

LAND USE COMMITTEE MINUTES

DATE OF MEETING: February 14, 2023 at 5:02 p.m. County Building

MEMBERS PRESENT: Claro Carter – chair, Joe Witte, Megan Myers, Pat Ryan, and Melonie Tilley. Also present, Dee Rentmeister – County Administrator/Interim Zoning Administrator.

MEMBERS ABSENT: None

SUMMARY OF DISCUSSION:

- Motion by Ryan, 2nd by Tilley to approve last month's minutes. Voice vote, motion carried.
- No one was wanting to address the committee.
- Committee has concerns concerning the enforcement of the condition set out for Alta Farms to curtail during a severe weather warnings. A draft policy/procedure was handed out the members for review and discussion. General discussion on the draft policy/procedure and what is considered a reasonable time. Ryan stated that if curtailment isn't started within 4 minutes, then they won't curtail at all. Will send this draft to the State's Attorney for review and feedback and address next month.
- Discussion on the newly passed law and how it affects the wind and solar ordinances. Need to focus on revising the ordinances to be in compliance with the law and forward onto the board for adoption and then focus on other text amendments. Fees will need to be addressed, whether a special use will be required or having the hearing at the county board level, and what zoning districts will wind and solar be allowed. Ordinances will need to be complete by the May County Board meeting.
- Dee informed the committee that the current solar ordinance does not address a community solar farm and the definition that the state has for a commercial solar farm does not fit the definition of a community solar farm. Discussed the possibility of a company filing for a community solar farm in the near future. At this time, a variance could be filed to increase the acreage and then a special use would be needed.
- Dee informed the committee that the host fees received from GFL for the past year was \$1,083,623.78.
- Will put on the full board agenda this month under new business to have the county board authorize the land use committee to start the text amendment process for wind and solar. Will notify the RPC and ZBA that the board is working on getting commercial wind and solar ordinances in compliance with the new passed law before working on text amendments.
- Motion by Tilley, 2nd by Ryan to adjourn at 6:11 p.m. Voice vote, motion carried.

COMMITTEE ACTION:

Approve last month's minutes.

RECOMMENDATIONS TO THE FULL BOARD: None

DATE OF NEXT MEETING: March 13, 2023 at 5:00 p.m.

**AGENDA FOR THE
LAND USE COMMITTEE**

Date and Time of Meeting: February 14, 2023 at 5:00 p.m. County Building

1. Call Meeting to Order
2. Roll Call
3. Persons Wishing to Address the Committee/ Public Comment (If requesting action, also list below in section 4)
 - A.
 - B.
4. Items for Discussion and Possible Action
 - A. Approve last month's minutes
 - B. Approve claims
 - C. Review of draft policy/procedure for enforcement of curtailment condition on CASE S250-2019
 - D. Revisions to Wind Ordinance – Chapter 153 of the DeWitt County Code of Ordinances
 - E. Revisions to Solar Ordinance – Chapter 157 of the DeWitt County Code of Ordinance
5. Items for Discussion Only (No Action Requested)
 - A. Update on zoning items
 - B.
 - C.
6. Executive Session:
 - A.

Posted: February 8, 2023 at 12:55 .p.m..

By: Dee Dee Rentmeister

PERMITS ISSUED 1-1-2023 thru 1-31-2023

Permit #	Date	Est. Cost of Construction	Fee Charged	Issued For	Location
7746	1/10/2023	\$100,000.00	\$100.00	inground swimming pool	Wapella
7747	1/19/2023	\$80,000.00	\$0.00	ag shed	Creek
7748	1/24/2023	\$550.00	\$25.00	fence	V- Kenney

received \$291,393.35 in landfill fees for Oct, Nov & Dec 2022

received \$1,083,623.78 in landfill fees for 2022

Enforcement of AFII Curtailment Condition #1:

Note, numbering (1) through (6) was not part of the original condition, but was added to reference specific portions of the condition.

- (1) Alta Farms shall curtail Project wind turbines as soon as reasonably feasible after a National Weather Service (NWS) issuance of a severe thunderstorm warning and/or tornado warning for DeWitt County. Curtailment shall continue for the duration of the warning and consist of feathering the wind turbine blades to minimize rotation.
- (2) Alta Farms shall implement this curtailment strategy throughout the life of the Project unless and until modifications to this strategy are mutually agreed upon by Alta Farms and the NWS based on NWS recommendations and/or advances in technology, science or weather prediction methods.
- (3) Alta Farms shall provide access to 10-meter precipitation, wind speed, and wind direction data that is available from an Alta Farms meteorological tower in the Project Area to the NWS in a format and delivery method mutually agreed upon by Alta Farms and the NWS.
- (4) Failure to curtail turbine operation by the owners of Alta Farms during a severe weather or tornado warning for DeWitt County shall cause the owners of Alta Wind Farm to pay a penalty to DeWitt County \$5000 per event.
- (5) They should also curtail when a severe weather warning is issued for Logan County because of the proximity of the towers near the eastern boundary of Logan County.
- (6) DeWitt County shall require a written agreement with the NWS for a curtailment plan.

Assumptions and Interpretations:

- Curtailment is required for DeWitt County warnings, but the language (5 above) does not appear to compel curtailment for Logan County issued warnings (language says they "should" curtail, not "shall"). As such, penalties should not be issued for failure to curtail during a Logan county NWS warning.
- The Curtailment Agreement between AFII and the NWS (6 above) is separate from the curtailment requirements outlined in 1 through 5 above. It is my understanding that AFII has entered into an agreement with the NWS, and if so, this specific portion of this condition should be considered "complete".
- AFII's MET tower data (3 above) shall be shared with the NWS, but DeWitt County will not be made aware. We could periodically follow up with the NWS to confirm receipt of the data, but the condition does not outline timing or frequency. It may be best to ask the NWS notify the County if they have concerns due to AFII not complying.
- Any decision to discontinue the curtailment strategy (2 above) will be made by the AFII and the NWS. DeWitt County should not expect to be included or solicited for input into this decision. If we are not notified by either party of a future modification to the strategy, we should expect to find out when attempting to issue a penalty for failure to curtail. DeWitt County should consider the curtailment strategy as "active" unless we receive confirmation from the NWS that they recommended and agreed to discontinuation of the curtailment strategy.

When has the project met requirements for curtailment during severe weather events?

- Turbine blades are **feathered** to minimize rotation ¹
- Curtailment (feathering of blades) is completed on **all turbines** within the project.²
- Tornado warning or severe thunderstorm warning has been issued by the NWS for **any portion** of DeWitt County.³
- Curtailment is completed for all turbines in a **couple of minutes (four minutes?)** following the issuance of the NWS warning for DeWitt County.⁴
- Turbine blades remain feathered for the **duration** of the NWS warning.

DRAFT

¹ S-250-2019 ZBA Transcripts for 01-07-20, page 77, lines 5-14.

² S-250-2019 ZBA Transcripts for 01-07-20, page 77, lines 17-23

³ S-250-2019 ZBA Transcripts for 01-07-20, page 77, lines 17-23

⁴ S-250-2019 ZBA Transcripts for 01-08-20, page 98, lines 9-22.

Guidelines for Reporting Curtailment Violations to the Zoning Administrator

1. Include documentation that shows when the National Weather Service (NWS) severe thunderstorm and/or tornado warning affecting DeWitt County was first issued, and when it ultimately expired.
2. Provide unaltered video evidence showing:
 - One or more turbines spinning with un-feathered blades at least a couple of minutes after the issuance of a NWS severe thunderstorm or tornado warning for DeWitt County. When possible, include evidence that shows the point in time when turbine blades were ultimately feathered (angled parallel to wind) to minimize or cease rotation.
 - One or more turbines that resumed spinning from a curtailed state (feathered blades) prior to the expiration of a NWS severe thunderstorm or tornado warning or DeWitt County.
 - Other forms of evidence (including non-video evidence) for failure to curtail may be accepted if the Zoning Administrator determines that it is sufficient to demonstrate that a violation has occurred.
3. When possible, video should include:
 - Landmarks that help establish where the recording was taken to assist with the identification of specific turbine numbers that were in violation.
 - Evidence of the exact time of day that the recording took place. If unable to capture evidence of the exact time of day within the recording itself, a screen capture from the recording device should be taken immediately after the video. The screen capture should include a comparison of the current time from a third party (see examples below) compared to the time on the recording device.
 - i. <https://www.time.gov/>
 - ii. <https://time.is/>
4. Transfer of any media files should be provided in a manner as directed by the Zoning Administrator, in a format that preserves the metadata (necessary for verification of the timestamp).

Procedures for Zoning Administrator Investigation and Issuance of Penalties for Failure to Curtail

1. The Zoning Administrator shall collect evidence until he/she determines that there may be sufficient evidence for issuance of a penalty. The Zoning Administrator may maintain a contact list to reach out in the instance that additional evidence is warranted.
2. Evidence should be reviewed and used to construct a timeline of events starting with the time of issuance of the NWS warning, to the point when all turbines were curtailed, and ultimately to the expiration of the warning and/or resumption of blade rotation.
 - Turbines shall be considered "curtailed" when blades are rotated parallel to the wind and rotation has slowed. The revolutions per minute (RPM) should be visibly reduced, but reduction to a specific number of RPMs is not required.
 - Identification of specific turbine numbers that were not curtailed is not required, but should be attempted to assist with enforcement.
 - Absent evidence to the contrary, NWS warnings should be assumed to have been issued 59 seconds into the minute of the official time on the bulletin. For example,

a warning issued at 5:30 PM should be assumed to have been issued at 5:30.59 PM when constructing the timeline of events. Alternatively, the National Weather Service in Lincoln can be contacted to confirm exact timing the warning was issued.

<https://www.weather.gov/ilx/>

NWS Central Illinois, 1362 State Route 10, Lincoln, IL 62656

217-732-7321

3. The owner/operator shall be notified of a violation and assessed a \$5000 penalty when the evidence conclusively demonstrates that:
 - The project was not completed curtailed (4 minutes) or more after the issuance of a NWS warning.
 - The project resumed operation prior to the expiration of the NWS warning.

DRAFT

Footnote excerpts from testimony defining "curtailment" and "as soon as reasonably feasible"

S-250-2019 ZBA Transcripts for 01-07-20, page 77, lines 5-14.

What is "curtailment"? Per Tom Swierczewski's testimony:

"We also proposed condition number one that obligates the project to curtail; that is, turn the blades off for all severe thunderstorm and tornado warnings issued by the National Weather Service for all of DeWitt County. So when we're talking about clutter, if you will, on the radar, the central issue is the spinning blades; it's the Doppler effect. That's really the only concern that's out there. It's the major concern. Shutting the blades down, feathering them, curtailing them, addresses the issue."

S-250-2019 ZBA Transcripts for 01-07-20, page 77, lines 17-23

Tom Swierczewski continued,

"It's an additional layer of protection for DeWitt County residents, that even though only a third of our turbines are in the mitigation zone the other two-thirds are not, any time the National Weather Service issues a severe thunderstorm or tornado warning we will shut down the entire project if the warnings happen anywhere in DeWitt County."

What is "as soon as reasonably feasible"?

From testimony, Ms. Owens questioning Tom Swierczewski:

S-250-2019 ZBA Transcripts for 01-07-20, page 94, lines 17 through page 96, line 8.

CROSS-EXAMINATION
BY MS. OWENS:

Q. Back here it says, with the radar, you're going to get a notice from the radar -- from the weather stations from Lincoln and they're gonna tell 'ya that we have something coming our direction.

Where are you going to turn that off? Is it in a field? Is it in the office in your main home, out-of-state? How are you gonna curtail that off?

A. Great, great question. So curtailment, in the wind industry, is nothing new. And curtailment, you know, for a weather condition is -- would just be added to the list of a couple dozen other reasons why the project would be curtailed.

These are extremely, these are extremely sophisticated systems, both individually and as a group, with several layers of redundancy. And so we would receive

essentially an instantaneous notice from the National Weather Service of whatever the category of storm is, and there are, there are really two paths. Automatically the computer will automatically, both locally at the operation center somewhere in DeWitt County where we proposed it, and at Enel Green Powers North American operation center, which is in the suburbs of Boston and Andover. That's where our corporate headquarters are. Both of those locations will receive those alerts. And, you know, in a matter -- instantaneously, in a matter of probably seconds, the curtailment protocol will be implemented.

Each location acts as a redundancy to the other. The systems themselves each have at least two layers of redundancy. And then the fallback always is the operations center in Andover is staffed 24/7 by experts. Of course they run, you know, dozens of projects all across the country, but they would have that alert pop up on their screen probably in an e-mail format, as would the local operations folks in DeWitt County. And so you've got parallel redundancy, both off-site and locally, and then each one of those has at least three levels of redundancy to ensure that no mistakes happen.

We understand, you know, the importance here. This is an automated system with, you know, human intervention as the ultimate failsafe.

From testimony, Pat Ryan questioning Tom Swierczewski:
S-250-2019 ZBA Transcripts for 01-08-20, page 98, lines 9-22.

Pat Ryan:

So here are my questions. The -- you indicated previously that the strategy could be implemented in a matter of seconds. Does the wind turbine curtailment strategy during severe weather warnings have to pass through approval of the grid authorities prior to being implemented?

A. So I understood a lot of that, and I appreciate you asking the question because here's another instance where I, I probably slightly misspoke last night. You know, I would, I would re-characterize the response as a couple of minutes, sort of similar to all of the other recipients of National Weather Service warnings, you know, local weather stations, the emergency broadcast system, et cetera. So the response is, is a couple of minutes.

Sample NWS Weather Alert

Hazardous Weather Outlook

National Weather Service Lincoln IL
311 PM CST Wed Jan 18 2023

ILZ027>031-036>038-040>057-061-191200-
Knox-Stark-Peoria-Marshall-Woodford-Fulton-Tazewell-McLean-Schuyler-
Mason-Logan-De Witt-Piatt-Champaign-Vermilion-Cass-Menard-Scott-
Morgan-Sangamon-Christian-Macon-Moultrie-Douglas-Coles-Edgar-Shelby-
311 PM CST Wed Jan 18 2023

This Hazardous Weather Outlook is for central Illinois, east central Illinois and west central Illinois.

.DAY ONE...Tonight.

East winds will gust from 30 to 35 mph for a time this evening. This will cause some travel difficulties for high profile vehicles on north south oriented roads. Areas of fog will likely develop during overnight as winds diminish with fog lingering into mid Thursday morning.

.DAYS TWO THROUGH SEVEN...Thursday through Tuesday.

West winds will gust from 30 to 40 mph Thursday afternoon and evening. This will cause some travel difficulties for high profile vehicles on north south oriented roads.

.SPOTTER INFORMATION STATEMENT...

Spotter activation is not anticipated tonight.

\$\$