

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 HH Purdy Building, 125 W Lincoln Street, Caro MI 48723, on the 20th day of February, 2020, to order at 5:00 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, Larry Ruckle, Nancy Laskowski, Mary Brissette, Norm Stephens, Eric King, Phil Pavlov, Neil Arnold, Mike Pattullo, Carmell Pattullo, Ashley Chrysler, Charles Dennis, Ken Hecht, John Schneider, Barbara Ruckle, Carrie Nichols, Laura Ambro, Don Atkerson, Jim Mantey, Lisa Geiger, Dennis Ackerman, Tom Trinklein, Lisa Geiger, Brenden Miller

Adoption of Agenda

2020-M-AZ-009

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

Approval of Minutes –

2020-M-AZ-010

Motion by Kinney, seconded by Clinesmith to approve the January 17, 2020 minutes as corrected. Roll Call Vote – Campbell – yes; Hoose – yes; Clinesmith – yes; Kinney – yes; Kosik – abstain. Motion Carried.

New Business –

Organizational Meeting –

2020-M-AZ-011

-Election of Chairperson – Member Kinney nominated Keith Kosik as Chairman, seconded by Member Campbell. Kosik accepted nomination and no other nominations were cast. Roll Call Vote: Campbell – yes; Hoose – yes; Clinesmith – yes; Kinney – yes; Kosik – yes. Motion Carried electing Keith Kosik as the Chairman.

2020-M-AZ-012

-Election of Vice-Chairperson – Member Campbell nominated Tim Kinney as Vice-Chairman, seconded by Member Kosik. Kinney accepted nomination and no other nominations were cast. Roll Call Vote: Hoose – yes; Clinesmith – yes; Campbell – yes; Kinney – yes; Kosik – yes. Motion Carried electing Tim Kinney as the Vice Chairman.

2020-M-AZ-013

-Election of Secretary – Member Clinesmith nominated Bill Campbell as Secretary, seconded by Member Kinney. Campbell accepted nomination contingent upon Clerk Jodi Fetting providing assistance to the Secretary. Board agreed with that arrangement. Clerk Fetting agreed to continue assistance in that role. No other nominations were cast. Roll Call Vote: Clinesmith – yes; Campbell – yes; Hoose – yes; Kinney – yes; Kosik – yes. Motion Carried electing Bill Campbell as Secretary with Clerk Fetting provided assistance.

Old Business –

Chairman Kosik recused himself at 5:07 p.m. due to potential conflict of interest.

Vice-Chairman Kinney assumed responsibilities of leading the meeting.

-Closed Session – To Discuss Written Legal Memorandum –

2020-M-AZ-014

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 5:10 p.m. Roll Call Vote: Hoose – yes; Clinesmith – yes; Campbell – yes; Kinney – yes; Kosik – absent. Motion Carried.

Board reconvened at 5:39 p.m.

-Board Discussion/Action -

-Vice-Chairman Kinney stated the new appeal case regarding the denial of the eight variance applications only named Tuscola County and did not name the AZBA as a party to the case. Braun Kendrick cannot represent the AZBA in this appeal case regarding the eight variance applications. If the AZBA Board decided to attempt to intervene, the AZBA Board would need to seek representation from an outside legal firm.

-John Schneider disclosed his coat was in the closed session room but had no recording devices in it. He did not know the Board was going to use that room for the closed session.

-Neil Arnold asked why Braun Kendrick could not represent the AZBA Board in the new appeal case. Jamie Nisidis stated that ethically she could not adequately represent both parties without there being a potential conflict of interest.

-Mike Pattullo also questioned why Jamie Nisidis cannot represent the AZBA in the new appeal case. Jamie explained that she will continue to represent the AZBA in the original appeal case with the 33 variance applications just not in the new appeal case with the 8 variance applications as she is representing Tuscola County in that case. Mike

also stated the Friends of the Airport group would be willing to fund the AZBA to have an outside legal firm represent the AZBA in order to file the motion to intervene.

-Norm Stephens questioned if the AZBA has made a decision on filing the motion to intervene. Vice-Chairman Kinney stated that a decision has not been made as it has to be discussed and voted on in open session.

-Nancy Laskowski thanked the AZBA Board for continuing to move forward in protecting the airport.

-Vice-Chairman Kinney has made preliminary contact with Foster Swift attorney Michael D. Homier as that is the firm that represented Juniata Township in the first appeal case. Attorney Homier confirmed that the firm would be willing to represent the AZBA in the motion to intervene.

2020-M-AZ-015

Motion by Campbell, seconded by Clinesmith to retain the Foster Swift firm for the purpose of seeking to intervene in the circuit court appeal regarding the denial of Pegasus Wind's 8 variance applications. Roll Call Vote: Clinesmith – yes; Campbell – yes; Hoose – yes; Kinney – yes; Kosik – absent. Motion Carried.

2020-M-AZ-016

Motion by Campbell, seconded by Clinesmith to accept private funds to retain Foster Swift for the circuit court appeal subject to the following conditions:

- a) The AZBA and its attorney retain full authority to make all decisions regarding the appeal;
- b) The source of the funding shall have no say in any decisions made by the AZBA and its attorneys related to the circuit court appeal and shall have no say in any future actions of the AZBA;
- c) 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.

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

2020-M-AZ-017

Motion by Clinesmith, seconded by Hoose to authorize Vice-Chairman Tim Kinney to sign the engagement letter received from Foster Swift. Roll Call Vote: Hoose – yes; Clinesmith – yes; Campbell – yes; Kinney – yes; Kosik – absent. Motion Carried.

Public Comment

-Member Paul Hoose spoke in reference to the end life of the windmills and the disposal of the material as it was stated that the material is buried not recyclable. Norm Stephens confirmed that the material is buried because they are made with composite material.

-Mary Brissette stated the blades of a turbine last approximately 7 years. The blades are replaced at that point and are then buried in the ground.

-Barbara Ruckle stated there is concern with burying the material due to the seeping of materials into well water.

-Member Campbell stated there are 14,000 decommissioned windmills worldwide that need to be disposed of.

Meeting adjourned at 6:04 p.m.

Jodi Fetting
Tuscola County Clerk

On behalf of
William Campbell
AZBA Secretary