility outages, and/or severe windstorms. All other noise and vibration levels shall be in compliance with all county, state and federal regulations.

Casi stated the current code read: operations heard beyond the property lines at the 55 decibels, she stated the Board received a copy of a decibel chart, she has used in other instances or petitions. The code is pulled from California. She stated a whisper is 30-35 dba, a normal conversation at 3' is between 60-65 dba.

Rick Ranstead asked if the other counties are at or around 55 dba.

Lida Moeller stated they are less. She asked if she could make a recommendation for the Board to think about. She stated it is a constant noise, it's not like a whisper, it's like a dryer constantly running. She stated the World Maximum Health Association recommends at night it should be 40 dba, she asked the Board to consider making it 40 dba from dusk to dawn, and then like 5 ambiens or something different during the day. She stated it is going to affect sleep, the World Health Organization recommends 40 dba, she then stated 55 dba is a very high limit.

Rick Ranstead asked Brad if the dba could be that low at night.

Brad Lila stated the World Health Organization study Mrs. Moeller spoke about, was based on a study with jet engines, it is not an apples to apples comparison. He then stated the World Health Organization very much supports wind energy, he asked the Board to keep that in mind. He then stated 40 dba simply cannot be done, most projects are built at 50 dba.

Mark Kepler, asked if there's less decibels at night time.

Brad Lila stated there's actually more at night time

Lida Moeller stated you can hear more at night.

Brad Lila stated if all turbines are turned off and the wind is blowing you would exceed the 40 dba just in natural sounds.

Lida Moeller stated but it's not continuous.

Jeff Moeller stated that is the problem, because the turbine sound is continuous.

Casi stated Cass, Miami and White County are at 60 dba, and Tipton is at 45 dba.

Eric asked if that is from a residential or property line.

Debbie Barts asked about Clinton County.

Mark Kepler stated they are 500' more on the residential setback, would that make a difference.

Rick Ranstead stated if the company can take it down to 50 dba, his thoughts were to change it to 50 dba.

Casi read Clinton County's UDO Code 405.2 (C.) and then she stated it would be too hard to enforce.

Russell Phillips, had an audio clip, as he was standing near a wind turbine, he would like to Board to listen to.

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Debbie Barts asked where he was standing.

Russell Phillips stated he was in Tipton County, on a small lane.

Debbie Barts asked him how many feet was he standing from the tower.

Russell Phillips, stated he was unsure of how many feet away he was. He was standing on a county road.

Eric Straeter asked what the audio is giving an example of.

Russell Phillips stated it was audio of the hum.

Debbie Barts stated but he had no idea how many feet away he was from the tower.

Lida Moeller stated it was at least what Tipton County setbacks are.

Debbie Barts stated the setbacks that were in force at that time.

Jim Widman stated the volume can be turned up on a phone.

Russell Phillips, stated he understands that, and as a disclaimer he stated he had the volume turned all the way up on his phone. He then played the audio clip for the Board. He then stated he was told the wind speed that day was about 5-6 miles per hour, out of the west.

Jeff Moeller, stated if the towers are put in, the people in this County are going to have to live with that noise 24 -7. He stated he imagines when the wind speeds are higher the turbine turns faster the noise would be louder, but it's a constant noise, that's going to impact the quality of life. He also said people won't want to go outside, and mow or enjoy their property because of the noise. That's a real concern.

Jim Widman stated if someone lives near a hog farm, the fans run all night long.

Jeff Moeller stated but that is not imposing, he stated you could turn off a hog farm.

The Board disagreed with that statement.

Jeff Moeller, then stated you may not be able to turn them off, but it's your choice if you want a hog farm on your property.

Jim Widman stated he also has concerns with the neighbors of the hog farms, not only do they have the noise, they have the odor.

Houston White stated the wind farm would bring jobs to the County.

Eric Straeter asked for any further discussion. The Board agreed to change 55 dba to 50 dba. Eric then asked for a vote to the presented language with the change of 55 dba to 50 dba. All members agreed (12-0)

WE-20 Signage

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-21 Feeder lines

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Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-22 Appurtenances

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-23 Accessory Structures

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-24 Physical modifications

Eric asked for discussion. No Board discussion, he asked for a vote, 11 members agreed and 1 opposed (11-1)

WE-25 Interference

Jim Widman and Debbie Barts had concerns with the GPS needing to be included in the interference.

Jim Straeter stated he felt the Board should strike out the sentence separating the GPS, they are essentially a public telecommunication service.

Debbie Barts she thought 90 days was too long of a period for a correction time.

Rebecca Vanhorn stated 90 days would be too long for someone to have their television service fixed for example, she stated in a past case it took almost 6 months for the problem to be rectified.

Eric Straeter asked what timeline would the Board like to have, they discussed 30 days.

Eric stated in B. he would like to add public/private telecommunications”

Duane Border asked how does it affect the Plan Commission if the remedy is agreed upon.

Casi stated if there is no remedy agreement, then it would go through the violation procedure. She recommended added having factual evidence, or proof of communication.

Rebecca Vanhorn, asked if they've ever had a situation like this.

Brad Lila stated they do extensive studies and they have no intention of creating any interference.

The Board also agreed to add in C. proof of communication and factual evidence of complaint prior to the action being brought to the Fulton County Plan Commission. And strike out the last sentence.

Eric asked for any further discussion. No Board discussion, he asked for a vote on the language and changes as discussed, all members agreed (12-0)

WE-26 Maintenance Records

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-27 Declaration of Public Nuisance

Remove obsolescence. Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

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WE-28 Decommissioning Plan

Casi stated it had been discussed of requiring a cash deposit for the decommissioning instead of a bond, she then read a part of the Clinton County decommissioning plan, being E., (as discussed below) that they require a 5 year bond renewal .

Eric Straeter asked if there have been any turbines decommissioned that they could have a comparison of the cost estimates in B.

Rebecca Vanhorn spoke about the towers in Europe that had expired. They have thousands of blades stacked up because they had no idea how to dispose of them, then they have the tower and the concrete that still needs to be disposed of.

Eric Straeter asked what is the life expectancy of a windmill.

Rebecca Vanhorn stated it was 20 years.

Brad Lila stated it is roughly 25 years.

Casi stated a lot of the times, unless the landowner requests it, the concrete isn't taken out. She then stated that is part of the decommissioning plan that they must be able to dispose of them, and that it why bonds are required.

Eric Straeter stated he likes the cash deposit, since bonds aren't a guarantee.

Rebecca Vanhorn, stated she felt like a cash deposit would be better and it should be 120%. The Bond companies change hands.

Casi stated having a bond renewed every 5 years, helps ensure the bond is still in good standing.

Rebecca Vanhorn a bond company will not provide a bond unless the company can provide financial backing.

Christy Householder, Cass County Development, stated the Board needs to keep in mind, there are three counties involved in this project.

Nancy Crow, asked how deep does the cement go down.

Brad Lila stated typically 9'.

Nancy then asked if anyone checked with NIPSCO in Wayne Township, there's gas stored under the surface of the farms.

Brad Lila stated they are very familiar with that.

Casi asked the Board about their thoughts on cash deposit or bonds.

Bob Cannedy thinks a bond would be better, if something happened to go wrong in the first 10 years.

Jim Widman asked what happens if they aren't producing and the company decides not to purchase the bond.

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Brad Lila stated they purchase the bond for up to 20-25 years.

After Board discussion the agreed upon the changes to the decommissioning plan.

A change in C. a bond “issued by a triple A-Rated Bond Company,”

Addition E. All applicants or owners or operators shall provide a reposted/renewed/new financial assurance document in regard to the decommission plan every five years commencing with the operation of the WECS. The updated financial assurance shall be reviewed and approved by the Area Plan Commission along with an updated contractor’s estimate providing an up-to- date cost estimate for the decommissioning of the WECS. The financial assurance and contractor’s estimate will be reposted, resubmitted and reviewed every five years by the Area Plan Commission, for a period of 30 years or until such time all of the WECS are decommissioned in accordance with the decommissioning plan.

Eric Straeter asked for a vote on the language and the changes, all members agreed (12-0)

WE-29 Discontinuance and abandonment

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-30 Removal

B. Add in “Fulton County” Commissioners

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (11-0)

WE-31 Liability Insurance

Add in provided to “Fulton” County.

Additional sentence, the applicant/owner/operator, shall also execute a hold harmless indemnification agreement with the Fulton County to continue until the decommissioning plan is satisfied.

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (11-0)

WE-32 Development Plan Review applications and attachments

additions

D. a decommissioning plan “ approved by the Fulton County Board of Commissioners and the Fulton County Council.

H. site plan of the “proposed area”

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-33 Road use and maintenance agreement

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-34 Drainage agreement

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-35 Location Improvement Permit and attachments

Changes to K. the Fulton County Plan Commission has the ability to hire a licensed engineer to certify any supplemental attachments submitted for permit approval. The applicant will be responsible for the cost of such engineering certification, including but not limited to, sections WE-35 (E) through (G).

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Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-36 Construction requirements:

Additions to A. and enforce by the Fulton County Highway Superintendent.

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

WE-37 Post Construction requirements:

Additions to A. where upon the completion of “the phases of the project being proposed”,

Additional last sentence, One set of As-builts plants will be submitted in CAD or shaped file format to be incorporated in the Fulton County GIS.

Additions to B. Proof shall be provided to the Plan Commission that any subsequent purchaser shall comply with all financial obligations as originally approved for the project, and that the purchaser is contractually obligated to assume all responsibilities of the original applicant.

Eric asked for discussion. No Board discussion, he asked for a vote, all members agreed (12-0)

Casi then asked the Board if they had any issues with the definitions.

The Board had no issues.

Casi stated she had an issue with the corporate guarantee definition. It would require the Board to accept it from any company.

The Board agreed to remove it from the definitions.

Eric Straeter asked for any further Board discussion. Being none he then entertained a motion to close the public hearing. Debbie Barts moved to close the public hearing. Jim Widman seconded the motion. Motion carried as follows: Mark Kepler; Bob Cannedy, Debbie Barts, Rick Ranstead, Rachael Moore, Crystal Weida, Jim Widman, Duane Border, Kathy Hobbs, Don Towne, Karen Miller and Eric Straeter being in favor and no one opposing.

PUBLIC COMMENT:

Russell Phillips stated he had the understanding there was going to be an opportunity before the Board voted to have public comment. He then stated there's many facets to this, and he admires all the time and energy everyone has put into this. However, one thing that did not receive much if any attention tonight is with regards to property devaluation. He stated he would like to share a few comments with regards to that. He stated it was mentioned early the original ordinance was drafted approximately 8 years ago, and not a lot of attention was paid to property devaluation. Now there's a business trying to do business in the County and we're trying to ship shape the ordinance. With regards to property devaluation, a brief reference was made to Tipton County, and the reason why some of their ordinances had changed, the term political was used. He stated he'd like to reflect further on what happen in Tipton County, in regards to property devaluation. He stated a study was done, by Michael McCan, who has 30 years' experience in appraisal and consulting, he was studying property value impact and zoning compliance evaluation, this study was with regards to the Prairie Breeze Wind Farm, which was being considered in Tipton County. He read some of what the study covered, nuisances and real estate issues, decreasing our ability as a residential setting on both sides of the market, sellers often can't sell, if they are able to sell prices usually reflect substantial discount, introduces a detrimental condition for 25 square mile foot print, plus 2-3 miles beyond. He stated Michael McCan submitted a letter to the US House of Representatives, Committee on Ways and Means, regarding comments to the energy tax reform working group, he stated unintended consequences of the PTC, which he assumes is production tax credit, as it relates to wind energy development, research

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demonstrates that residential property values are adversely impacted within this range by 25%-40%, and the last comment, people seeking to escape the impact of turbines, often find that there is no market for their homes.

He then stated every property owner in this county has a vested interest in the decision you are going to make this evening. Probably regardless which way it goes, there's many facets to all this and he just hopes that you are giving due diligence to every one of those facets. Personally, he doesn't feel there's enough understanding and insight into all the related issues and for that reason he feels like it's premature for you to act favorable tonight on these amendments.

Brad Lila, stated Michael McCan is very vocal anti-wind, his study was a very select study on about 8,000 homes, to basically his bias. The Department of Energy has conducted multiple studies, over 50,000 homes in 9 different states, that had determined wind turbines do not devalue residential homes.

Eric Straeter stated he felt it was important to mention there is a Study Committee meeting on October 5th, on construction of windmills.

Casi stated she was unsure on what exactly the Committee and meeting is about, she stated the Senate Bill 309, which is on the agenda for that meeting is all about net metering, and it also mentions the use of windmills and schools. She stated she has a call into the Senators Office, at this time she has not heard back from them. She then stated she talked to the Assessor's Office in White County about any economical impact, they stated there was not a negative impact, the prices rose and fell with the economy.

Eric Straeter stated the Board is only voting on changes in the ordinance, they are not voting on a wind farm. He stated the amendments approved will then go to the Fulton County Commissioners, who then approve or deny the changes.

Greg Heller stated if the Board approves the changes, it is only a recommendation, the Commissioner will then have a public hearing to approve or if they have changes they will send it back to the Plan Commission.

Eric asked if the Board doesn't approve the changes discussed the original ordinance is still in place.

Casi stated if the Board did not approve the amendments discussed tonight, the current code stays the same.

Greg Heller stated if the Board did not feel ready to certify the changes tonight, they could table until the next meeting.

Eric Straeter stated it may be best to see the draft with all the proposed changes, before recommending the changes to the Commissioners.

Greg Heller stated they could continue the Public Hearing to the next meeting.

Christy Householder, Cass County Economic Development stated please keep in mind the Cass and Miami County have had their items in place for months, they are waiting on Fulton County, so they can get a proposal.

Eric Straeter stated they can proceed with their project.

Christy stated they cannot proceed without knowing what Fulton County is going to decide.

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Greg Heller stated that should not be our determining factor.

Bryan Lewis, Commissioner stated he agreed, he feels like they approached us really late, and feels like they are trying to push us into a decision. He agrees the Board needs to look at a final draft before recommending the amendments.

Nancy Crow asked if any of the Board even spoke to property owners in Liberty and Wayne Townships about how they feel. She stated the only person on the Board that would be affected is Jim Widman. She asked if that was true.

Jim Widman stated he would probably be able to see them if they go up.

Nancy Crow stated that's exactly right and none of the rest of you people will be seeing them or listening to them.

Casi stated there are two Board members, one from Fulton and one from Kewanna.

Jim Widman stated he has driven down to White County and sat on the road, and the only thing he heard was a whooshing sound and a groaning noise when it moved.

Nancy Crow stated she doesn't hear it but she has 5 kids and 16 grandkids that are going to be living in this, and they have an airport too.

Jim Widman stated they cannot get close to the airport.

Nancy Crow stated they have to look at them, the Board doesn't have to look at them.

Racheal Moore, commented to Nancy Crows' comments, stating, I'm sorry we are all inconvenienced by this, everybody is just trying to do their best, and try to be reasonable for everybody that lives in the area. She then stated she deals with Grissom, jets flying over their house all the time, and their 30 miles away and there's nothing we can do about it, so please understand we are all trying to do the best we can.

Nancy Crow stated she wasn't criticizing the Board; she wanted to know who was actually going to be impacted. She then stated fortunately she lives in Marshall County where they have banned the towers.

Mark Kepler moved to table the proposed amendments and continue the public hearing to the September 25, 2017 meeting. Debbie Barts seconded the motion. Motion carried as follows: Mark Kepler; Bob Cannedy, Debbie Barts, Rick Ranstead, Rachael Moore, Crystal Weida, Jim Widman, Duane Border, Kathy Hobbs, Don Towne, Karen Miller and Eric Straeter being in favor and no one opposing.

IN RE: PLAN DIRECTOR REPORT

With no further business to come before the Board, Eric Straeter entertained a motion to adjourn the August 28, 2017 meeting. Bob Cannedy moved to adjourn the August 28, 2017 Fulton County Area Plan Commission Board at 11:55 P.M. Rachael Moore seconded the motion. Motion carried as follows: Mark Kepler; Bob Cannedy, Debbie Barts, Rick Ranstead, Rachael Moore, Crystal Weida, Jim Widman, Duane Border, Kathy Hobbs, Don Towne, Karen Miller and Eric Straeter being in favor and no one opposing.

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Heather Redinger, Administrative Secretary