

Floyd County Board of Supervisors Meeting
October 9, 2023, 9:00 a.m.

The Floyd County Board of Supervisors met in the EOC/Training Room of the Floyd County Courthouse with the following in attendance: Supv Mark Kuhn, Supv Dennis Keifer, and Supv Jim Jorgensen.

Keifer/Jorgensen moved to approve the agenda as presented. Motion carried 3-0.

Public comment: Candi Brandau-Larson addressed the Board about potentially adding a subcommittee or special committee to assist the planning and zoning commission if the Board and/or planning and zoning decide to look at ordinance changes. This will be a large undertaking for the five commissioners and may allow for better representation from organizations/groups not currently represented.

Keifer/Kuhn moved to approve the October 2 and October 4, 2023 minutes. Motion carried 3-0.

Jorgensen/Keifer moved to approve the claims presented: County #689-751, Engineer/Secondary Roads #10193-10208, and Drain #15395. Motion carried 3-0.

Updates on various boards/commissions/activities: Supv Jorgensen had several citizens reach out about wind turbine conversations. Supv Kuhn participated the department head meeting, had conversations with legal counsel on IUB proceedings and had an extensive interview with the Des Moines Register regarding why counties are intervening with the Submit contested case.

Updates on Law Enforcement Center/Courthouse Project: Supv Keifer met with Mechanical Air on the boiler modification to use interior air rather than outside air. We are waiting on their estimate and then we can choose between the two contractors who have given estimates. Supv Kuhn asked for an update on the plaster repair. Supv Keifer reported that he doesn't have an update on that, but believe it is back in Dean Snyder's hands to find a contractor to fix the plaster.

Supv Kuhn discussed three bills from Ahlers Cooney relating to the pipeline. Supv Jorgensen questioned flight expenses and Candi Brandau-Larson explained to the Board that the IUB was only giving out the schedule a week ahead of time so flights were booked at the last minute, increasing the cost. Supv Kuhn recommended deferring action on Invoice #852448 for \$105 until there is clarification from Ahlers Cooney. Keifer/Jorgensen moved to pay \$8,880.14 for invoice #852455 for Summit Carbon IUB Permit Proceedings and \$64.97 for invoice #852460 for Navigator IUB Proceedings and to use ARPA funds for payment. Motion carried 3-0. Supv Keifer mentioned that you can watch replays of the pipeline hearings on BOLD Nebraska.

Jacob Page, Engineer, updated the Board on the need for a budget amendment. Secondary roads are currently working on a bridge replacement project that was let in July 2023. When working on the FY24 budget, a line item for this project was not added. Previously, all bridge projects were paid directly out of the highway/bridge program when the State was doing oversight on the projects. This year the oversight changed from the State to the Federal government, which changed the process for how the contractors are paid. We now have to pay for the project directly out of the secondary roads fund and then the highway/bridge program reimburses the secondary roads fund. Page is asking for a budget amendment to add that line item as an expense and add the revenue line item. Jorgensen/Keifer moved to set a public hearing for October 30 at 9:15 a.m. in the Floyd County Board Room for a FY24 County Budget Amendment. Motion carried 3-0.

Jorgensen/Keifer moved to approve a contract with Larson Contracting Central LLC for \$414,750.60 for Drainage District #3 Main Open Ditch Repair and authorize the chair to sign. Motion carried 3-0.

The Board recessed at 9:32 a.m. The Board resumed in session at 10 a.m.

Candy Brandau-Larson presented a petition to the Board requesting to immediately enact a moratorium on industrial wind energy and also request an update to the current Floyd County Industrial Wind Ordinances. The petition states that current ordinances are outdated and need to accurately reflect the current state of turbine technology and scientific knowledge of the impacts and concerns to county residents' personal safety and property rights. The moratorium will buy the county time to work on these ordinances and serve to inform everyone that during the time involved in updating the ordinances the county will not accept or act on any activity or permit applications related to new commercial wind projects. This moratorium does not stop wind companies from signing new easements but it does notify wind companies that the rules for permitting will be changing and that county will not accept or act on any permit application until after the moratorium and new rules are in place. This is a protective measure for the county.

Isaac Lamppa with Invenergy stated they have just over 9,000 acres of land that have signed up for the project and receiving payments via easement agreements already. We request to the Board to reject any moratorium on wind energy as it's a deterrent that we are not welcome in the county. We will continue to develop our project with earliest construction in 2026. Wind energy protects farm lands and preserves the landowners' freedom to do what they want with their lands. It is estimated to generate 67 million over the life of the project in tax revenue for the county. Invenergy is willing to work with the county to supplement any additions to the current ordinance if that is what the Board believes is the correct course of action through a development agreement with the county. The Floyd County Comprehensive Plan has a section on public facilities and services, section 1E states that Floyd County will encourage the development and use of clean and renewable energy use and increase energy efficiencies. I feel that a moratorium would be the opposite of that stated goal.

Supv Jorgensen asked what the life of the project is and Lamppa stated it would be 40 years and that is what the length of the easement agreements are. Jeff Sherman, Zoning Administrator, asked how many property owners make up the approximate 9,000 acres. Lamppa responded with just over 25 landowners in total. Candi Brandau-Larson asked what a developmental agreement looks like in which Lamppa provided the Board with a sample from Chickasaw County Wind Energy Center.

Boyd Campbell believes the moratorium is very important and questions how much of the 9,000 acres would have been signed up if we would have had discussion before now. I think there are lots of things that have been brought up at the Rockford meeting and there are a lot of problems with this. As a local farmer one of my concerns that hasn't been addressed is tile and the amount of cement which would never be taken out if any of these projects go belly up. There are lots of things coming down the pipeline with energy and we need to slow this down. There are a lot of acreages that don't have a lot of land around them and they have no say in the setbacks. For the wellbeing of the citizens in the county we need to take a hard look at this. As a farmer, we are increasingly needing aerial spraying and drones, but pilots won't fly close to the turbines. Campbell inquired if the original company goes broke and sells to another company if the easements carryover to that new ownership. He stated there is nothing wrong with a moratorium to slow things down so everyone can get on the same page.

Lamppa stated that they have experience drain tile repair contractors to ensure all drainage is as good as or better than what it was prior to the project. Some of the issues with acreages, I feel those can be addressed with a developmental agreement. We also offer good neighbor agreements to those smaller acreages which allow them to participate within the project and get compensated for it. For Invenergy, the easements run with the land so if we would assign that to another company then all the agreements, rights and obligations within that agreement would still hold valid.

Larry Bortz stated that he understands that as a landowner you can't tell someone what they can and can't do, all you can do is make sure whatever they do doesn't infringe on the people close by. It is up to the Board to make decisions that will affect the county and those that are unable to protect themselves.

Jayden Jorgensen stated that she owns an acreage, but the land that surrounds her acreage isn't owned by herself or family, therefore, they don't have any say about what goes there. She is concerned about the damage that the turbines have on the land and the impact it will have on future generations of farmers.

Supv Kuhn asked Sherman what was in the ordinance regarding setbacks and how it applies to residences and property lines. It states that the base of the large wind energy system towers shall be set back from all property lines, public right of ways and above ground public utility lines of a distance of not less than 115% of the total extended height of the tower. The tower shall be allowed closer to the property line than its total extended height if the abutting property owners grant written permission providing that the tower installation complies with the other acceptable setbacks.

Tom Treharne, NextEra Energy, shared that several counties have been actively working on moratoriums and they do have an effect on companies like ours out in the field trying to lease ground, but in review of the ordinance I do see would draw the conclusion that there is a need to look at the regulations and have some public comment on them. I would ask that in the event that the moratorium moves forwards that there is a very clear message on what the moratorium is for and that's to time to take a look at the code and see what can be done to encourage a project that can be built but with proper siting requirements. There are a number of benefits to the county, county residents, those that have the project on their property. We ask that the moratorium has a timeframe of six months if put in place. It provides assurance that the county will try to get things accomplished quick, but it can always be extended as needed.

Supv Jorgensen asked what the life of NextEra's project is and Tom stated they do 50 years. Supv Keifer inquired why there are no wind turbines in Butler County and if they have an ordinance different than Floyd County. Lamppa stated that they go where they have community support. Merlin Bartz, Invenergy, stated that the Board should be asking if a wind property tax resolution has been passed in Butler County because his experience is that when you look at counties with wind turbines and without wind turbines most of the turbines are in counties that have passed the wind property tax proposal as that's a way the county captures the property tax dollars.

Supv Kuhn asked the petitioners if they want the moratorium in place until the ordinance updates are enacted or is it a moratorium being called on the future of development of wind energy in the county. Candi Brandau-Larson stated that number one is property rights and is an acreage like Jayden's being protected if an adjacent landowner wants to put up a turbine. The county needs time to figure that out and because of vested rights we need to set a moratorium so we have the ability to figure that out. The petition is not anti-wind but about getting ordinances to protect. Boyd Campbell stated that he is not opposed to new technologies in wind energy. We need to slow this up and take a good look at some of these things because even though they are not on my property they are going to affect me.

Supv Kuhn stated he will be asking our county attorney to research the vest rights principle. Mark read an email from Swati Dandekar, of Bright Future for Iowa, on an attorney's definition of vested rights.

NextEra asks that as part of any review of the ordinances that wind companies are included in those conversations. We have developed these projects in other counties so we can sight examples of ordinances that works, what we've done in the past and how we have worked through these issues. All of the concerns brought up today have been brought up in other counties and we've been able to for the most part get through those conversations and work through ordinance language to address those.

Supv Kuhn has received a couple of emails/letters from the Iowa Policy Project, the Land and Liberty Coalition and the MidAmerican Energy Project. The Land and Liberty Coalition stated their support of wind energy and noted that farmers must remain in the driver's seat as they have the right to develop their land as they see fit. They feel a moratorium sends a clear message to wind developers that Floyd County is closed for business and restricts landowners' ability to make the best decision for their own land. MidAmerican Energy Project sent an email suggesting they would like to be involved in any discussion regarding the development of future wind development in Floyd County. They are willing to be a resource as the county citizens, officials and wind companies work together to update existing regulations.

Merlin Bartz addressed the nexus of the petition for a proposed moratorium and the comprehensive plan. From my perspective moratoriums are bad business policy for a county. The county has the ability to do developmental agreements, go through planning and zoning and go through the board of adjustment to put conditions on development of these farms. Bartz stated that he has not seen one moratorium that comes from pro wind energy development citizens. Bartz stated that not only is the moratorium probably in conflict with the comprehensive plan energy portion but also in conflict with the agricultural and farming portion of the plan, specifically with #2 and #3.

Boyd Campbell feels we need the moratorium, we need to make sure this is done right, fair and equitable. There is time for us to think about this and that's why I'm asking for a moratorium. Gordon Boge agrees that we need a moratorium. He believes we have some of the best farmland in Floyd County and we keep covering it up. He doesn't feel like the wind turbines are helping anyone local. He believes it is time for a moratorium, we need to look at these as it's ruining part of Floyd County and lets take a step back and take more time looking at it.

Candi Brandau-Larson shared a list of concerns that she feels the ordinances need to cover: eagles/bats being killed, electro-magnetic interference, fire & fire suppression in the turbine, archeological, decommissioning plan, damage done to roads from the heavy equipment, county tile and drainage districts, eminent domain and good neighbor agreements. She doesn't agree with the idea that a moratorium means the county is closed to business, especially if we are only talking six months and they can still sign agreements. We are just being prudent and protecting citizens, county resources and making sure this is done right.

Dustin Straube believes the Board needs to look at the moratorium because the only people here want you to look at it. There is no one here that has signed a contract here defending themselves. He is not against the wind turbines but feels the moratorium will give time to look at the ordinance and make sure citizens are protected.

Supv Kuhn asked the wind companies present what is the effect of a moratorium of a specific date until an ordinance is re-drafted in a process that would allow for input from a wide variety of stakeholders. NextEra understands the why based on the conversations and that there is a desire to look at the ordinance and understand how things are regulated. If the county agrees to move forward with a moratorium, the message is critical on the reason why the moratorium is in place. Lamppa reiterated that Invenenergy's preferred approach is through a development agreement.

Supv Kuhn referenced one final letter from the Iowa Association of Business and Industry (ABI). ABI respectfully encourages the Board to continue allowing wind energy in the county without placing new burdens and regulations that could harm development. ABI is opposed to enactment of a moratorium but understand the need to revisit the existing ordinance.

Supv Kuhn believes we need to update our ordinance regarding wind energy as it was last updated in 2014 by the Board of Supervisors and the comprehensive plan was updated in 2011. In both occasion the county contracted with NIACOG. Kuhn thinks it's in the best interest of our citizens and the wind companies in our county that we do a couple of things: (1) redrafting the ordinance, (2) get someone in place to help the planning and zoning commission with that and (3) resources (county finances) with ARPA funds to allow this type of ordinance to be developed. The planning and zoning commission has a meeting October 12 at 8 a.m. and on their agenda is discussion on the county ordinance and comprehensive plan. Supv Jorgensen stated that he is in favor of a conversation of a moratorium sooner than later to give people a chance to understand and more time. This will give planning and zoning the appropriate time to address it and six months seems reasonable. Supv Keifer stated that the windmills and pipelines have been the topic of a lot of conversations and have taken a lot of time and attention of a lot of people. We didn't get much cooperation from the planning and zoning commission when it came time to the pipeline ordinance and I hope that's a different story when it comes to windmills.

Future agenda items: NIACOG services related to updating the ordinances and comprehensive plan, medical examiners and moratorium.

Jorgensen/Keifer moved to adjourn. Motion carried 3-0.

ATTEST: _____
Amanda S. Theilen
Floyd County Auditor's Assistant

Mark A. Kuhn, Chair
Floyd County Board of Supervisors