

TUSCOLA COUNTY
AIRPORT ZONING BOARD OF APPEALS

Chairman Keith Kosik called the meeting of the Airport Zoning Board of Appeals (AZBA) of the County of Tuscola, Michigan, held at the H.H. Purdy Building, 125 W. Lincoln Street, Caro Michigan on the 13th day of December, 2019, to order at 12:00 p.m. local time.

Pledge of Allegiance

Roll Call – Clerk Jodi Fetting

Members Present: Keith Kosik, Tim Kinney, Bill Campbell, Paul Hoose, Don Clinesmith

Members Absent: None

Also Present: Clerk Jodi Fetting, Jamie Nisidis, Ryan Robinson, Laura Ambro, Dan Ettinger, Ken Hecht, Tom McGough, Ellen Doering, Norm Stephens, Jim Tussey, Mary Brissette, Don Atkerson, Art Graff, Mike Pattullo, Nancy Laskowski, Jim McLoskey, Joe Greene, John Schneider, Richard Koerner, Joe Dudock, Edward Lysogorski

Adoption of Agenda

19-M-AZ-024

Motion by Campbell, seconded by Clinesmith to approve the agenda as presented.

Motion Carried with Kosik abstaining.

Approval of Minutes –

19-M-AZ-025

Motion by Clinesmith, seconded by Kinney to approve the December 4, 2019 minutes.

Motion Carried with Kosik abstaining.

Chairman Kosik recused himself at 12:02 p.m. due to potential conflict of interest.

Vice-Chairman Kinney assumed responsibilities of leading the meeting.

New Business –

Closed Session – To Discuss Written Legal Memorandum

19-M-AZ-026

Motion by Clinesmith, seconded by Campbell that the AZBA Board meet in Closed Session under Section 8(h) of the Open Meetings Act to discuss the contents of a written legal memorandum from its attorney, which is exempted from disclosure under Section 13(1)(g) of the Freedom of Information Act, with Jamie Nisidis and Jodi Fetting to be allowed to attend the closed session at 12:04 p.m. Roll Call Vote: Campbell – yes; Hoose – yes; Clinesmith – yes; Kinney – yes; Kosik – absent. Motion Carried.

Reconvened regular session at 1:05 p.m.

Board Discussion -

-Members Campbell, Hoose, Clinesmith stated they would like the opportunity to hear any new additional comments from the public prior to making a decision on if the AZBA should continue in the appeal process.

-Vice-Chairman Kinney reviewed the decision made on December 11, 2019 at the Board of Commissioners meeting. The Commissioners decided to not appeal and also pulled any funding of the AZBA in the appeal process. He explained that funding could be provided by an outside source which Friends of the Tuscola Area Airport, Inc. (FTAA) has offered to do so. He stated the funds in no way could be used to influence the decision of the AZBA. The AZBA would have to remain independent as a neutral decision maker.

-Campbell, Clinesmith and Hoose agreed that accepting the funds from FTAA would be acceptable.

Public Comment

-Mary Brissette asked if the Board needed to make a vote to come back into open session. Clerk Jodi Fetting explained that the vote is taken and is part of the closed session minutes.

-Nancy Laskowski brought up concerns over the radar system and the next gen system. She also referenced the Notice of Presumed Hazard and reviewed items that she felt were left out of the determinations in April 2019.

-Richard Koerner discussed his opinion of a redesigned VOR-A approach to the Tuscola Area Airport runway to include a step down fix, taking into account the 33 wind turbines which would require variances. Board discussed.

-Mike Pattullo is a member of the Friends of the Tuscola Area Airport. He questioned the amount that would be needed to be placed on retainer and when would it need to be placed on retainer.

-Eileen Doering questioned the attorney regarding how the stay comes into play. The Attorney responded that there is no stay in the matter. There is a motion on Monday regarding issuing of the variances and when they would be effective.

-Norm Stephens referenced peer review research. Turbines have been reported to interfere with cell phones, television and radar signals. Richard Koerner responded that it depends on signals that are being referred to.

-Tom McGough asked if the Judge could change the date of the 30-day effective date. An appeal case has been filed in the DC Case by FTAA vs FAA regarding the no hazard determinations.

-Member Campbell thanked Richard Koener for his thoughts.

-Richard Koerner asked if Braun Kendrick would work pro bono until the funds are placed in the account.

19-M-AZ-027

Motion by Campbell, seconded by Clinesmith to accept funds from the Friends of the Tuscola Area Airport, Inc. to retain Braun Kendrick for the appeal subject to the following conditions:

1. The AZBA and its attorneys retain full authority to make all decisions regarding the appeal.
2. The source of the funding shall have no say in any decisions made by the AZBA and its attorneys related to the appeal and shall have no say in any future actions of the AZBA.
3. The AZBA's acceptance of this money does not bring with it any express or implied obligation to take any action or make any decision in this case or any other business of the AZBA.
4. The AZBA shall retain at all time its independence as a neutral decision.

Roll Call Vote: Clinesmith – yes; Campbell – yes; Hoose – yes; Kinney – yes; Kosik – absent.
Motion Carried.

19-M-AZ-028

Motion by Campbell, seconded by Clinesmith to authorize Tim Kinney to sign an engagement letter with Braun Kendrick for legal services necessary to file and pursue the appeal. Roll Call Vote: Hoose – yes; Clinesmith – yes; Campbell – yes; Kinney – yes; Kosik – absent. Motion Carried.

Old Business – None

19-M-AZ-029

Motion by Clinesmith, seconded by Campbell to adjourn the meeting at 1:58 p.m.
Motion Carried.

Jodi Fetting
Tuscola County