

CLAY COUNTY BOARD OF COMMISSIONERS

Tuesday, March 3, 2009

8:30 a.m.

County Board Room – 3<sup>rd</sup> Floor – Courthouse

M I N U T E S

The Clay County Board of Commissioners met in regular session on Tuesday, March 3, 2009, with all commissioners present: Campbell, Evert, Ingersoll, Waller and Weyland.

APPROVAL OF AGENDA

On motion by Campbell, seconded by Evert, and unanimously carried, the agenda was approved as presented.

APPROVAL OF CONTRACTED PROVIDER FOR HOME & COMMUNITY BASED SERVICES

By consent agenda, the Board approved Trevor and Jackie Petrie (licensed foster care home) as a 2009-2010 contracted respite care provider for Home & Community Based Services.

APPROVAL OF APPLICATION FOR EXEMPT PERMIT FOR RAFFLES CONDUCTED BY CLAY WILKIN CHAPTER OF MINNESOTA DEER HUNTERS ASSOCIATION

By consent agenda, the Board approved an application for an exempt permit for the Clay Wilkin Chapter of Minnesota Deer Hunters Association to conduct raffles on April 4, 2009 at the Galaxie Supper Club, Barnesville, MN.

CITIZENS TO BE HEARD

There were no citizens present who wished to address the Board.

APPROVAL OF MINUTES OF FEBRUARY COUNTY BOARD MEETINGS

On motion by Evert, seconded by Weyland, and unanimously carried, the Board approved the minutes of the February 3, 10, 17, and 24, 2009 meetings.

EMPLOYEE RECOGNITION

Ms. Karen Irey, Public Health Nurse, and Ms. Amy Monson, Financial Worker in Social Services, were presented with plaques of appreciation for their 15 years of service to Clay County.

REQUEST FOR RESOLUTION OF SUPPORT - COMMUNITY-BASED ENERGY DEVELOPMENT (C-BED) - FOR LAKESWIND WIND POWER PROJECT

Mr. Matthias Weigel and Ms. Diana Wilson, Project Resources Corporation, were present to review their request for a resolution of support (Community-Based Energy Development C-BED) for a 55 megawatt wind turbine project in Clay County, originally heard in November, 2008. The project also covers acreage in Becker and Otter Tail Counties.

Commissioner Waller commented that wind projects such as this are new to Clay County and spark a lot of interest by both supporters and detractors. He clarified that

permitting for projects of this size (above 25 megawatts) is conducted by the State of Minnesota.

Mr. Weigel informed the group that there is a public hearing process conducted by the Department of Commerce, and they are hopeful to get that scheduled in March, to be held in Barnesville.

County Administrator Vijay Sethi inquired if there is a statutory requirement for a letter of approval from the County. Mr. Weigel stated that it is not a requirement, but they like to get the counties involved early on to take that support to the State.

Commissioner Waller expressed concern regarding the infrastructure during the construction process. Mr. Weigel stated that the project is responsible for damage to any roads and to make sure they are in the same or better condition than before the project was implemented. He added that they would be seeking some local permitting for cabling in the right-of-way, installation of driveways, etc.

Commissioner Campbell felt the County needs to protect its interests and requested clarification as to the recourse for assuring roads are repaired.

Mr. Weigel stated that Mr. Larry Hartman, Permitting Director at the MN Department of Commerce, oversees development of this sort and would be the contact person for complaints. He added that there is a very short list of contractors who can perform installations of this type and they are familiar with the requirements.

Commissioner Evert felt the County Board should take its action on the resolution after the public hearing which the Department of Commerce will hold.

Commissioner Ingersoll commented that the application appears to be very complete, in that it addresses improvements to existing roads, noise levels, impact to plant and animal life, wind shear, etc.

Planning & Environmental Programs Director Tim Magnusson stated that the Planning Commission has asked that wind energy provisions be added to the Clay County Development Code, to include facilities for which the County has responsibility. In addition, this would be something for the Public Utilities Commission (PUC) to review for larger facilities. A discussion to this effect will take place on March 17<sup>th</sup>. Once approved at the Planning Commission, the ordinance will subsequently be brought to the County Board for approval. Mr. Magnusson clarified that statutes indicate that the PUC supercedes any local land use zoning or ordinance. However, the statute also states that a county can write an ordinance that is more strict and during the permitting process the PUC will take that ordinance under consideration.

Chief Assistant County Attorney Michelle Winkis commented that in reviewing the proposed resolution, it states that the proposed development will provide economic opportunity for residents of the county. She indicated she had not heard information about those.

Mr. Weigel stated that landowners without towers get acreage payments, some get energy based payments for turbines that would be erected on the property, and the County gets some payments from the State.

Commissioner Evert felt it is misleading to say the County gets payments from the State when in actuality, that payment is subtracted from aid the County receives from the State. He added that real estate tax classifications change from farm to commercial for the land on which the tower is located.

Mr. Per Anderson read a letter requesting that the Board withhold action on the resolution pending a county-sponsored process of open meetings for all impacted people (See Attachment "A").

Mr. Dwight Mickelson expressed his concern for the future scope and scale of the wind projects in Clay County. He also felt there is conflicting information concerning health issues and wind towers. He requested that the Board delay its action on the resolution until the Planning Commission's work is complete.

Ms. Cindy Belohlavek informed the Board that she had always thought that construction of wind farms would be positive, but after researching them, she expressed concern regarding the effect on the community. She felt a moratorium would be beneficial to allow more research for an educated decision.

Mr. Weigel suggested that the County Board contact other counties (Pipestone, Murray, Lincoln) where wind projects have been in place for years as to their economic benefits.

Commissioner Evert stated that he has heard that one of the reasons the County is not hearing from the supporters (those under land leases) is that they were required to sign a gag order. Mr. Weigel stated that the leaseholders are not under a gag order, but have been asked to keep the terms of their leases confidential.

Mr. Roger Mynch, a leaseholder, confirmed that the leaseholders are not under a gag order. He felt the land owners are happy with Project Resources Corporation and feel lucky they are interested in their land. He noted that by the year 2020, 20% of energy is to come from renewable sources.

Mr. Jerry Swedberg, who lives three miles from Rollag, inquired if the eminent domain process is applicable if he does not sign a lease. Mr. Weigel stated that eminent domain applies only for government entities and is not available to their company. He added that Project Resources Corporation relies on participation by willing landowners.

Mr. Swedberg also inquired as to who pays the tax on the tower and the land it sits on. Mr. Weigel stated that the leases determine who is responsible for payment of tax.

A citizen commented that not all land owners have been contacted. Mr. Weigel reported that he could not comment regarding other projects in the area. He added that there are rules and regulations for turbine siting, and it is necessary to contact 100% of property owners, which can take a long time.

Commissioner Evert reiterated that he would prefer to wait for Board action until after the public hearing is held. Mr. Weigel noted that the public hearing would be noticed in the appropriate newspapers.

Commissioner Evert felt an informed neutral party should be available to speak to the issues at the public meeting.

Commissioner Ingersoll inquired if the project would be stopped if the Board does not adopt the resolution. Mr. Weigel responded that the project would continue with or without the County's resolution.

Commissioner Campbell commented that with respect to Mr. Anderson's request for the formation of an advisory group, the Planning Commission already serves as an advisory group that could be called upon for further research, rather than forming another committee.

County Administrator Vijay Sethi agreed that it would be helpful if the County Board could wait until after the PUC public hearing to consider the adoption of the resolution. He felt neutral experts should be called upon for comment as well.

Commissioner Waller felt Clay County should obtain feedback from those counties which have a history with this type of industry.

Mr. Magnusson commented that the PUC holds a public informational meeting some time before the public hearing.

Commissioner Campbell felt a joint meeting should be conducted of the County Board and the Planning Commission to hear the non-biased opinion of experts.

The consensus of the Board was that they are not prepared to act on the resolution at this time.

Commissioner Campbell commented that there was a Department of Commerce meeting on the Nobles project which provided a lot of valuable information.

Ms. Winkis reminded the Board that the County cannot kill projects that are permitted by the State.

REQUEST FOR RESOLUTION OF COMMUNITY-BASED ENERGY DEVELOPMENT (C-BED)  
SUPPORT FOR ROMAR WIND PROJECT

Mr. Jon Folkedahl, representing Ralph and Mary Garborg, requested a resolution of Community-Based Energy Development (C-BED) support for the Romar Wind Project, located in Tansem Township. He stated that the resolution is to satisfy legislative intent concerning C-BEDs and is not binding or required. He explained that this project consists of two wind towers (up to four megawatts) and will be located on land that has been in the Garborg family for years. He stated that Project Resources Corporation had originally contacted the Garborg's for inclusion in their Lakeswind project, but the Garborg's decided to develop their own project. Mr. Folkedahl added that the Garborg's are interested in leaving a legacy for their family, and feel this is the highest and best use of the property. They are negotiating with Great River Energy to put the power generated into the grid. They intend to find an equity partner and bank financing.

Land owners within a half mile of the subject property were contacted in connection with the Conditional Use Permit (CUP) public hearing conducted by the Planning Commission, and no negative comments were forthcoming. The CUP application was subsequently approved.

Commissioner Campbell commented that the County Board must act using the current criteria for a tower of this size (under 5 megawatt), even though the Planning Commission is considering the revision of the ordinance concerning wind towers.

Planning & Environmental Programs Director Tim Magnusson informed the Board that the Planning Commission also placed conditions (prairie management plan) on the placement of the towers in a native prairie area, to be agreed upon by the applicant, the Department of Natural Resources, and the County.

On motion by Campbell, seconded by Weyland, and unanimously carried, the Board adopted the following resolution of Community-Based Energy Development (C-BED) support for the Romar Wind Project with conditions as recommended by the Planning Commission:

**RESOLUTION 2009-05**  
**ACKNOWLEDGING COMMUNITY-BASED ENERGY DEVELOPMENT STATUS FOR  
SMALL SCALE WIND ENERGY PROJECT**

WHEREAS, it is the policy of the State of Minnesota to foster Community-Based Energy Development (C-BED) projects, [The County approval requirement is found at Minn. Statute 216B.1612, subd. 2(f)(3)]; and

WHEREAS, the development of small scale wind projects in Clay County provides economic opportunity for residents of the County; and

WHEREAS, the Romar Wind project which is proposed for development in Tansem Township will be owned by a Minnesota limited liability company organized and owned by Minnesota residents; and

WHEREAS, this project calls for the development of up to 4 megawatts of wind energy to be produced by two wind turbines; and

WHEREAS, the project is structured to ensure that a majority of the financial benefit accrues to the local owner and other Minnesota companies.

NOW, THEREFORE, BE IT RESOLVED, that the Clay County Board of Commissioners hereby indicates its support for the development of the Romar Wind project as a C-BED project.

**REQUEST AUTHORIZATION TO ACCEPT GRANT FROM THE STATE OF MINNESOTA  
DEPARTMENT OF VETERAN AFFAIRS**

On motion by Campbell, seconded by Evert, and unanimously carried, the Board approved acceptance of a grant award in the amount of \$4200 from the State of Minnesota Department of Veterans Affairs for the purchase of specific office equipment for the Veterans Service Office.

**ESTABLISH PUBLIC HEARING DATE FOR PROPOSED AMENDMENTS TO COUNTY  
DEVELOPMENT CODE**

On motion by Campbell, seconded by Weyland, and unanimously carried, the Board approved a public hearing for proposed amendments to the County Development Code on Tuesday, March 24, 2009, 4:30 p.m. The amendments are relatively minor and represent clarifications of bad references made in the Code.

**UPDATE ON STEPS BEING TAKEN TO ADDRESS ANTICIPATED COUNTY BUDGET DEFICITS  
RESULTING FROM THE STATE REVENUE SHORTFALL**

County Administrator Vijay Sethi updated the Board concerning the steps being taken to address the anticipated budget deficits resulting from the State revenue shortfall. Clay County will see a \$418,000 unallotment for 2008, a shortfall of \$630,000 for 2009, and \$1,037,000 for 2010. Mr. Sethi felt that as the State agencies make their own agency cuts and changes to eligibility requirements, there will be cost shifts that impact the County to a greater degree.

Employees have been asked to submit ideas for revenue increases or budget cuts. Meetings are being held with Department Heads for their input as to possible reduction of service levels, adjustments to the equipment replacement schedule, and restrictions on filling vacant positions.

Mr. Sethi noted that the Highway Department has already cut \$165,000 in a line by line review of their budget. Consideration is also being given to reduction in the frequency of road maintenance, mowing, etc.

Mr. Sethi anticipated a combination of departmental cuts, equipment replacement schedule changes, adjustment to fees charged for services, and reduction of the fund balance to address the 2009 shortfall.

For 2010, each department head will be asked to put together a list of what is mandated, essential, and non-mandated (quality of life), and what they would cut first. He felt difficult decisions will have to be made in the prioritization process across departments. To aid in the process, a facilitator from the Extension Department will convene a prioritization discussion with the County Board and Department heads on April 14<sup>th</sup>.

Mr. Sethi informed the Board that discussions are taking place regarding the scenario for County personnel to take time off without pay. If there is a salary cut for all employees, there must be a willingness from the bargaining units to participate, as the County is bound by the existing contract.

Mr. Sethi requested the Board's input as to building improvement projects that have recently been implemented. The first year of a three-year program at the Family Service Center has been completed. Mr. Sethi recommended holding off on the remainder of the program at this time. He indicated that there are several items which must be undertaken at this time: repair of the roof over the detached building at the former Highway Department site (1300 N 15<sup>th</sup> Avenue), installation of a handicap accessible restroom at the Motor Vehicle Department, and the upgrade of the boiler in the Family Service Center. Mr. Sethi reminded the Board that Building Improvement funds have recently been committed for the relocation of the Veterans Service office.

Human Resources Director Kari Alme reviewed the various suggestions that have been submitted by employees to address the budget shortfall: reduction in hours of work, day without pay in lieu of job cuts, temporary part time schedules with full time benefits, adjustment to mileage and meal reimbursements, limit the use of personal vehicles, various energy saving ideas, increased cross-training of staff, consolidation of services within County departments, and other department-specific suggestions.

Mr. Sethi stated that alternatives to Clay County's operation of the Detox facility have been explored (average daily population is 6 while the capacity is 16). In the past research has found that it would not be cost effective to close the Detox facility.

Mr. Sethi expected that the 2008 year-end figures would be available by the second week in March, and there may possibly be revenue over expenditures which could be used to address the 2008 shortfall.

Commissioner Waller commented that at this time he is not in favor of using the fund balances to address the shortfall. He felt there is a difference between maintaining reserves and building reserves. He added that other counties seem to be ahead of Clay County in dealing with the issue, and that the longer we wait the more the problem compounds.

Commissioner Campbell expressed concern regarding the County Program Aid lost for 2008. He was appreciative of the efforts undertaken so far to address the issue.

Commissioner Weyland felt all departments will be forced to operate more efficiently. He inquired if a hiring freeze should be implemented except for those positions which generate funds or are grant funded. Consensus of the Board was that each position should be dealt with on a case by case basis for the time being.

Consensus of the Board was that normal building maintenance items cannot be neglected.

Commissioner Evert inquired as to the funds to be saved if the salary holiday is implemented. Ms. Alme stated that if non-union employees were to take a half day a month, \$23,000/month would be saved, and \$46,000/month for a full day. If all employees, including union employees, were to take a half day without pay per month, \$342,000 would be generated from April through December, (\$684,000 for a full day pay per month for that time period).

Commissioner Ingersoll commented that the bargaining units would have to agree to this proposal, and may likely do so if it would mean there would be no lay-offs. Ms. Alme stated that she is communicating with the County's labor attorney regarding this issue.

#### APPROVE PAYMENT OF BILLS AND VOUCHERS

On motion by Weyland, seconded by Campbell, and unanimously carried, the bills and vouchers were approved for payment.

#### COMMITTEE REPORTS; COUNTY ADMINISTRATOR UPDATE

County Administrator Vijay Sethi informed the Board that the study of Other Public Employee Benefits (OPEB) liability is complete and the results will be presented to the Board by the consultant next month.

Commissioner Evert attended the Planning Commission meeting, the United Way meeting concern the allocation of funds for homeless prevention, the Noxious Weed grant (Pulling Together Initiative) meeting, and the County Joint Powers meeting in Mahanomen.

Commissioner Campbell attended meetings of the West Central Regional Correctional Study Committee and the Solid Waste Advisory Committee.

Commissioner Waller attended the Solid Waste Advisory Committee meeting.

#### C-BED RESOLUTION OF SUPPORT

Planning and Environmental Programs Director Tim Magnusson returned to the meeting and informed the Board that he just conferred with the Public Utilities Commission's permitting specialist concerning wind towers. He informed the Board that a C-BED resolution is a requirement if an entity wants C-BED status, which equates to financial perks from the State. He added that if the facility is small, and they do not obtain the resolution of support, they may not be permitted.

#### ADJOURN

The meeting adjourned.

---

Jerry C. Waller, Chair  
Clay County Board of Commissioners

---

Vijay K. Sethi, County Administrator

Citizen Comment  
Clay County Board of Commissioners  
3 March 2009

Good morning. My name is Per Anderson. I live at 2727-29<sup>th</sup> Ave S in Moorhead. I am a small landowner in Section 7 of Tansem Township. On November 25, I came before the Board to speak to the resolution brought by Project Resources Corporation for the proposed Lakeswind Wind Power Plant (PUC Docket Number IP6603/WS-08-1449). Recently, I copied the Board in my communication with Commissioner Sanne Magnan of the Minnesota Department of Health.

On November 25, I asked the Board to withhold action on the resolution pending a county-sponsored process of open meetings for all affected people. I questioned the following statement in the leaseholder petitions that accompanied the resolution: "This resolution of support will be given to the State of Minnesota to demonstrate community support for the project." I asked the Board to withhold action in the absence of meaningful evidence from the developer that the proposed Lakeswind Wind Power Plant enjoyed "community support." Today, Project Resources Corporation has come to the Board again seeking a resolution of support. As with the resolution brought to the Board in November, the resolution today says nothing about community support for the project and perhaps Project Resources Corporation is no longer making that claim.

Again, I ask the Board to withhold action today consistent with its action on November 25. I have reviewed the video record and the minutes of that meeting. The Board acted thoughtfully and reasonably in November. One of two conditions for action established in November has not been met. They were: a) disclosure of information through formal application (done) and b) a public information meeting in Tansem Township (not done). I hope that the Board will stand by its November decision today.

On November 25, Mr. Weigel was asked whether a county board resolution was required for its C-BED application. He indicated at that time that it was not. The C-BED website ([http://www.c-bed.org/key\\_elements.html](http://www.c-bed.org/key_elements.html)) indicates the following:

*"Each C-BED project must have a local resolution of support. This resolution of support, which is to be adopted by the local governing body (e.g. county board) of each local jurisdiction in which the project is to be located, ensures that C-BED projects are not in conflict with local public interest. This element also provides an important level of transparency to C-BED projects in order to better ensure community benefit from the resource."*

The goals of C-BED are laudable. A program that promotes transparency for the sake of local public interest and community benefit is good and needed. Local public interest and community benefit are part of a C-BED philosophy that seeks to resist a trend where "the vast majority of new renewable power projects are owned by large, remote companies whose primary connection to the local community is the desire to extract the resource" (<http://www.c-bed.org/overview.html>).

The interest of Project Resources Corporation in C-BED status is laudable. However, as I noted in November, Project Resources Corporation has followed Minnesota law in developing Lakeswind. To date, the question of whether the Lakeswind Wind Power Plant would "not [be] in conflict with local public interest" has not been discussed in public. This is because Minnesota regulations for large wind energy conversion systems (LWECS) do not support robust public participation. They do not promote transparency. Public and open dialogue is too little and too late for meaningful community action. Some affected people are unaware of wind energy development in their neighborhood until official information arrives in the mail just weeks before the public comment period. Other affected people receive no official information.

I want to thank the Board for becoming engaged with wind energy development as public awareness and response have grown. Thank you for coming to the public meetings in recent weeks. I gather some commissioners may share the sense that the State of Minnesota needs to

cede some jurisdictional authority to the county. State law makes clear that a PUC site permit "supersedes and preempts all zoning, building, or land use rules, regulations, or ordinances adopted by regional, county, local, and special purpose governments" (Minnesota Statutes 216F.07).

This is a troubling law when crucial questions such as local economic impact or community impact are left out of regulatory decisions. We do not have an economic impact statement for Lakeswind or for other projects under development in the county—and yet economic benefit is the main reason that some people support wind energy. Please note the appeals to economic benefit in the resolutions before the Board today. Please note that no evidence of economic benefit has been offered. Wind energy development is the largest, most consequential social decision in modern Clay County, and we have no economic impact statement. Clay County residents are acting on faith and poor information.

We need to a pause here, and we need better decision making. While state law supersedes and preempts local authority for LWECS, there is an exception clause where the county can determine some of its destiny, and I want to float a still developing idea—an idea designed to support a community-based approach to wind energy development in Clay County.

Minnesota Statutes 216F.081 states "A county may adopt by ordinance standards for LWECS that are more stringent than standards in commission rules or in the commission's permit standards. The commission, in considering a permit application for LWECS in a county that has adopted more stringent standards, shall consider and apply those more stringent standards, unless the commission finds good cause not to apply the standards."

As you know, there are reasons today to wonder whether state standards for turbine siting are grounded in sound science—sound medical knowledge. There are reasons to review the adequacy of these standards to ensure public health. If the Board saw grounds for precaution and definitive medical investigation regarding chronic exposure to certain levels of low-frequency sound energy produced by wind turbines, it could undertake a study process toward considering more stringent standards than Minnesota law.

Further, the Board could ask the PUC to withhold action on any LWECS permits in Clay County while the county examines the adequacy of its own standards for SWECS and state standards for LWECS. In addition to the right to adopt more stringent standards, Minnesota law also allows local units of government to establish such a moratorium ordinance (Minnesota Statutes 394.34). For example, the Nicollet County Board of Commissioners adopted last September a temporary interim moratorium on all wind energy conversion systems. The moratorium will be in effect for twelve months, allowing the county time to hold discussions and hearings to determine whether county ordinance will be amended to protect public health.

A group of citizens called "Clay County Wind Farm Information Group," convened by Dwight Mickelson, would like the Board of Commissioners (or the Planning Commission) to undertake a study process. The Clay County Wind Farm Information Group seeks to expand community participation and to protect the many interests of the public. A study of turbine siting standards would afford the county an opportunity to connect affected people within the county and to have public dialogue and engagement so lacking in Minnesota today. As part of the process, the country could empanel a community advisory board that would represent all of the interests in and around wind energy development.

Wind energy development in Minnesota is largely private and closed. Regrettably, it breeds misunderstanding, conflict, and resentment. Minnesotans share with American society the conviction that people can do as they please as long as they do not harm or risk harm to others. In the case of wind energy development, these private decisions impact some people negatively. Some people feel harmed or at risk of harm. Some people feel that the interests of others are

being harmed or are at risk of harm. We can do better at respecting and being fair to the interests of all. The county cannot do everything, but it can help.

A county-sponsored process of moratorium and ordinance development is an opportunity afforded by Minnesota law for residents to be responsible citizens and good neighbors. The Clay Country Wind Farm Information Group is not ready today to bring its proposal forward. You can expect it. Adoption of this proposal will allow Clay County to advance needed reform of Minnesota wind energy development—to make it community-based and consistent with the best values of our state.

Thank you.