

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 electronically through Google Hangouts due to EO 2020-21, on the 27th day of March, 2020, to order at 10:02 a.m. local time.

There was a short delay in proceeding with the meeting to allow for all AZBA members to connect to the electronic meeting.

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

There were a total of 28 attendees on the electronic meeting.

Adoption of Agenda -

2020-M-AZ-025

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

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

Motion Carried.

Approval of Minutes – March 5, 2020

2020-M-AZ-026

Motion by Clinesmith, seconded by Kinney to approve the March 5, 2020 minutes as

presented. Roll Call Vote – Campbell – yes; Hoose – yes; Clinesmith – yes; Kinney – yes;

Kosik – abstain. Motion Carried.

New Business – None

Chairman Kosik recused himself at 10:17 a.m. due to potential conflict of interest.

Vice-Chairman Kinney assumed responsibilities of leading the meeting.

Old Business –

Vice-Chairman Kinney provided a brief overview for the call of the meeting. The Board was meeting to discuss the written legal opinion offered by legal counsel and pending litigation.

Closed Session – To Discuss Written Legal Memorandum and Pending Litigation –
2020-M-AZ-027

Motion by Campbell, seconded by Clinesmith 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 and under Section 8(e) of the Open Meetings Act to discuss with the attorney specific pending litigation with Jamie Nisidis and Jodi Fetting to be allowed to attend the closed session at 10:22 a.m.

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

Reconvened from Closed Session at 11:06 a.m.

Clerk Fetting did a Roll Call to verify the Board Members had re-joined the Public Call.

Members Present: Kinney, Campbell, Hoose, Clinesmith

Also Present: Fetting, Nisidis

Board Discussion/Action –
2020-M-AZ-028

Motion by Campbell, seconded by Clinesmith to enter into an agreement with Foster Swift to act as co-counsel with Braun Kendrick in all future litigations regarding the wind turbines. Roll Call Vote: Clinesmith – yes; Campbell – yes; Hoose – yes; Kinney – yes; Kosik – absent. Motion Carried.

2020-M-AZ-029

Motion by Campbell, seconded by Clinesmith that the AZBA file an Application for Leave to Appeal with the Court of Appeals seeking leave to appeal from the Circuit Court's March 13, 2020 Order granting Pegasus' emergency motion to enforce the November 27, 2019 judgment. Roll Call Vote: Campbell – yes; Hoose – yes; Clinesmith – yes; Kinney - yes; Kosik – absent. Motion Carried.

2020-M-AZ-030

Motion by Campbell, seconded by Clinesmith that the AZBA accept private funds to retain Foster Swift for all future litigation in regards to wind turbines and to assist with Braun Kendrick. The AZBA and their attorneys retain full authority to make all decisions related to future litigation. The source of the funding will have no say on behalf of the AZBA and their attorneys in relation to the litigation. The AZBA's acceptance of financial money does not bring with it any expressed or implied obligation to take any action or decision in future litigation or in any other business of the AZBA. (Motion Amended).

2020-M-AZ-031

Motion by Campbell, seconded by Clinesmith to amend 2020-M-AZ-030 to read to co-counsel with Braun Kendrick rather than assist with Braun Kendrick. Roll Call Vote: Hoose – yes; Clinesmith – yes; Campbell – yes; Kinney – yes; Kosik – absent. Motion Carried.

2020-M-AZ-030 as amended

Motion by Campbell, seconded by Clinesmith that the AZBA accept private funds to retain Foster Swift for all future litigation in regards to wind turbines and to co-counsel with Braun Kendrick. The AZBA and their attorneys retain full authority to make all decisions related to future litigation. The source of the funding will have no say on behalf of the AZBA and their attorneys in relation to the litigation. The AZBA's acceptance of financial money does not bring with it any expressed or implied obligation to take any action or decision in future litigation or in any other business of the AZBA. Roll Call Vote – Clinesmith – yes; Campbell – yes; Hoose – yes; Kinney – yes; Kosik – absent. Motion Carried.

Member Hoose questioned how long it would take to file the appeal. Jamie Nisidis explained that a draft Application for Leave to Appeal has been completed and will be submitted to Foster Swift for review and approval.

Jamie Nisidis explained the variances have been issued per Judge Gierhart's order and that was the obligation currently of the AZBA.

Public Comment –

-Nancy Laskowski stated that Pegasus has filed paperwork with the Federal Aviation Administration (FAA) that construction of the 33 turbines is scheduled to begin the first part of April 2020. She stated a new approach plan has not been submitted. Nancy expressed concern that expanded services may be needed at the Caro Area Airport due to the current health crisis. She stated the FAA case is still ongoing.

-Ryan Pumford stated it is expected that the FAA will issue NOTAMS around April 2, 2020 to keep pilots safe in reference to VOR Alpha.

-Tim Kinney commented on the VOR Alpha. He stated if the FAA has been notified, then a NOTAMS will be issued regarding a new certification being approved. He stated if a person googles NOTAMS CFS then the issuance of the modem can be monitored.

2020-M-AZ-030

Motion By Clinesmith, seconded by Campbell to adjourn the meeting at 11:42 a.m.

Roll Call Vote: Campbell – yes; Hoose – yes; Clinesmith – yes; Kinney – yes;

Kosik – absent. Motion Carried.

Jodi Fetting

Tuscola County Clerk

On behalf of

William Campbell

AZBA Secretary