

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 Saginaw Valley Research & Extension Center, 3775 S Reese Road, Frankenmuth Michigan 48734, on the 13th day of January, 2020, to order at 4:00 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, John Schneider, Scott Dianas, Jim Tussey, Richard Koerner, Mary Brissette, Garrett Tetil, Carrie Nichols, Norm Stephens, Mark McCracken, Ione Vyse, Tom Hess, Carol Hess, Phil Pavlov, Jim Mantey, Larry Ruckle, Greg Ackerman, Chuck Dennis, Ken Hecht, Nancy Laskowski, Joe Greene, Maureen Atkerson, Don Atkerson, Mel Campbell, Sue Campbell, Ryan Pumford, Dan Ettinger, Ashley Chrysler, Joe Anderson, Mark Trumbauer, Carl Childs, Karen Goodchild, Heidi Stark, John Stoick, Dale Janson, Judy Janson, Lynn Hayward, Pat Osantowski, Rick Russell, Russell Ackerman, Dennis Ackerman, Joe Baranic, Jon Garner, Ben Doyle, Joe Anderson, Jonathan Lauderbach

Oath of Office – Clerk Fetting administered the Oath to Donald Clinesmith, Paul Hoose and Tim Kinney.

Adoption of Agenda

2020-M-AZ-001

Motion by Kinney, seconded by Clinesmith to approve the agenda as presented. Roll Call Vote: Kinney – yes; Campbell – yes; Hoose – yes; Clinesmith – yes; Kosik – yes. Motion Carried.

Approval of Minutes –

2020-M-AZ-002

Motion by Clinesmith, seconded by Campbell to approve the December 13, 2019 minutes. Roll Call Vote – Campbell – yes; Hoose – yes; Clinesmith – yes; Kinney – yes; Kosik – abstain. Motion Carried.

Chairman Kosik recused himself at 4:05 p.m. due to potential conflict of interest.

Vice-Chairman Kinney assumed responsibilities of leading the meeting.

New Business –

Vice-Chairman Kinney polled the Board to determine if they had a conflict of interest with the consideration of the eight Variance Applications. Hoose – No conflict, Campbell – No conflict, Clinesmith – No conflict, Kinney – No conflict.

Vice-Chairman Kinney proceeded with the meeting.

-Variance Applications Received

1. 2019-WTE-80-OE
2. 2019-WTE-81-OE
3. 2019-WTE-4534-OE
4. 2019-WTE-4535-OE
5. 2019-WTE-4536-OE
6. 2019-WTE-4537-OE
7. 2019-WTE-4538-OE
8. 2019-WTE-4539-OE

-Ryan Pumford presented on behalf of Pegasus regarding the request for the eight variance applications. He presented various reasons why the variance requests should be approved.

-Ben Doyle from Capital Airspace presented regarding the approval process the Federal Aviation Administration (FAA) goes through when reviewing. Ben offered his opinion that wind turbines would not present a hazard to aircraft using the Caro Area Airport.

-Dan Ettinger from Warner Norcross-Judd presented information regarding the variance criteria and the ruling of the Tuscola County Circuit Court in the prior appeal as it relates to those criteria. The eight variances are needed to be approved to allow Pegasus to comply with the power purchase agreement that has been signed.

-Member Campbell questioned if the FAA has issued a presumed hazard determination. Ben Doyle responded that those are a preliminary determination.

-Written communication submitted by Linn Smith was referenced which stated that a MDOT Tall Structure permit could be issued after the AZBA approval was received. Dan Ettinger explained that it is a matter of law that a Tall Structure permit cannot be issued until the AZBA makes a determination.

-Member Clinesmith asked Ben Doyle how many airports his company has worked with nationwide. Mr. Doyle stated upwards of 1,000 airports. He is not aware of any

accident on a project that he has assisted with. He looks at FAA rules and then advises his client on the steps that need to be taken.

-Member Clinesmith asked if there have any accidents involving an aircraft on a NextEra project. Ryan Pumford responded that there were none to his knowledge.

-Member Campbell asked Pegasus if they were aware that Indianfields Township has an ordinance covering the 10 mile radius of the Caro Area Airport. Dan Ettinger stated that they are not subject to Indianfields Township as they are not applying in that Township.

-Member Kinney questioned Visual Flight Rules (VFR) in a Class G airspace. Ben Doyle offered an explanation that the Pegasus wind farm does not have an effect on VFR airspace at the Caro Area Airport. Board discussed VFR traffic patterns.

-Ben Doyle discussed historical flight path patterns for flights in and out of the Caro Area Airport. He stated the airport has been used less than 6 times per year when visibility was under 1 mile.

-Board discussed the placement of the wind turbines.

-Closed Session – To Discuss Written Legal Memorandum –
2020-M-AZ-003

Motion by Clinesmith, seconded by Campbell that the AZBA meet in Closed Session under Section 8(h) of the Open Meetings Act to discuss a written legal memorandum from its attorney, which is exempt 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 5:23 p.m. Roll Call Vote: Hoose – yes; Clinesmith – yes; Campbell – yes; Kinney – yes. Motion Carried.

Reconvened from Closed Session at 5:53 p.m.

Campbell excused at 5:55 p.m.

Public Comment -

-Richard Koerner is a former pilot who worked for Dow Chemical. Richard spoke against having the wind turbines located near the Caro Area Airport and presented information regarding the impact of turbines on radar.

-Joe Greene spoke in reference to the National Plan of Integrated Airport Systems (NPIAS) and The Airports Capital Improvement Plan (ACIP).

-Maureen Atkerson presented a 2014 report and a 2018 report from the Kansas Department of Transportation.

-Nancy Laskowski referenced US Department of Transportation Federal Aviation Administration and an estimate of airport improvements eligible for Federal Estimate development grants.

-Ken Hecht read a letter from a Wisconsin sprayer.

-Jim Mantey provided a listing of grant funding received by the Caro Area Airport.

-Jim Tussey stated this is not just a wind turbine issue but is an issue of turbines in the space of the airport.

Board questioned that if the eight variance applications are not approved, what effect would that have on the entire project.

Meeting adjourned at 6:59 p.m.

Jodi Fetting
Tuscola County Clerk

On Behalf of
William Campbell
AZBA Secretary