

Burt County Planning Commission
November 4th, 2024 at 6:00pm
Meeting/Public Hearing

Minutes

Visitors signing in: David Levy with Baird Holm, Jack Schelhaas with Baird Holm, Laura Thomas with GC Revolt, Graham Christensen with GC Revolt, Mara Bowland, Mike Bowland, Leo Bowland, Dustin Marvel with OPPD, Cale Giese with OPPD, Paul Richards District 4, Jeff Kutchera District 5, Scott Lindstrom, Jennifer Dozal, Greg Smith, Twila Smith, Julie Drennen with RWE, Mark Van Der Hart with KTQE, Sue Hansen with RWE, Sean Smith, Savannah Smith, Phyllis Rieken,??, Amanda Naab, Bill Price, Sean Connealy, Clint Peterson, Lindsay Mouw, Diane Schlichting, Becky Kelly, Ma?? Not Signing in Sam Titus, Jan Welte, and Sharon Loftis

Notices of the meeting was given in advance thereof by publication in the Plaindealer October 22, 2024 edition, on the Burt County Webpage, and on the 1st floor bulletin board within the courthouse.

The meeting was Called to Order at 6:00 P.M. by Chairman Rodney Bromm

Roll Call was taken by Ann Chytka as follows: Rodney Bromm **Present**, Charley Cull **Present**, Jay Hovendick **Present**, Don Johnson **Present**, Jill Spenner **Present**, Tyler Weitzenkamp **Absent**, Dean Carlson **Present**, Roger Pond **Present**, Scott Ronnfeldt **Present**

Quorum present **yes**.

It was noted where the Open Meetings Act was located.

Bromm stated that the minutes from September 30th,2024 were received and reviewed.

With no changes being made, Cull made a motion to approve the minutes from the September 30th,2024 meeting 2nd by Pond

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, Absent- Weitzenkamp

Minutes were signed by Chairman Bromm and Administrator Chytka.

Public Hearings

Rodney opened the public hearing at 6:02 pm Review Section 6.03 of regulations.

Administrator Chytka presented a Power Point with topics that the commission had been researching and discussing over the past few months.

There were 15 people that spoke during the Public Hearing

In Favor- Graham Christensen, Steve Bowland, Mara Bowland, Julie Drennen, Sue Hansen, Clinton Peterson

Opposition- Savannah Smith, Sean Smith, Bill Price, Sean Connealy, Colby Hansen,

Neutral- Gregg Smith

Left blank- Amanda Naab

Each of the above had 3 minutes to speak.

Public Hearing closed at 7:03 and went back into regular meeting.

Brayden Drummond not available yet.

The Commission continued on with Section 6.03 of Regulations

A. Statement of Intent

Current:

As to all zoning districts within Burt County, a conditional use permit is required to allow wind energy conversion systems (WECS), including such devices as wind chargers or wind turbines, subject to the regulations established in this section or as otherwise prohibited within a particular overlay district. Provided, however, the county has expressed an intent to limit WECS within the Industrial, R-1, R-M and C-1 zoning districts without a showing of exceptional need and limited negative impacts to adjoining properties.

Motion by Cull 2nd by Spenner to replace the current statement with

In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Burt County, Nebraska, the County finds these regulations are necessary in order to ensure that all wind energy conversion systems (WECS) are appropriately designed, sited and installed. These regulations pertaining to all wind energy conversion systems are intended to respond to equipment available at the time of adoption. Burt County recognizes that this is an emerging technology and that new means of collecting wind energy, including but not limited to vertical axis wind turbine generators are under development. Accordingly, these standards will be reviewed and may be amended as technology advances.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, Absent- Weitzenkamp

B. Definitions

Current

CLUSTERING Shall mean the grouping of wind turbines positioned or occurring closely together around a particular dwelling.

COMMERCIAL WECS shall mean a wind energy conversion system of equal to or greater than one hundred kilowatts (100kW) in total name plate generation capacity.

HUB HEIGHT shall mean the overall height measured from the grade of a wind turbine to the center point of the hub of the turbine.

LANDOWNER shall mean an individual, group of individuals or entity involved in the overall project via land leases, permit applications, contracts, easements or other such means.

LANDOWNER, NON-PARTICIPATING shall mean an individual, group of individuals or entity not involved in the overall project via land leases, contracts, easements, or other such means.

METEOROLOGICAL TOWER shall mean, for purposes of this Regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.

PROPERTY LINE Shall mean the boundary line of the areas over which the entity applying for the Wind Energy Conversion System permit has legal control for the purpose of installing, maintaining, and operating a Wind Energy Conversion System.

SHADOW FLICKER shall mean the shadow cast from the rotating blades of a WECS system which moves with the blades.

WIND ENERGY CONVERSION SYSTEM (WECS) shall mean an electrical generating facility comprised of one (1) or more wind turbines and accessory facilities, including but not limited to; power lines, transformers, substations, and meteorological tower to operate by converting the kinetic energy of wind into electrical energy. The energy may be used on- site or distributed into the electrical grid.

Pond made a motion 2nd by Cull to update the current definitions to be

CLUSTERING Shall mean the grouping of wind turbines positioned or occurring closely together.

COMMERCIAL WECS (CWECS) shall mean a wind energy conversion system of equal to or greater than one hundred kilowatts (100kW) in total name plate generation capacity.

HUB HEIGHT shall mean the overall height measured from the grade of a system to the center point of the hub of the turbine.

LANDOWNER, PARTICIPATING shall mean an individual, group of individuals or entity involved in the overall project via land leases, permit applications, contracts, easements, impact easement, or waivers.

LANDOWNER, NON-PARTICIPATING shall mean an individual, group of individuals or entity **not** involved in the overall project via land leases, contracts, easements, impact easement, or waivers.

METEOROLOGICAL TOWER shall mean, for purposes of this Regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Transportation, or other applications to monitor weather conditions.

PROPERTY LINE shall mean defined lines that mark the end of one owner's property and the beginning of another owner.

SHADOW FLICKER The effect of a pulsating shadow that occurs when the rotating blades of a wind turbine moves between the sun and an observer

WIND ENERGY CONVERSION SYSTEM (WECS) shall mean an aggregation of parts including but not limited to the base, tower, generator, rotor, blades, supports, structures, inverters/transformers, operation and maintenance building, access roads, wiring, substations, and configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g. wind charger, windmill, or wind turbine.

To Delete:

FALL ZONE shall mean the area, defined as the furthest distance from the tower base, in which said turbine will collapse in the event of a structural failure. This distance shall be based upon the manufacturers written specifications

TOTAL HEIGHT shall mean the highest point, above ground level. Reached by a rotor tip or any other part of the Wind Conversion System.

To Add:

FAA- Stands for Federal Aviation Administration.

HEIGHT, TOTAL SYSTEM The height above the grade of the system, including the generating unit and the measured highest vertical extension of any rotor blades or rotors.

IMPACT EASEMENT-An Easement or deeds restriction, recorded in the Office of the Burt County Register of Deeds, which runs with the land and is granted to the owner of a CWECS for the period of time that such use shall exist, by the owners of the adjoining property in which it is mutually agreed between the grantor and grantee that the grantor shall hold the grantee harmless from noise, visual or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction. This impact easement only relates to wind energy systems over 100KW. The area that the easement is being applied for needs to be defined with a legal description.

PROJECT OWNER shall mean a person or group responsible for initiating, funding, and overseeing a project.

WIND ENERGY Kinetic energy present in wind motion that can be converted to mechanical energy for driving pumps, mills, and electric power generators.

Update Figure 1 to included Total Height

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, Absent- Weitzenkamp

D. Commercial/Utility Grade Wind Energy Systems

Current

1. Purpose

It is the purpose of this Regulation to promote the safe, effective, and efficient use of commercial/utility grade wind energy systems within Burt County.

Pond made a motion 2nd by Spenner to replace the current purpose with

It is the purpose of this Regulation to promote the safe, effective, and efficient use of commercial/utility grade wind energy systems while protecting the Health, Safety, and Welfare of all residents within Burt County.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, Absent- Weitzenkamp

2. Requirements

Current

- a) Commercial/Utility Grade wind energy conversion systems may be permitted as a conditional use within any district where the use is listed and allowed. Provided, however, commercial/utility grade systems are expressly prohibited within the R-1 and R-M, zoning jurisdictions. The following requirements and information shall be met and supplied:

Cull made a motion 2nd by Carlson to update the Requirements to be

Application Requirements

- a) A CW ECS under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose it to supply electricity to off-site customers, CW ECS (s) may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CW ECS within a larger project.

Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

The entire aggregated project shall be permitted by a Conditional Use Permit only in the A-1 Zoning district.

The following requirements and information shall be met and supplied:

- i. The name of the project owner and landowner(s). Must provide a copy of the Impact Easement Deed or similarly recorded document from Burt County Register of Deeds Office for each participating property. This must include the legal description of the parcel of land.
- ii. A description of the project, including standard drawings of structural components of the CW ECS including number, type, name plate generating capacity, tower height, rotor

diameter, total height, structures, tower base and footings of all wind turbines and means of interconnecting with the feeder lines.

- iii. A survey map (site layout) illustrating the following:
 - 1. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation.
 - 2. Location and elevation of all components of the proposed CWECS.
 - 3. Location and dimensions of all existing structures and uses on property within three (3) miles. (Including residences, schools, churches, federal, state, county or local parks, recognized historic or heritage sites, designated scenic by-ways, identified wildlife preserves or habitat areas, and wetlands.)
 - 4. Location of any overhead utility lines on the property.
 - 5. Location of all known communications towers within three (3) miles of the proposed CWECS.
 - 6. Location of all access roads.
 - 7. The latitude and longitude along with the legal description of individual wind turbine(s).
- iv. Provide a map illustrating all transmission lines connecting to the substation. All electrical connection systems and lines from the CWECS to the electrical grid connection shall be located and maintained underground. Unless otherwise agreed upon by the Planning & Zoning and the Board of Supervisors.
- v. Provide any written technical assistance as well as minutes and reports from meeting(s) and coordination with Nebraska Game and Parks Commission, Papio and Lower Elkhorn NRD to review the proposed CWECS site plan including mitigation action taken to protect flora and fauna of the proposed project area.
- vi. Provide information regarding flora and fauna of the proposed project area including
 - 1. Officially listed threatened or endangered species
 - 2. Critical habitat or habitat conditions
 - 3. An avian study based on the U.S. Fish and Wildlife Services. "Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines."

- vii. Compliance with FAA regulations, including any documentation required by the FAA, which shall include Form 7460, certifying approval of each proposed location.
- viii. Any permit that was issued by the Nebraska Department of Environmental and Energy (NDEE). Including but not limited to Storm Water Prevention Plan.
- ix. Provide minutes from the meeting(s) with the Tekamah Airport Joint Zoning Board that discuss the review of the proposed CWECS site plan (if applicable)
- x. Results of consultation with the National Oceanic and Atmospheric Administration (NOAA), National Weather Service, or any other relevant weather monitoring systems in the CWECS project areas.
- xi. Results of consultation regarding potential interference with existing communication facilities within two (2) miles of the proposed CWECS project area, with proof that the Applicant has designed and mitigated any possible interference and have met with communication providers for proper site planning within the CWECS project area.
- xii. A pre-construction noise modeling study shall be conducted in accordance with procedures approved by Standard 61400-11 of the International Electro-technical Commission (IEC); and shall include all property within three (3) miles of an aggregated project. The protocol, methodology and noise modeling shall be included in the study. Studies shall include noise modeling for all four (4) seasons and include typical and worst-case scenarios for noise propagation. The complete results and full study report shall be submitted to the Burt County Planning Commission for review at the time of the Conditional Use Permit.
- xiii. Any proposed turbine which is within 3 miles of a dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on properties. Shadow flicker shall not fall upon any dwelling or other building which is occupied by humans, for no more than 30 minutes per day and no more than a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. If a turbine violates this standard on a dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.

No shadow flicker will be allowed on any road intersection.

- xiv. Proof of compliance with any Overlay District regulations within Burt County.
- xv. Decommissioning plan and decommissioning bond as required by this Section 6.03 and the Conditional Use Permit.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, Absent- Weitzenkamp

Spenner made a motion 2nd by Hovendick to add Additional Requirements

b. Additional Requirements

- i. Burial depth shall be at a depth that causes no known environmental, land use, or safety issues. Depth shall be a minimum of six (6) feet below grade, or deeper than drain tile, and be in compliance with NEC 2017 or new code standards. The Planning and Zoning Board or Burt County Board of Supervisors may waive the burial requirement and allow above-ground structures in limited circumstances, such as geography precludes, or a demonstrated benefit to the County. The waiver shall not be granted solely on cost savings to Applicant. Request for variation shall consider aesthetics, future use of land, and effect on nearby landowners.
- ii. Each turbine will be required to have a 911 address.
- iii. Once the CW ECS is built a copy of as-built plans including structural and electrical drawing of all facilities and all disturbances associated with the CW ECS and accessory facilities must be certified by an independent professional engineer licensed in the State of Nebraska that the information included on depicted as-built plans is complete and accurate; and be given to the Burt County Zoning Administrator.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, Absent- Weitzenkamp

Section D.2)c) Road Applicants shall:

The Planning Commission discussed how A Road Agreement must be done during the CUP process.

Cull made a motion 2nd by Ronnfeldt to update Section D.2)c.)

- i. All public roads to be used for the purpose of transporting Aggregate Project materials, concrete or equipment for construction, operation or maintenance of the CW ECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction. A pre-construction survey must be conducted with the appropriate jurisdictions to determine existing road conditions. Those included are Applicant(s); Land Owner(s); Township Representative(s); Highway Superintendent(s) and/or Zoning Administrator(s); and 3 members of the Board of Supervisors. The survey shall include photographs and a written agreement (Road Agreement) to document the conditions of the public roads and facilities. All expenses of the survey shall be the Applicant's responsibility.
- ii. Prior to the commencement of construction or decommissioning of any turbine, the Applicant shall enter into an agreement with the County Roads Department regarding use of county roads during construction or decommissioning. This agreement shall include traffic routes, time of the year use, staging area, and any other physical sites related to CW ECS. All roads shall be maintained to allow access, at all times, by any emergency service vehicles. The CW ECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation, or maintenance of the CW ECS. Any violation of the agreement will incur an assessment

against the Applicant for damages as determined by the Board of Supervisors for every violation occurrence.

- iii. Be responsible for restoring the road(s) and bridges to preconstruction conditions following construction, installation, re-installation, maintenance and repairs and/or decommissioning efforts.
- iv. No bridges or culverts shall be crossed if the load is overweight.
- v. If road elevation changes are needed this has to be brought forward at the time of the Conditional Use Permit, to be reviewed and signed off on by the Highway Superintendent and the Board of Supervisors before it can be altered.
- vi. Other road factors may be considered at the time of the Road Agreement.
- vii. There is to be no shadow flicker on any road intersection.

There was discussion about the word Immediate in ii. needed to be removed and add “as stated in the Road Agreement.

Cull withdrew his motion

Spenner made a motion 2nd by Pond to have Section D.2) c.) to read

- i. All public roads to be used for the purpose of transporting aggregate project materials, concrete or equipment for construction, operation or maintenance of the CW ECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction. A pre-construction survey must be conducted with the appropriate jurisdictions to determine existing road conditions. Those included are Applicant(s); Land Owner(s); Township Representative(s); Highway Superintendent(s) and/or Zoning Administrator(s); and 3 members of the Board of Supervisors. The survey shall include photographs and a written agreement (Road Agreement) to document the conditions of the public roads and facilities. All expenses of the survey shall be the Applicant’s responsibility.
- ii. Prior to the commencement of construction or decommissioning of any turbine, the Applicant shall enter into an agreement with the County Roads Department regarding use of county roads during construction or decommissioning. This agreement shall include traffic routes, time of the year use, staging area, and any other physical sites related to CW ECS. All roads shall be maintained to allow access, at all times, by any emergency service vehicles. The CW ECS owner shall be responsible for repair of damage to public roads and drainage systems stemming from construction, operation, or maintenance of the CW ECS as stated in the Road Agreement. Any violation of the agreement will incur an assessment against the Applicant for damages as determined by the Board of Supervisors for every violation occurrence.

- iii. Be responsible for restoring the road(s) and bridges to preconstruction conditions following construction, installation, re-installation, maintenance and repairs and/or decommissioning efforts.
- iv. No bridges or culverts shall be crossed if the load is overweight.
- v. If road elevation changes are needed this has to be brought forward at the time of the Conditional Use Permit, to be reviewed and signed off on by the Highway Superintendent and the Board of Supervisors before it can be altered.
- vi. Other road factors may be considered at the time of the Road Agreement.
- vii. There is to be no shadow flicker on any road intersection.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
 Nays- None, Absent- Weitzenkamp

Section D.2) d.) Drainage System

The applicant shall be responsible for immediate repair of damage to public and/or private drainage systems stemming from construction, operation, maintenance or decommissioning of the CWECS.

Discussion was to remove immediate and how we do need to protect private drive culverts and field drain tiles which should be included in drainage systems.

Hovendick made a motion 2nd by Cull to remove the word immediate and add private drive culvert and drain tiles

The applicant shall be responsible for repair of damage to public and/or private drainage systems stemming from construction, operation, maintenance or decommissioning of the CWECS.

Pond stepped out of the meeting

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, and Ronnfeldt
 Nays- None, Absent- Weitzenkamp and Pond

Pond back

- 3. Setbacks All towers shall adhere to the setbacks as measured from the center of the turbine base established in the following table:

Discussion

About the following table:

3) Setbacks

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine- Non-Commercial	WECS Wind Turbine Commercial/Utility WECS	Meteorological Towers
Property Lines*	1.1 times the total height	2 times the total height	1.1 times the total height
Dwelling -Occupied*	N.A.	3.5 times the total height with a minimum of 1800 Feet	1.1 times the total height
Road Rights-of-Way**	1.1 times the total height	1.1 times the total height	1.1 times the total height
Other Rights-of-Way	1.1 times the total height	1.1 times the total height	1.1 times the total height
Public Conservation Lands including Wildlife Management Areas and State Recreation Areas	Same setback as accessory buildings	1.1 times the total height	600 feet
Wetlands, USFW Types III, IV, and V	N.A.	600 feet	600 feet
Other Structures not on the applicant's site	N.A.	750 feet	1.1 times the total height
River Bluffs over 15 feet	_____	Diameter of rotor	_____

*All setbacks can be reduced with a signed waiver by all affected parties.

** The setback shall be measured from any future Rights-of-Way if a planned or expanded Right-of-Way is known.

Proposed from the July Public Hearing and what BOS was Discussing

3. Setbacks

All towers shall adhere to the setbacks as measured from the center of the turbine base established in the following table:

	Wind Turbine Non-Commercial	WECS Wind Turbine Commercial/Utility WECS	Meteorological Towers
Distance from Towns and Villages		1 additional mile from their current jurisdiction Or 3 miles from corporate limits????	
Property Lines* Non-Participating	1.1 times the total height	2-times-the-total-height--1 mile	1.1 times the total height
Dwelling -Occupied* Participating ????? if impact easement is signed how close to dwelling can the turbine be?	N.A.	3.5 times the total height with a minimum of 1800 Feet--- Discussion	1.1 times the total height
Road Rights-of-Way**	1.1 times the total height	1.1 times the total height with a minimum of 1800 Feet--- Discussion	1.1 times the total height
Other-Rights-of-Way	1.1-times-the-total height	1.1-times-the-total height	1.1-times-the-total height
Public Conservation Lands including Wildlife Management Areas, Federal/ State Recreation Areas, NRD-Watershed areas; Wetlands, USFW Types III, IV, and V, and CRP-land	Same setback as accessory buildings	1.1 times the total height 1 Mile	600 feet
Cemeteries and Churches (must be tax exempt)		1 Mile	
Lewis & Clark Scenic Byway located on Hwy 75		Discussion needed see Gage Homestead National Historical Park	
Other Structures-not on the applicant's site	N.A.	1.1-times-the-total height-with-a-minimum of-1800-Feet---Discussion	1.1-times-the-total height
River-Bluffs-over-15-feet		Diameter-of-rotor	

* All setbacks can be reduced with a signed impact easement waiver by all affected parties. By signing the Impact Easement, the Landowner is now a participating landowner.

** The setback shall be measured from any future Rights-of-Way if a planned or expanded Right-of-Way is known.

BOS Comments: Delete CRP Land
Delete Other Structures
More discussion w/ Planning for Scenic Byway Hwy 75

Planning Commission: Needs more discussion on towns villages, dwelling occupied, road row, wet lands and scenic byway

Carlson made a motion 2nd by Ronnfeldt to leave as recommended 2 miles from corporate limits of Towns and Villages

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, Absent- Weitzenkamp

Pond made a motion to have setback from non-participating landowners be 1 mile 2nd by Jay the reason for this was that we are an ag county.

Roll Call Votes Ayes- Spenner, Hovendick, Pond, and Johnson Nays- Bromm, Ronnfeldt, Carlson, and Cull Absent- Weitzenkamp

Vote tied

Ronnfeldt made a motion 2nd by Cull to have setback from non-participating landowners be 1/2 mile (2640 ft)

Roll Call Vote Ayes- Spenner, Johnson, Bromm, Cull, Carlson, and Ronnfeldt **Nayes-** Hovendick, and Pond **Absent-** Weitzenkamp

Cull made a motion 2nd by Ronnfeldt to have the setback from a dwelling-occupied be ½ mile

Roll Call Vote Ayes- Spenner, Johnson, Bromm, Cull, Hovendick, Pond, and Ronnfeldt **Nayes-** Carlson, **Absent-** Weitzenkamp

Ronnfeldt made a motion 2nd by Cull to leave the Road Right of Way at 1.1 times total height

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt **Nays-** None, **Absent-** Weitzenkamp

Motion by Pond 2nd by Cull to strike Other Right of Ways, Other Structures not on the applicant's site and River Bluff over 15 feet

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt **Nays-** None, **Absent-** Weitzenkamp

There was discussion and it was decided to leave Public Conservation Lands Including Wildlife Management Areas, Federal and State Recreation Areas designated NRD – watersheds, Designated Wetlands, USFW Types III, IV, and V as recommended from the July 2024 public hearing leaving it at 1.1 times total height.

There was also discussion about Cemeteries and Churches and the Lewis & Clark Scenic Byway located on Hwy 75 to leave these omitted.

4. Special Safety and Design Standards

Current: b. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer, and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.

Cull made a motion 2nd by Pond to update b to read

b. CWECs shall include no sign or advertising of any kind, except for one sign using 4" posted at the access road entrance. The sign shall contain the following information:

1. No Trespassing
2. Warning – high voltage.
3. Emergency phone number.
4. 911 address.
5. No other signage will be allowed.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

Discussion about other special safety and design standards

Cull made a motion 2nd by Ronnfeldt to include

- Any CW ECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked protective fence at least six (6) feet high shall enclose the tower.
- The CW ECS operator shall procure and maintain a current insurance policy that will cover liability, installation, operation, and any possible damage or injury that might result from the failure of a tower to towers or any other part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CW ECS shall be warranted against any system failures reasonable expected in severe weather operation conditions. Annual proof of such insurance shall be provided to the Zoning Administrator. This policy can be reviewed every five (5) years.
- The applicant shall supply **the emergency management agency and/or fire departments** with an emergency operations plan. The applicant shall provide a copy of the project description and site plan to Burt County local fire departments and rescue services. The applicant shall coordinate with such local entities in the development of an emergency operations plan.
- Each site shall have its own 911 address
- An Emergency Operations Plan (EOP) must be placed on file and kept current with Burt County Zoning Administrator, Burt County Emergency Management and Fire and Rescue Department (s) within Burt County. The plan shall demonstrate an all-hazards planning approach, based on an emergency incident or disaster of any magnitude or geographic size that may cause disruption to the function of the CW ECS and include contacts for notification.
- Upon completion of the CW ECS project, the CW ECS Applicant shall meet with local Fire and Rescue jurisdictions to review the EOP.
- Feeder Lines: all communications and feeder lines installed as part of a CW ECS shall be buried, where feasible. Feeder lines installed as part of the CW ECS shall not be considered an essential service.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

Discussion about noise level regarding participating and non-participating

Cull made a motion 2nd by Hovendick to have Noise under Special Safety and Design Standards read as

Noise: no Commercial/Utility WECS shall exceed forty (40) dBA measures at 10 leg at the nearest structure occupied by humans at non participating land owners and fifty (50) dBA measures at 10 leg at the nearest structure occupied by humans at participating land owners. Exception; a Commercial/Utility WECS may exceed forty (40) dBA for non-participating and fifty (50) for participating during periods of severe weather as defined by the US Weather Service.

- The Burt County Planning and Zoning Administrator and the Burt County Board of Supervisors shall require post-construction noise level measurements at the expense of the holder of the Conditional Use Permit within one (1) year of completion. The testing shall be completed by a licensed, independent acoustical engineer, and the results shall be forwarded to the Burt County Board of Supervisors. The results will be a public document subject to Nebraska's public records laws.
- After the post-construction noise level report is submitted to the Board of Supervisor's they may request additional noise studies as they deem necessary.
- All noise complaints regarding the operation of any CWECs shall be referred, in writing, to the Burt County Planning and Zoning Administrator who will then take it to the Burt County Board of Supervisors.
- The Burt County Board of Supervisors shall determine whether a violation has occurred.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

Interference under Special Safety and Design Standards was discussed

Current: Interference: the applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five (5) miles of the proposed WECS location upon application to the County for permits.

Carlson made a motion 2nd by Pond to change the wording to read

Interference: The Applicant shall design and locate the CWECs to mitigate any interference with electromagnetic communications, such as internet, microwaves, radio, telephone, television, and Burt County 911 Communication System. The applicant shall notify all communication tower operators within five (5) miles of the proposed CWECs location upon application to the County for permits.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

Current: The distance between tower support bases of any two WECS shall be a minimum of five (5) rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted if the County finds that such reduction does not impede the operation of the surrounding WECS or adversely affect surrounding property and is consistent with public health, safety and welfare.

Cull made a motion 2nd by Spenner to replace lengths with Diameter so it is to read as

The distance between tower support bases of any two CWECS shall be a minimum of five (5) rotor diameter, determined by the size of the largest rotor diameter. A reduction of this requirement may be granted if the County finds that such reduction does not impede the operation of the surrounding CWECS or adversely affect surrounding property and is consistent with public health, safety, and welfare.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

Cull made a motion 2nd by Pond to Delete Shadow flicker and other signage under Special Safety and Design Standards.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

5. Retention of Expert

Ronnfeldt made a motion 2nd by Cull to add d) Said cost shall be reimbursed within 30 days of billing under Special Safety and Design Standard 5. Retention of Expert d.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

Cull made a motion 2nd by Pond to insert

6. Discontinuation

a. A CWECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Zoning Administrator within 3 months outlining the steps and schedule for returning the CWECS to service.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

Cull made a motion 2nd by Pond to replace a. A Decommissioning Plan for installed facilities and infrastructure must be submitted to the Planning Commission at the time of permit application.

With

- a. Each CWECS shall have a decommissioning and restoration plan detailing the projected means and costs of removing CWECS at the end of the serviceable life or upon becoming a discontinued use and completion of property restoration. The costs estimates shall be prepared by an independent competent party approved by the Burt County Board of Supervisors, such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with

decommissioning and restoration. The decommissioning and restoration plan and projected costs shall be reviewed and updated every 5 (five) years at the expense of the applicant.

- b. In the event the wind energy system or structure is not dismantled or removed, the structure shall be declared a public nuisance by the Zoning Administrator, or his/her designee pursuant to authority of the Nebraska State Statutes and County of Burt codes, and charge the costs thereof against the real estate on which the wind energy system is located or the owner of record of the said real estate.
- c. The landowner will execute a Covenant/Subdivision Restriction indicating that once the project is approved for a specific parcel of land the landowner will no longer be able to subdivide that parcel of land without the consent by the County.

Per County attorney this subject will be determined at the time of the CUP.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

Discussion about

8. Decommissioning and Reclamation Costs

a. Before the Conditional Use Permit is granted the Board of Supervisors will require a Surety Bond(s) in the amount to cover the costs of Decommissioning the CW ECS and reclamation of the land. All expenses related to decommissioning shall be the responsibility of the owner of the CW ECS, including any expenses related to releasing any easements, repair of any roads, bridges, or culverts that were damaged during the decommissioning and reclamation process.

Ultimately it will be the land owners responsibility to pay all expenses related to decommissioning and reclamation cost.

It is recommended that they will follow the recommendation of what the County Attorney gives the BOS

9. Indemnification and Liability

Pond made a motion 2nd by Johnson to have the following

The applicant, owner, landowner, and/or operator of the CW ECS shall defend, indemnify, and hold harmless the County and its officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever, including attorneys' fees, without limitation, arising out of acts or omissions of the applicant, owner, landowner and/or operator associated with the construction and/or operations of the CW ECS.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, **Absent-** Weitzenkamp

Other topics discussed:

Cull made a motion 2nd by Hovendick that there should be:

- height restrictions for CWECS of 650 feet.
- That if any part of the CWECS is in the public right of way it must be removed to 6 feet below current grade.
- Minimum acreage for placing a CWECS is on a 80 acre parcel of land.

Roll call vote Ayes- Bromm, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt **Nays-** Carlson, **Absent-** Weitzenkamp

The Planning Commission also discussed things that would be during the CUP process which includes but not limited to:

- Lighting – The state of Nebraska has this in State Statute
- Decommission and Reclamation Plan
- Financing of Decommissioning and Reclamation
- The County may not accept a surety bond from a surety company for any project owner unless that surety is registered with the State of Nebraska Auditor and is listed in the United States Department of the Treasury Circular 570 as revised.
- Road Agreements

C. Small Wind Energy Systems

Current

A. Tower Height

- a. For property sizes between one half (½) acre and one (1) acre the tower height shall be limited to eighty (80) feet.
- b. For property sizes of one (1) acre or more, there is no limitation on tower height, except as imposed by FAA regulations or based on negative impacts to adjoining properties. See Figure 1.

Cull made a motion 2nd by Pond to delete b. For property sizes of one (1) acre or more, there is no limitation on tower height, except as imposed by FAA regulations or based on negative impacts to adjoining properties. See Figure 1.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt **Nays-** None, **Absent-** Weitzenkamp

B. Setbacks

- a. No part of the wind system structure, including guy-wire anchors, may extend closer than ten (10) feet to the property lines of the installation site.

Cull made a motion 2nd by Pond to make a. read as, No part of the wind system structure, including guy-wire anchors, may extend closer than 1.1 times the total height of the system to the property lines of the installation site.

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, Absent- Weitzenkamp

C. Noise

- a. Small wind energy systems shall not exceed fifty (50) dBA, as measured at the closest potential neighboring dwelling unit.
- b. The noise level may be exceeded during short term events such as utility outages and/or severe storms.

There was discussion about the noise and it was decided to lease it at 50 so no motion was needed.

At 10:26 Bromm opened the public hearing for Vicky Pruess CUP for a Building House on 4 acres (Brayden Drummond) With no one being present the public hearing closed at 10:27.

The Zoning Administrator told the Commission that Vicky had split off 4 acres for her granddaughter and that the Board of Supervisors thought that she needed to get a Conditional Use Permit to build a house before they would approve the lot split.

Spenner made a motion 2nd by Cull to allow a house to be built for Braydon Drummond on 4 acres of Vicky Pruess PID 426001200

Roll call vote Ayes- Bromm, Carlson, Cull, Hovendick, Johnson, Spenner, Pond, and Ronnfeldt
Nays- None, Absent- Weitzenkamp

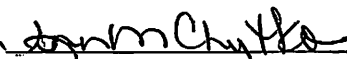
Old Business: none

Reports from Administrator: September and October Zoning reports were given out.

Correspondence: none

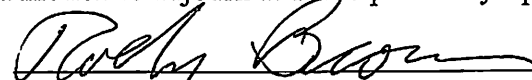
Next meeting TBD

Being no additional business Cull made a motion to adjourn at 10:28 pm 2nd by Spenner



Ann M. Chytka

Burt County Planning and Zoning Administrator



Rodney Bromm

Burt County Planning and Zoning Chairman