

December 4<sup>th</sup>, 2018  
Antelope County Board of Commissioners  
Neligh, Nebraska

The Antelope County Board of Commissioners convened in regular session on Tuesday, December 4<sup>th</sup>, 2018 at 9:03 AM in the County Commissioner's Room, Antelope County Courthouse Annex, Neligh, Nebraska. Meeting was called to order by Chairman Kerkman, with the following board members responding to roll call: Schindler, Jacob, Henery, Schwager, and Kerkman. Chairman Kerkman stated that the open meeting laws are posted on the east wall of the Commissioner's room with more copies available at the County Clerk's Office.

Notice of the meeting was given in advance thereof by publication in the four county newspapers, legal newspapers printed and in general circulation in Antelope County, Nebraska as shown by proof of publication filed in the County Clerk's office. Agenda for said meeting was sent to all members of the County Board of Commissioners.

Pledge of Allegiance was recited.

**Correspondence was reviewed:** Notice of NIRMA Board Vacancies; NPERS feature upgrade to listing beneficiaries; Email from County Attorney Joe Abler to Bob McLaughlin regarding the Royal North Bridge; IRS Contribution Limits for 2019 list; letters from NACO secretary/treasurer position John Ross and Judy Mutzenberger (both Cuming County Supervisors); Kutak Rock Thunderhead CUP support letter; JAJO LLC – West Construction and Operating Permit Issued from DEQ; Scour Critical Bridge email (sent to Brian McDonald as well); Public Notice of the Public Hearing on Thunderhead; Shell Fleet Plus Card fuel card letter; Presidential Proclamation of December 5<sup>th</sup> 2018 closing executive offices and branches.

**Receipts:** \$100,000.00 transfer from General to Road and Bridge; \$39,000.00 payment from 2940 Sheriff Acct to Road & Bridge \$32,000.00 and \$7,000.00 to facilitate the insurance premium increase as discussed during last summer budget meetings/and premium increase meetings; \$67.50 Chris Rasmussen purchase of used culvert from county.

**Sheriff's November Fee Report** was reviewed and put on file.

**Zoning Permit Report** for November was reviewed and put on file.

Motion by Commissioner Henery, seconded by Commissioner Jacob to approve the **Board of Commissioner Minutes** from the November 13<sup>th</sup>, 2018 meeting. Voting aye: Henery, Jacob, Schindler, Schwager and Kerkman. Nays none. Motion carried.

**Juvenile Diversion Memorandum of Understanding** with Madison County Nebraska was presented. During the November 13<sup>th</sup>, 2018 Board of Commissioners meeting it was agreed to participate with Madison County if/when a juvenile will need to be referred to the Diversion Program. Today a Memorandum of Understanding was presented. On the recommendations of the County Attorney, Joe Abler for approval. A motion by Commissioner Schwager, seconded by Commissioner Schindler to approve the Memorandum of Understanding with Madison County as presented. Voting aye: Schwager, Schindler, Jacob, Henery and Kerkman. Nays none. Motion carried.

**Glass Recycling:** Met with Dean Bly, City of Neligh Superintendent to discuss the possibility of establishing a 'cement bunker' for **glass recycling** in Antelope County. The City of Neligh has been discussing with a company in Kansas City that will take all of the recycled glass. Glass has not been being recycled in recent years because there was not a market for it. This Kansas City Company will pick it up for no charge, but the bunker has to be established. The glass recycling will be county wide. There has to be approximately 20 – 22 ton of glass before they will pick it up (approximately a truck load). The City of Neligh has estimated the bunker at about \$4,000.00. They are planning on applying for a grant to help fund this. There is no charge for recycling, after the bunker is established. The recycled glass is reused in a bottling company, and the rest will be used in insulation. All glass will be excepted and no sorting is necessary. The City of Neligh is asking for the County to help with the cost of completing the bunker. Motion by Commissioner Schwager, seconded by Commissioner Jacob to agree to help with half of the finances on establishing the glass recycling bunker, after grant money is applied. Voting aye: Schwager, Jacob, Schindler, Henery and Kerkman. Nays none. Motion carried.

**Old Communication Tower**, will be on next week's agenda.

**Ceiling in Health and Human Services;** Grounds crew will look at this for next week.

**Road Boss Report:**

**Road Access Permit:** Motion by Commissioner Schwager, seconded by Commissioner Jacob to approve the application for road access (driveway) permit submitted by Kevin Hild to place a permanent access along 844<sup>th</sup> Road (Oakdale cut across) in the NE<sup>1</sup>/<sub>4</sub> of Section 10 to the SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> Section 11, Township 24, Range 6 West of the 6<sup>th</sup> P.M., Antelope County, Nebraska. Kevin Hild – owner and tenant. All work to be done according to County and State specs. Voting aye: Schwager, Jacob, Schindler Henery, and Kerkman. Nays none. Motion carried.

**Underground Permit:** Motion by Commissioner Schwager, seconded by Commissioner Schindler to approve the application for under road permit submitted by John Meuret to place a permanent electric line along 864<sup>th</sup> Road in the E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub> of Section 36 Township 28, Range 8 West to the NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> Section 1, Township 27, Range 8 West of the 6<sup>th</sup> P.M., Antelope County, Nebraska. Patrick Meuret – owner and John Meuret, tenant. Boyd's Electric to do work, all work to be done according to County and State specs. Voting aye: Schwager, Jacob, Schindler Henery, and Kerkman. Nays none. Motion carried.

**Road Release:** The week before Thanksgiving, Casey Dittrich, Brian McDonald, and Marlin Conry drove 54.5 miles of Invenergy roads to look at the upgrades and road conditions. There were a couple of issues, and they have since been remedied. Invenergy is requesting to release these roads from the Road Use Agreement. Casey is in agreement to release same, The roads not being released probably will lead to an upgrade road and these roads may need to be used for heavy equipment to the upgrade roads. Most of the roads west of Highway 14 can be released. The roads will continue to be utilized for Invenergy stuff, but should be pickup traffic only. The roads being released are listed. Exhibit A12/2018 is a map showing same. Casey released roads. No formal action.

Road	From	To	Length	East/West
857	517	524	7	West
856	516.75	519	2.25	West
855	517	521	4	West
854	522	524	2	West
853	523	524	1	West
852	517.5	518	0.5	West

855	529	530	1	East
850	525.5	526	0.5	East
850	527	529	2	East
850	530	531	1	East
849	527.5	528	0.5	East
517	855	857	2	West
517.5	851.75	852	0.25	West
518	852	857	5	West
519	855	855.5	0.5	West
520	855	857	2	West
521	855	857	2	West
522	854	855	1	West
523	853	857	4	West
524	849.5	850	0.5	East
526	850.25	853	2.75	East
527	853	854	1	East
527	846.5	852	5.5	East
528	848.4	850	1.6	East
530	852	855.6	3.6	East
531	850	850.75	0.75	East
TOTAL			54.2	

**Trees:** Discussion of overgrown or ‘problem’ trees along Antelope County Roads was discussed. No names were mentioned during this discussion. Casey presented a list and asked for direction from the Commissioners. The Statute reads a letter needs to come from the County Attorney asking for the correction of this. Casey presented a list of names and areas. He is willing to help coordinate the removal, but did not want to “volunteer” to do the removal. With the commissioner’s permission, he would like to give the list to the County Attorney for a letter to be sent out. No objection was voiced. Letters to go out to the following individuals:

TWSP	Legals	Owner	Address	Notes	
Blaine	NW6-26-7	AC Tinsley Farm Inc	611 Iowa St, PO Box 218, Clearwater, NE 68726	N of Art Clinton	
Garfield	NE28-27-8	Denis Cooper	51290 860 Rd, Orchard, NE 68764	W of Orchard Road	
Royal	31-27-7	Merle Allemang Trust	PO Box 252, Clearwater, NE 68726	whole section	
Blaine	NW22-26-7	Frederick Schultz	51964 855 Rd, Clearwater, NE 68726	E of Royal Road	
Lincoln	see notes	Craig Sprout	51478 838 Rd, Elgin, NE 68636	N & S sides of mile	S1/2 11-23-8 and N1/2 14-23-8
Lincoln	see notes	Alan Hemenway	83468 515 Ave, Elgin, NE 68636	E side	NW36-23-8 and SW25-23-8
Elgin	SW23-24-7	Randy Novak	52317 843 Rd, Elgin, NE 68636	N side	
Logan	SW5-23-7	Charles Bode	83973 517 Ave, Elgin, NE 68636	not too bad	
Elm	NW20-25-5	Vella Escritt	2768 120th St, Woodbine, IA 51579-000	N Lavern Mitchell	
Custer	see notes	JDH Farms	1500 Rancho Circle, Las Vegas, NV 89107	7 mile N Neligh	SE9-26-6, SW10-26-6, and SW11-26-6

Casey would like to offer enough amount of time to complete the work, or at least formulate a plan. The intention is to continually have this discussion No further action today. Follow-up on January 2, 2019.

**County Road Work Time:** Because of the Road Department work week starting on Monday Morning the promise of a ‘storm’ for the weekend causes a huge opportunity for overtime and may be detrimental to the Road and Bridge budget. Casey requested to change the Road and Bridge work week to a beginning day of Friday or Saturday. Discussion of various possibilities and problems. Casey requested a 12:01 AM Saturday start day. County Clerk and Casey to work on a resolution for changing of Road and Bridge workweek. No opposition for the work week was stated.

Sara Twibell, from North Central District Health Department met with the Commissioners regarding the **Miles of Smiles Program**. This program is a dental screening program currently being introduced in all Antelope County Schools. Miles of Smiles is a school-based fluoride varnish program, it is held twice a year, dental hygienist looks at the oral cavity, and dental education. Sara asked the county to sponsor \$2.00 per child each year for five years. Motion by Commissioner Schwager, seconded by Commissioner Schindler to sponsor \$1,180.00 a year for five years. (2018, 2019, 2020, 2021, 2022). Voting aye: Schwager, Schindler, Jacob, Henery and Kerkman. Nays none. Motion carried.

**Wellness Partners** is a company who does well checks and blood draws on the employees. This is a volunteer project and there is no cost to the county. Typically, the date is set in February or March. They have requested a date of March 7<sup>th</sup>, 2019. No opposition was voiced. We will proceed to set that up, notices will go out in paychecks.

Mr. Gene Twiford from Laurel, Nebraska is requesting to “name” Highway 20 to ‘**Veterans Medal of Honor Memorial Highway**’. He is requesting a letter in support of this be sent to Jason Prokop, PO Box 94759, Lincoln, NE 68509. The Commissioners voiced no option. A letter will be written in support of the naming.

**Stop Sign Studies:** Brian McDonald presented the following Stop Sign Studies at the request of Casey Dittrich and the Antelope County Commissioners: 529<sup>th</sup> Avenue and 852<sup>nd</sup> Road; 527<sup>th</sup> Avenue and 852<sup>nd</sup> Road; 529<sup>th</sup> Avenue and 859<sup>th</sup> Road; 515<sup>th</sup> Avenue and 845<sup>th</sup> Road; and 527<sup>th</sup> Avenue and 853<sup>rd</sup> Road. At intersection 527<sup>th</sup> Avenue and 852<sup>nd</sup> Road, JEO Consulting Group recommends keeping the current “Stop” signs in place for southbound and northbound traffic. Motion by Commissioner Schindler, seconded by Commissioner Jacob to approve the Stop sign placement. Voting aye: Schindler, Jacob, Schwager, Henery and Kerkman. Nays none. Motion carried.

RESOLUTION Stop Sign - 527<sup>th</sup> and 852<sup>nd</sup> Road

Antelope County, Nebraska

Resolution # 18-12-0001

WHEREAS, a sign study was complete by Brian McDonald and it was found to be in the public interest to stop north and southbound traffic at the intersection of 527<sup>th</sup> Avenue and 852<sup>nd</sup> Road, Antelope County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Antelope County, Nebraska, new stop signs be erected to control northbound and southbound traffic at the intersection of County 527<sup>th</sup> Avenue and 852<sup>nd</sup> Road, Antelope County, Nebraska.

Adopted: 4<sup>th</sup> day of December, 2018, at Neligh, Nebraska.

Attest: BOARD OF COUNTY COMMISSIONERS  
OF ANTELOPE COUNTY, NEBRASKA

/s/ Lisa Payne \_\_\_\_\_ /s/ Le Roy Kerkman \_\_\_\_\_  
Lisa Payne, Clerk LeRoy Kerkman, Chairman

Commissioner Schindler \_\_\_\_\_ Moved the adoption of said Resolution  
Roll Call: 5 Yea 0 Nay  
Resolution adopted, signed and billed as adopted.

At intersection 527<sup>th</sup> Avenue and 853<sup>rd</sup> Road, JEO Consulting Group recommends placing a “Stop” sign in place for southbound and northbound traffic to improve the safety of the traveling public. Motion by Commissioner Schindler, seconded by Commissioner Jacob to approve the Stop sign placement. Voting aye: Schindler, Jacob, Schwager, Henery and Kerkman. Nays none. Motion carried.

RESOLUTION Stop Sign - 527<sup>th</sup> and 853<sup>rd</sup> Road  
Antelope County, Nebraska  
Resolution # 18-12-0002

WHEREAS, a sign study was complete by Brian McDonald and it was found to be in the public interest to stop north and southbound traffic at the intersection of 527<sup>th</sup> Avenue and 853<sup>rd</sup> Road, Antelope County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Antelope County, Nebraska, new stop sign be erected to control north and southbound traffic at the intersection of County 527<sup>th</sup> Avenue and 853<sup>rd</sup> Road, Antelope County, Nebraska.

Adopted: 4<sup>th</sup> day of December, 2018, at Neligh, Nebraska.

Attest: BOARD OF COUNTY COMMISSIONERS  
OF ANTELOPE COUNTY, NEBRASKA

/s/ Lisa Payne \_\_\_\_\_ /s/ LeRoy Kerkman \_\_\_\_\_  
Lisa Payne, Clerk LeRoy Kerkman, Chairman

Commissioner Schindler \_\_\_\_\_ Moved the adoption of said Resolution  
Roll Call: 5 Yea 0 Nay  
Resolution adopted, signed and billed as adopted.

At intersection 529<sup>th</sup> Avenue and 852<sup>nd</sup> Road, JEO Consulting Group recommends replacing a “Yield” sign currently in place with a “Stop” sign for southbound and northbound traffic to improve the safety of the traveling public. Motion by Commissioner Schindler, seconded by Commissioner Jacob to approve the Stop sign placement. Voting aye: Schindler, Jacob, Schwager, Henery and Kerkman. Nays none. Motion carried.

RESOLUTION Stop Sign - 529<sup>th</sup> and 852<sup>nd</sup> Road  
Antelope County, Nebraska  
Resolution # 18-12-00003

WHEREAS, a sign study was complete by Brian McDonald and it was found to be in the public interest to stop north and southbound traffic at the intersection of 529<sup>th</sup> Avenue and 852<sup>nd</sup> Road, Antelope County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Antelope County, Nebraska, that the existing ‘Yield’ sign be replaced with a ‘Stop’ sign be erected to control northbound traffic and a new ‘stop’ sign be erected to control southbound traffic at the intersection of County 529<sup>th</sup> Avenue and 852<sup>nd</sup> Road, Antelope County, Nebraska.

Adopted: 4<sup>th</sup> day of December, 2018, at Neligh, Nebraska.

Attest: BOARD OF COUNTY COMMISSIONERS  
OF ANTELOPE COUNTY, NEBRASKA

/s/ Lisa Payne \_\_\_\_\_ /s/ LeRoy Kerkman \_\_\_\_\_  
Lisa Payne, Clerk LeRoy Kerkman, Chairman

Commissioner Schindler \_\_\_\_\_ Moved the adoption of said Resolution  
Roll Call: 5 Yea 0 Nay  
Resolution adopted, signed and billed as adopted.

At intersection 515<sup>th</sup> Avenue and 845<sup>th</sup> Road, JEO Consulting Group recommends placing a “Stop” sign in place to control east and westbound traffic to improve the safety of the traveling public. Motion by Commissioner Schindler, seconded by Commissioner Jacob to approve the Stop sign placement. Voting aye: Schindler, Jacob, Schwager, Henery and Kerkman. Nays none. Motion carried.

RESOLUTION Stop Sign – 515<sup>th</sup> and 845<sup>th</sup> Road  
Antelope County, Nebraska  
Resolution # 18-12-0004

WHEREAS, a sign study was complete by Brian McDonald and it was found to be in the public interest to stop east and westbound traffic at the intersection of 515<sup>th</sup> Avenue and 845<sup>th</sup> Road, Antelope County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Antelope County, Nebraska, new stop signs be erected to control eastbound and westbound traffic at the intersection of County 515<sup>th</sup> Avenue and 845<sup>th</sup> Road, Antelope County, Nebraska.

Adopted: 4<sup>th</sup> day of December, 2018, at Neligh, Nebraska.

Attest: BOARD OF COUNTY COMMISSIONERS  
OF ANTELOPE COUNTY, NEBRASKA

/s/ Lisa Payne \_\_\_\_\_ /s/ LeRoy Kerkman \_\_\_\_\_  
Lisa Payne, Clerk LeRoy Kerkman, Chairman

Commissioner Schindler \_\_\_\_\_ Moved the adoption of said Resolution  
Roll Call: 5 Yea 0 Nay  
Resolution adopted, signed and billed as adopted.

At intersection 529<sup>th</sup> Avenue and 859<sup>th</sup> Road, JEO Consulting Group recommends placing a “Stop” sign in place to control east and westbound traffic to improve the safety of the traveling public. Motion by Commissioner Schindler, seconded by Commissioner Jacob to approve the Stop sign placement. Voting aye: Schindler, Jacob, Schwager, Henery and Kerkman. Nays none. Motion carried.

RESOLUTION Stop Sign – 529<sup>th</sup> and 859<sup>th</sup> Road

Antelope County, Nebraska

Resolution # 18-12-0005

WHEREAS, a sign study was complete by Brian McDonald and it was found to be in the public interest to stop westbound traffic at the intersection of 529<sup>th</sup> Avenue and 859<sup>th</sup> Road, Antelope County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Antelope County, Nebraska, that a new stop sign be erected to control westbound traffic at the intersection of County 529<sup>th</sup> Avenue and 859<sup>th</sup> Road, Antelope County, Nebraska.

Adopted: 4<sup>th</sup> day of December, 2018, at Neligh, Nebraska.

Attest: BOARD OF COUNTY COMMISSIONERS  
OF ANTELOPE COUNTY, NEBRASKA

\_\_\_\_\_  
/s/ Lisa Payne  
Lisa Payne, Clerk

\_\_\_\_\_  
/s/ LeRoy Kerkman  
LeRoy Kerkman, Chairman

Commissioner \_\_Schindler\_\_ Moved the adoption of said Resolution  
Roll Call: \_\_ 5 \_\_ Yea \_\_ 0 \_\_ Nay  
Resolution adopted, signed and billed as adopted.

Brian McDonald also reported on a request from the Board of Commissioners and Casey Dittrich for a request by the public to close a public portion of 853<sup>rd</sup> Road in Logan Township, between Section 29 and Section 32, Township 23, Range 7, West of the 6<sup>th</sup> PM, Antelope County Nebraska. The problem Brian discussed was land locking property owners Steven and Debra Schindler. There is a statute regarding gating a road that maybe hasn't been used for a number of years. It is possible to close the road if the landowners have an easement for access. Brian recommended setting a public hearing date. Brian requested the Commissioners to set a hearing date. Motion by Commissioner Henery, seconded by Commissioner Schwager to set a public hearing on January 2<sup>nd</sup>, 2018 at 10:00 AM. Voting aye: Henery, Schwager, Schindler, Jacob and Kerkman. Nays none. Motion carried

RESOLUTION Public Hearing – Closing of Road 853<sup>rd</sup> for ½ Mile  
Antelope County, Nebraska  
Resolution #18-12-0006

WHEREAS, the Antelope County Board of Commissioners directed the County Highway Superintendent to study the use of the ½ mile of 835<sup>th</sup> Road to the west of 518<sup>th</sup> Avenue in Antelope County Nebraska.

WHEREAS, a written report of the use of the road has been completed by the Highway Superintendent and is filed with the County Clerk.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Antelope County, Nebraska, that a public hearing date be set for 10:00 AM the 2<sup>nd</sup> day of January 2019 to consider whether or not to vacate or abandon road. The County Clerk is hereby directed to send copies of this resolution by registered or certified mail to the abutting and adjacent landowners.

Adopted this 4<sup>th</sup> Day of December 2018, at Neligh, Nebraska.

Attest:

BOARD OF COUNTY COMMISSIONERS  
OF ANTELOPE COUNTY, NEBRASKA

\_\_\_\_\_  
/s/ Lisa Payne  
Lisa Payne, Clerk

\_\_\_\_\_  
/s/ LeRoy Kerkman  
LeRoy Kerkman, Chairman

Commissioner \_\_Henery\_\_ Moved the adoption of said Resolution  
Roll Call: \_\_ 5 \_\_ Yea \_\_ 0 \_\_ Nay  
Resolution adopted, signed and billed as adopted.

**NBCS Forms:** Certification Forms. The first one states the monies allotted to Antelope County in Gas Tax money are for projects that are built to standards, culverts are sized. We need to certify these projects are all done to specs and meet the standards. There is an accounting of the Contract Projects. Motion by Commissioner Schwager, seconded by Commissioner Schindler to sign the NBCS Certification forms as presented. Voting aye: Schwager, Schindler, Jacob, Henery and Kerkman. Nays none. Motion carried.

**Bridge Inspections:** The annual Bridge Inspections are due in January. There are 39 of them. Currently, JEO charges \$150.00 a piece for approximately \$5,850.00. Motion by Commissioner Schindler, seconded by Commissioner Jacob to accept and authorize JEO to complete the Bridge Inspections in 2019. Voting aye: Schindler, Jacob, Schwager, Henery and Kerkman. Nays none. Motion carried.

**Bridge Matching Program:** Brian has been working with Casey Dittrich regarding submission of bridges for the 55/45 bridge matching. Two (2) structures have been submitted. Currently, we have two (2) projects that bid letting as soon as we get approval from DOT, from the last Bridge Matching money.

**Culverts:** Brian, Casey and Marlin Conry have inspected the current roads in the Upstream project area agrees the culverts size and placement do meet standards. Motion by Commissioner Henery, seconded by Commissioner Schwager to accept the Culvert placement in the Upstream Road Project area. Voting aye: Henery, Schwager, Schindler, Jacob and Kerkman. Nays none.

**Public Hearing:** Thunderhead Wind Energy: Chairman Kerkman opened the Public Hearing the hearing was approximately 85 minutes. The following is the public hearing report.

The Thunderhead Conditional Use Permit Public Hearing began at 10:16 AM with Chairman Kerkman opening the public hearing. Liz Doerr gave the administrators report. At 10: 21 Josh Framel representing Invenenergy gave his presentation regarding the Conditional Use Permit. At 10:29 letters in opposition were read at 10:44 AM a request for comments from the opposition was requested. At 11:06 AM letters in support were read and a request for comments in favor was requested. At 11:19 AM Josh Framel and Mike Degan gave a review and answered questions. 11:25 AM Casey Dittrich asked questions about the Road Use Agreement and plans to include provisions to prevent general lack of care of roads in the Road Use Agreement. Other comments were heard at 11:35 AM. Public Hearing ended at 11:41 AM by a motion from Commissioner Schindler, seconded by Commissioner Jacob. All voting yay. At 11:42 AM Findings of Fact and Planning Commission's recommendations read by Zoning Administrator, Liz Doerr. At 11:53 AM motion by Commissioner Henery, seconded by Commissioner Jacob to approve and grant the Conditional Use Permit to Thunderhead wind project with all conditions adding

the special assessment. All members voting yay, except Commissioner Kerkman who abstained do to conflict of interest. Motion passed with 4 yays, no nays and one (1) abstain. A resolution will be presented on the 11<sup>th</sup> of December to include verbiage for per mile per day special assessment as requested. The Application for a conditional use permit #CUP1802 has been filed by: Thunderhead Wind Energy LLC. The proposed use: Commercial Wind Energy System up to 300 MW or 137 turbines.

Antelope County Board of Commissioners  
Public Hearing – Thunderhead Wind Energy CUP  
December 4<sup>th</sup>, 2018 – 10:16 AM

LEROY KERKMAN (Chairman) – Open the public hearing. Roll Call: Henery? Schwager? Schindler? Eli? And I am here. (All respond “here.”) Starting time would be about 10:16 AM. The reason for the hearing is the Thunderhead Conditional Use Permit. At this time, I am going to ask for some information from the Zoning Administrator, what were the Planning Commission’s recommendations?

LIZ DOERR (Zoning Administrator) – Ok. The Planning Commission held a hearing and before I did that, I did an Administrator’s Report. And what I do for that, you should have copy of that, is I go through all of the regulations, and then keep in mind in the regulations, there is a section that says requirements for the application. So those were the things I especially looked at because in this process, typically, you know, they will get the Conditional Use Permit. If it meets the requirements, with conditions and then that gives them the go ahead to continue development. So, what we have here is the map with the proposed sites. But, keep in mind, they will not all be built. And he will touch on that. And then I have my recommendations at the end. So those were some of the things that either they had requested, or you know we used from Upstream, or that I felt may be could be an improvement on how we did the process with Upstream. And so, the Planning Commission had their hearing, we listened to the testimony; they did their findings of fact. They did add the one condition, where they want, well I suggested, to have that finals layout, before I issue any zoning permits. The reason for that being is because there are some of those towers that will probably will not meet the clustering. But we don’t know for sure if they are going to be built. It gives them some flexibility because they will have to go out and do all of their Geo-Tech work, to check the soils and stuff. So, the Planning Commission felt like they should come back for a review of that site plan not at a public hearing. They will look at it just to check for correctness and stuff. But they did sign, and went through the findings of fact. And they approved this all. So, the draft resolution that have includes those conditions, that I had suggested, that they went along with, plus the one for review. So, at the hearing today, we will have Josh doing his presentation and we will read the comments, and keep in mind you know, what is in this resolution can still be changed based on what is said today. But, as long as it meets the regulations you know they should get a permit with conditions. So, in order to deny it, we have to have very good reasons – and give those reasons before we deny it. So, that is just my overall feel of it.

LK: Can I please ask you to shut your cell phones off? I kind of forgot about that. Are there any comments or questions of the Commissioners?

CHARLIE HENERY: They only conditions that was put on was what you just explained? Or was there other conditions?

LD: They... in that report that I have there, I had suggested a number of conditions. There is 13 conditions. The Planning Commission added that extra one, that they wanted that extra review in there. So, and that will be... I don’t think you have that, but its... it should be.

CH: In this book, right here?

LK: Yep.

LD: You mean is my report in there? Yeah. Yeah, I am not 100% sure, but I know I gave it to you. But then the resolution, the draft of it right now requests what the Planning Commission added. But they did go with all of the recommendations that I gave to them.

CH: And they accepted it this way?

LD: Yeah. They wanted it the way I had it with that extra condition. And I just do that to the Planning Commission out, because otherwise, as we discuss it, it is too easy to forget things. And they have a starting point and they can make their changes from there.

LK: Ok. Any other questions? Ok. We are going to open the hearing to the public. Thunderhead introduction, Josh.

JOSH FRAMEL: Thank you very much for having us here today. We are going to be presenting our information for the Supervisors. And welcome all questions you may have after the hearing. I don’t know if folks can see behind me. I am going to run through a quick couple of slides – it won’t take a lot of time – just to give you a general overview of some of the key items. So, starting, if folks aren’t familiar with Invenergy, a little about is, talk about Thunderhead. If you have questions at the end, but really obviously anytime during the hearing, if you have any, please feel free. So, my name is Josh Framel, team manager with Invenergy. I’ve got Mike Degan sitting next to me here. Marlin Conry, you know. Luke Hinkle, Operations Manager at Prairie Breeze, and will also be the O&M manager for Upstream which we expect to go commercial in a couple of weeks. Also, I invited James Williams today, who is Vice President of Rural Development for the west as well. (Slideshow) Quick facts about Invenergy: we are one of North America’s independent power producers; we do a lot of projects all over the country. We are starting to do more and more projects internationally as well. 900 employees. Thought an important number to point out was you know – we do a lot for local economies. Local investment over \$135,000,000 a year with our projects go into that. That number is always increasing. We do more than wind, we also work on solar projects, we are starting to do more with battery solar systems, and a history of natural gas. Which projects are also being worked on in different parts of the country. So, specifically, here is the submitted maps of the county – as far as Thunderhead. We started development in 2015. We have over 65,000 acres of folks who have agreed to participate in the project with us. It is over 100 people. We submitted the application for 300 megawatts, and 134 total locations. As Liz mentioned, we will not build all of those. But due to where we are in the development cycle it is important for us to come to the county now to request the permits as we can continue to make investment in the project. To perform our Geo-Tech, to continue to work with our property owners on their needs and locations. The more locations that go in gives us more flexibility. Everything is sited within Ag General. Our point of interconnection will be up in the corner of Holt County. The Holt County substation is going to be built there by NPPD. I will mention that we are to parallel pass as it extends into Wheeler County. So, Thunderhead as a whole will be partially in Antelope and partially in Wheeler. With the majority we are planning for Antelope. And, as Liz mentioned the Planning Commission recommended approval with the conditions that were laid out in October. So, our preliminary layout is designed to meet the most recent amendments to the Zoning regulations. I mentioned about the layout being preliminary. We have submitted for a range in turbine size, and I have also requested and it was part of the recommendations to have that flexibility to move 900 feet from the specific point.

The application required coordinates of every proposed location. And what we are doing right now, I think Liz is pretty much done verifying the Upstream locations are within the distance set during that project – once they were built. We – learning from that process, adjusting to some of the different site conditions that we expect in this area we are requesting 900 feet. Ah, I can go more into that one on the next slide – but that is something we wanted to point out. Through this process we have also been receiving information we did not necessarily have when we submitted it. And we want to acknowledge the process is such that the Conditional Use Permit is approved, and then there is a Zoning Permit process for each individual tower. It goes back to the county to be reviewed for setback compliance. And there are certain building permits, for example that we were not aware of when we submitted it so we will not go in to seek a zoning permit if there is something pre-existing that would not meet the regulations. So, wanted to mention that. With regard to the moving flexibility; you know the 900 feet which is a change from Upstream – we requested that because as we were doing Upstream and working on our layout here – 900 feet is about to get from across the county right-of-way setback. From one corner to another. And, as we are potentially adding more property – you know – if we find one particular site doesn’t quite have the soils we like – you know we are always meeting setbacks. So, the 900 feet gives us that ability to jump a corner. This is a quick example I put together. So, we are all still working with folks within our project area. And if someone were to agree to sign a lease you know – even after the submission of the CUP – we would add that to our project. And create an updated setback. And this 900 would allow us to, or them to participate in the project. But again, we would need to have that 900 feet be the maximum. In general, I just wanted to touch on some of the economic benefits from a project. So,

in 2017, for Prairie Breeze you know there is the Nameplate Capacity Tax as well as property tax. Over \$100,000.00 for Prairie Breeze. Upstream, which is 202 megawatts between Nameplate and property tax we expect another 1.3 million dollars. Thunderhead – really represents a strong continuing commitment. You know Invenergy is very invested in this county. We want to continue to do so. The reason we are here is... this allows farmers to diversify some of their output. It is additional jobs in the community and there is a demand right now for renewable energy. This is a nonpolluting, this is increasing energy supply. A lot of these things are aligning in Antelope County. I think it is a great place to work. I did mention the jobs. We are already employing about 31 people just for our projects before Thunderhead. So, I mean I don't know where that puts us in the list of employers in the county, but I know probably not last. We are here to stay. So, I want to thank you very much, and like I said, if you have any questions now, or throughout the hearing – I'd be happy to be the one to answer.

LK: Ok. Thank you, Josh. Ok, at this time we are going to ask for people that want to testify – we are going to start with people in opposition. I would like that you please limit it to three (3) minutes, because there are probably quite a few people that have something to say.

LD: Do you want me to read the written comments first?

LK: I do.

LD: Ok, there are several of these. Some of these longer ones I will kind of summarize. But the shorter ones I will read. This one is from Shelley Bode. Please reconsider the location of wind turbine number 135 in the Thunderhead project. Attached to this email is a video from Ilene Bode (and we are having trouble getting it to work, but anyway) who lives eight (8) miles west of Elgin and has no lease agreement with Invenergy. It clearly shows the strobe light effect in her living room caused by the nearby wind turbine. We have a large bay window in our kitchen-dining area that points directly at Bruce Anderson's bin and shed that are currently at the proposed location of turbine 135. I spend most of my waking hours in our kitchen-dining area – it is the hub of our home. This is where we congregate when our family is together. We are terrified that this wind tower is going to drive us out of our home. We built this home 20 years ago, thinking we would live here for the rest of our lives. And that possibly one of our children's families would live here someday. Please reconsider the proposed location of turbine 135." The next one is Tim Hemenway. "My name is Tim Hemenway. I am writing in regards to the wind tower farm being placed south of Clearwater, and a concern I have about zoning and the distance from a residential site. My wife, Dawna and I are currently in the process of building a new home on the NE¼ of section 32-25-8. Antelope County has already issued a building permit for a house construction at this location. It appears that George Hemenway has permitted to have a wind tower built on the W½ of the NW¼ of section 32-25-8. From my calculations this wind tower is not the required 2600 feet from our new residential site. Thus, I don't believe the Zoning Committee can allow this wind tower to be built, because of the proximity from our new home. I would greatly appreciate it if you could look into this matter and contact me with any questions and your findings." I would like to add to that, this is one that was read at the Planning Commission meeting and we have this one and four other permits, that are considered active permits. They were issued for new homes that weren't reflected on the maps. So, when they give us that final site plan, it will have to be reflected on there. So, it will have to meet those setbacks. And, that is something we will be watching for. This next one is from Maurice Sapp of Grand Island and I will kind of just summarize it. "They own a quarter section of land in Antelope County. He was contacted to see if he would like to participate, and anyhow they signed the lease. But after reviewing the lease, we signed the lease based on oral assurances from Invenergy representatives that even though not specifically stated in the lease any future decommission of any turbines in the project would be funded by annual cash deposits to an escrow account once the project is completed and in operation. And because of time he did have... ah... let's see... even though I signed the lease to beat the deadline – then he contacted them." But anyhow, he has some concerns about the decommissioning plan. Now that is one of things that we have in there as a condition. I believe they have a draft in the application, but that would need to be finalized if this gets approved, before we can issue any zoning permits to begin construction. So that will be dealt with. Ok, we have one from Eldon Schnoor from Clearwater. "In response to the proposed wind farm, I am against it as it does more harm than good for the environment. In a recent study from a major eastern university that they take more energy to build the materials and install them, than if you took fossil fuel to create the amount of energy that they will ever produce. Plus, the wind farm has other negatives on the killing of birds and noise in the environment. I do believe more studies need to be made, before we fill the land fill of these towers before we consider what a hazard when they are not useful and are taken down." This one is from Carol LeBeau. And this was read at the Planning Commission meeting too, and she was concerned about this. She works at the motel and some of the talk that she has heard. And these are some of the points. "The windmills are extremely expensive to build, they are extremely expensive to transport, they are extremely expensive to install, they are extremely vulnerable to any type of physical trauma. Even one small bird hitting a blade will put them out of commission. They are extremely expensive to repair, costing tens if not hundreds of thousands of dollars. They are extremely time consuming from time of inevitable breakdown to repair. They are extremely expensive to operate, requiring more energy than what they actually produce. They are extremely detrimental to crop production and other development due to the land they use. And the hindrance they present to the navigation thereof. They are extremely burdensome to tax payers in that these companies are being funded in large part by tax payers through grants and low interest government loans." And so, you know, she has concerns about it. Ok, this is from Beverly and LeRoy Becker. (Mrs. Becker asked if she could pass out copies of her comments – Liz agreed.) She has some copies here. And so, Beverly, since you submitted one at the Planning Commission meeting and this one is more specifically for here – I will just review this one for now. (Mrs. Becker: Ok.) Ok. 'A conditional use as defined by the Antelope County Zoning Regulations in March of 2018 is a use allowed by the district regulation that would not be appropriate generally throughout the entire zoning district without special restrictions. However, said use, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and welfare – and she feels the proposed Conditional Use Permit is not appropriate throughout the district and is certainly not controlled as to the number, size, area, and location in relation to the neighborhood. There are no minimizing protective characteristics of this proposed wind energy commercial system. It overruns and consumes the neighborhood. And so, she feels that it is detrimental to the public health, safety and welfare. We purchased an existing vacant dairy and moved to Antelope County in 1996. At that time Antelope County and the State of Nebraska was seeking experienced dairy farmers/families to live in rural Nebraska. I am originally from Boone County, but we lived in Oregon for several years. Does Antelope County now seek to remove families from rural Antelope County? Over several years we earned several dairy awards from the Dairy Association.' And then it states some of that. 'So, they are proud of their dairy and they are now retired from the dairy business. Mr. Bruce Anderson has informed my wife and daughter that there will be no tower in the center of section 3, site alt 11 as per the attached map in Lincoln Township. And yet this site has not been removed from this map. Please do not approve it. This tower especially is too close to our homes.' And that will be something that would be reflected in the final site map. 'Other specific towers that are especially concerning is tower 121 in section 3, tower 122 in section 2, and tower 126 in section 35.' And then she goes on to say about the building permits that they have that I already mentioned. That those are active permits and will need to be reflected. They have an article from the Science Dinears, that states it is unsafe to live within 1.25 miles from these wind mills because of the noise and pressure waves, and it goes into a little more detail on that. 'Had we known what we now face with these wind towers – we would never have even considered moving here. These wind mills will significantly reduce the quality of life in southwest rural Antelope County.' And so, this and all of these that I am reading will be made a part of the record too. And then we have one from Jennifer Iler. This is Beverly and LeRoy Becker's daughter and her husband. And so, it gives a little background information. She talks about how they are noisy, the red flashing lights blink on and off all night, and the light flicker during the morning and evening can have the same effect as a strobe light – that according to information I could be a problem up to a mile away! She talks about something in the wind lease agreement – some of the concerns with that. She especially objects to tower alt 11, in section 3-23-8. 'The landowner, Bruce Anderson has assured me that the tower will not be constructed.' And maybe one thing I should add to – when I do those zoning permits – because these are on leased land, as part of that I make sure that the land owner signs that site plan so I know that they are ok also, too. So, we will have that extra assurance there. He told me he does not want it there for both my family's sake and he



doesn't want the road going through his field. But it still appears on the map. That is because we will get an updated map later. Then she talks about having the valid building permits. We had already discussed that at Planning Commission. And besides the previously mentioned issues, the using of my land as part of the setback is another big problem, I have with the wind turbines smothering and consuming the area. She feels like it should be from the boundary of her property. She says, 'I have heard wind turbines compared to neighbor's putting in grain bins or a feed lot, how we need to respect our neighbors' rights to make money on their property. I do respect my neighbor's property rights, but comparing wind turbine to a grain bin or a feed lot is not even close to accurate. And she talks about the lights and the greed from people wanting money from it.' So anyway, she is asking that it be denied. And Richard Miller. 'Towers 105 and 106 are especially concerning to me. These two towers especially will dominate, overrun and consume the farm where I have lived all my life. Additional towers of considerable concern are 107, 80, 81, 82. These along with 105 and 106 are surrounding me and regardless of the wind direction at least one of these towers will constantly affect me.' And that kind of goes back to comment that I made earlier, that you know they won't all be built, and so we will have to look at this to use for the clustering. He has not signed any agreement and he is concerned that the ones who do, wave and claim to some of these effects. And he feels like the conditional use is allowed and it should.' However, it's said use if controlled as to the number, size, area, location in relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety and welfare. But he feels like it is not appropriate. And there are no minimizing characteristics. It overruns and consumes the area. He did testify before the Planning Commission with these concerns too, and objects to it. The last one I have is from Carol Anderson. 'Please consider not issuing a permit to wind turbine number 30, as it directly south of my residence. Moving the turbine west on the same quarter will not make much difference in location or distance from my front porch. I feel it will be unsightly and devalue the property if I someday sell the residence. In addition to the strobe effect during daylight, nighttime red-light glare and noise may affect my residence. That's the one we had with concerns.

LK: Thank you.

LD: Do you want the other ones that are in favor? Or do you want to wait on those?

LK: Wait on those. OK. At this time, we will ask testimony from general public. You need to come up here and sit, state your name. Those in opposition.

SHELLEY BODE: Asked if we could get the video to load?

LP: I could get it to load, but had no way to bring to meeting.

SB: I am Shelley Bode. And we did not sign a lease agreement. But I want to show you this video that I have from my sister-in-law that shows a... is there good service in here? I don't know why it isn't coming up. (Internet access code was offered.)

LD: There is a little video on her phone. She is trying to get it.

SB: I do not know why it is not coming up. Well this is the start, but I don't know it is going to play. It doesn't look like it is playing.

LK: Is this the one that was read, Shelley?

SB: Yes, but I sent a video – but she couldn't get it to play. I know I showed it to people in the hallway last time and now I can't get it to come up.

ED SCHINDLER: Sometimes in here it's...

SB: It doesn't work; the internet doesn't work in here very well?

ES: I know my wife has trouble getting stuff.

SB: I did have a question. I understand that the measurements are made from the part of your residence that is closest to the tower. So, from the very corner of our house. Where are they measured from the point on the tower?

LD: From the center I believe.

SB: From the center of the tower, ok. I wish I could get that video. If I get it pulled up can I re-approach and show it you. (Yes.) I would really like you to see if I can.

ES: You might want to step out in the hallway. You might get easier.

CH: \_\_\_\_\_ Wi-Fi, too. We have Wi-Fi too. Wi-Fi too our internet access.

(Lisa offered Wi-Fi password. Shelley didn't take it)

SB: If somebody else wants to?

LK: Ok, somebody else?

RICHARD MILLER: I am Richard Miller, Elgin. I wanted to detail more on that letter. It was kind of skipped over. It said I have not signed any agreement with Thunderhead Wind Energy. But in their own words in the wind and lease agreement, they admit the definite possibility of considerable invasion of my health, safety and welfare. By stating their agreement is an exclusive easement for electromagnetic, audio, flicker, visual, view, light, noise, vibration, air turbulence, weight, electrical, radio interference, shadow, or other effects attributable to the wind turbines project or any development activities. People who sign this agreement waive any claim to all that. This and more are my concerns. That's words directly from their mouth. They are admitting that there is a possibility of all those detrimental health problems. It does say that if it is controlled as to the number, size, area and location, and it is not being controlled. It is completely over running it. It gets to the point that there should be a concern whether the zoning regulations needs to be changed from agriculture to agriculture industrial. Because there is no way this is a farm. There is nothing farm about it. It is wind tower. It is industrial completely. When it completely overruns the county the Conditional Use Permit is questionable whether that is going to cover it. It becomes a question whether it needs to be changed from strictly agricultural, to agricultural industrial. It isn't, we are not talking one farm shop that is big, producing hay equipment, it over runs the county. It takes away property rights. Not only from you, but from your neighbors. In my case, I have a niece that has considered in the future to wanting to come back and build a place. She is out of state. It is going to greatly limit where she can build it. It is something you do have to consider. In one small area, yes. But say it is not being controlled in size, location and it is going to completely overrun and consume the area where I live and work. The distances should be further away. I strongly oppose the additional Conditional Use Permit. Thank you.

LK: Ok. Thank you... Anyone else... Oh, you got your video? (Shelley Bode brings her phone – all 5 Commissioners view.) I think it quit playing.

SB: I have to start it over. Did you see it? Did you all see it? (All nod agrees) It is real.

LK: Anyone else want to testify against?

LEROY BECKER: Yes. You have my information there. Just another.

LK: You need to introduce yourself.

LB: LeRoy Becker. What you people are doing, if you proceed with this, you are in fact, rezoning. And you are doing it by way of Conditional Use Permit. Now, the question is this. How invasive does heavy industry need to be, and this is heavy industry. How invasive does it need to be before it needs to be rezoned instead of by a Conditional Use Permit. Perhaps to a zone such as agricultural industrial. Thank you.

LK: Anyone else that wants to testify against? Dean.

DEAN SMITH: Dean Smith, Brunswick. The first thing I wanted to ask, was – so the decommissioning isn't being addressed at this time or is it?

LD: I just...

DS: From what you said, I couldn't understand.

LD: I just put it in here. It is a requirement before I ever issue any zoning permits.

DS: They have a draft in the application. There is a draft right now, but it is not approved by the County Board yet. Because when Keith Marvin wrote the regs in a way, that typically will come afterwards. Because we need to know first whether they are going to get the permit to go ahead before we waste too much time on the decommissioning.

DS: So, this (clears throat) excuse me again. I am sorry (clears throat) excuse me. So, the decommissioning issue will be at a later Commissioner meeting as a line item to be discussed.

LD: Uh huh.

DS: And adjusted or whatever is done at that time?

LD: Yeah. They will have to approve the decommissioning plan and the Road Use Agreement before any of this goes forward.

DS: Well, some of the topics I wanted to touch on here and most of them will be as questions that I really don't have answers to. And issues that I have brought up in the previous hearings concerning Upstream. And at that time, it was concerning Prairie Breeze Projects. In the decommissioning, there is a seven year wait before this has to be put in place. I guess, my question is how and who is going to be able to remember seven years from what date? Now, and I don't know. I was not involved in it all in Prairie Breeze I. Was there a decommissioning in Prairie Breeze I? I... if there was seven years...

CH: There has been decommissioning in every one.

DS: Ok. Ok. So, seven years is coming up then according to what data I could find would be 2022. Is when the decommissioning negotiations or process needs to begin? In 2022, a lot of things are unforeseen. We can't answer those questions. But part of the question can be answered in 2022 of the Supervisors that were on the board that approved the decommissioning. How many of those individuals are still going to be on this board? Well it is down to, at this time or after January, when the new board goes in place, there is only going to be one person then that was involved in Prairie Breeze I, that would even have a chance of remembering in 2022. And that would be you, Charlie. Were you on the board on Prairie Breeze I?

CH: Sure.

DS: I believe you were. So, that is what I am getting at. And I guess Lisa. But I don't know.

CH: Lisa wasn't on the board.

LP: I wasn't on the board.

DS: She wasn't. Ok. So, Lisa was not involved at the time. So, does she have, and how can it, I don't understand how this can be carried forward to where future people will remember.

CH: What negotiations will there be on this Dean? It is set in place...

DS: Well, other than... Well not really negotiations other than is has to be done and who is going to make sure it gets done? The Zoning Administrator, which was a different person at Prairie Breeze I, then it is now. And who knows in 2022, or especially seven years from let's say Upstream, which is starting to operate, he said within two weeks. So, we would be seven years, we would be – whatever that math is on that, 2025. Who that is involved in this process now is going to remember it? Now I am sure that legal counsel for Invenergy will get up and say that you know, our company will be here, you know we are going to be around. We will come in and remind you of it. That, I, you know how do we know... maybe they will. Very possibly, maybe they will. Will Invenergy exist? There is a lot of renewable energy companies that have fallen by the wayside. On Prairie Breeze I, do we know the record title owner of Prairie Breeze I, II, III? Because at one time when that was sold to Terraform Power, a subsidiary of Sun Edison. That happened prior to, just six months prior to Sun Edison filing bankruptcy. I have no idea, you know, who the 90% share – as I have heard in previous meetings that have been brought up. So here are my concerns. Looking for the tax payers of the county – how are we going to enforce this and have a control over this, so many years down the road? Which comes right back to the comments about invasiveness and so on of the towers that other people have brought up. I am not bringing that up per se at this time. I am looking out for that. Now, before we go on with this new project – I do have a question on Upstream. Has Upstream met and the sighting of all the towers have been met, and are we comfortable that there is not going to be any further problems with any of Upstream towers and their locations. (Liz Doerr attempted to answer.) Or, is there a potential for a sighting problem? And my next question is, right back to the decommissioning. Is the proper docu- has the proper documentation for Upstream's Decommissioning Resolution or decommissioning memorandum of understanding, is that filed and recorded properly? And (Liz attempted to answer.) See this is why I am bringing these questions up. I am not saying whether Liz was supposed – I don't know who's supposed to do it. And I don't know whether Lisa is supposed to do it. I don't know for sure that anybody knows how we are going to record keep all this? How are we going to? You know. On a decommissioning plan, the only way I can see is if there is actually cash money deposited in an escrow account with a maturity date. And, I think it should be done on all the projects. Retroactive per se. Because how else, I mean it would be no different than a real estate contract. And at that maturity date the holder of the escrow agreement has the responsibility it would be, you know to a bank or whatever it would be. I don't see any other way to keep track of it. And I have this copy of the decommissioning plan for Upstream, and I don't see where Upstream signed it. Now, maybe there is another copy somewhere else. I don't know. Maybe, you know. But it is things like this before we get into this we are already, as I stated before, and it still hasn't changed. We are the largest generator of Nameplate Capacity Tax in the state. We have the densest population of towers of any county in this state prior to this new project. There are so many questions in my mind that can't be answered for down the road. And, there is someone that has better memories, and can see further. I don't have any of the answers. The majority of what I said, as I said earlier is a question. I think before we get further into another project, we need to kind of think about that. Um, I guess that's all I have. And I don't, I don't know, you know if there is... maybe there is... I don't know who has it... but that is that is the one I find of record... Thank you.

LK: Thank you. We have one more comment.

JOE ABLER (County Attorney): Just for the record – who has been keeping time? In all fairness, that was way more than three minutes. We need to figure out how much time that was.

DAVE WILCOX: Hi. My name is Dave Wilcox. When are we going to start enforcing the ice sling on the road and who is responsible for that, to enforce it? The sheriff, you guys, or who? Answer?

LK: I haven't run across the problem myself.

DW: Icing?! We told you that before. I have found stuff this long, this round. Had pictures of it. We are probably going to wait until somebody gets killed and then we will act on it. I suppose. It was just a question. The other day we have a lot of icing. It looked like it hailed on the road. Smaller stuff, but I mean, they do it to so that's the only question I got.

LK: Thank you... Anybody else, testify against? Larry.

LARRY ANDERSON: I am Larry Anderson from Elgin. I am going to need these aren't I? (Referring to his glasses as he puts them on.) I guess I would like to express my concerns. Only two issues for the CUP. Invenergy has promoted the construction of these towers as benefitting local land owners and communities. However, they are siting some of the towers on school land or proposing to. The rental money from that will leave this county and go straight to Lincoln and be distributed across the state. The pittance that we would get back would be insignificant. If those towers were on private property not only would that rental income stay in the county, we would also have the state – of the tax revenue from that. I guess, I would suggest if you are going to approve this that you make a condition that there will be no towers located on school land. Let's keep the money here. Let's benefit our county – all of it. The other thing I have a concern about is, I was on a site in southern Minnesota, in the center of the state. I was surprised how many towers there were and the diversity of the population there. And, a farmer that I met said they pay everybody within a radius of the towers. Not just 2500 feet, but everybody who is affected. It may not be much, but it is better than nothing. And small property owners have rural homes or something they live with that nuisance, but they derive no benefits at all. And, I guess lastly, I would like to thank those commissioners who are retiring for your decades of service to our county and own citizens. Would you enter that, please Lisa?

LP: Thanks.

LK: Thank you... Anybody else in opposition that wants to speak? OK, I am going to move on.

JA: LeRoy, there are people in the hallway. I don't know if they can hear you, to make sure and clear the record.

LP: (Checked the hallway) There are four people in the hallway. They all shook their heads no.

LK: Ok. Well at this time we are going to move on... We are going to move on for those that are in favor of the wind towers.



LD: I will start out reading written comments. We had one from Gabriel Steinmeyer, the Director of Economic Development from the City of Neligh. He is in favor of it because it brings new local jobs, additional revenue for land owners – adding to the tax base in support of schools and emergency response services etc. etc. Then he quotes statistics on the taxes, and he says ‘Thunderhead has the capacity to generate 300 megawatts of wind energy which is enough electricity to power over 83,000 homes. And anyhow, that is just a summary of it. John Hanson at Nebraska Farmers Union has one that is in favor of it. He gives a little bit of their background information. ‘Nebraska’s Farmers Union strongly believes that wind energy development is an agricultural activity. As such, it should be accorded to the same standards of accommodation as other conventional agricultural activities including livestock, grain and oil seeds production in the Planning and Zoning Process. The rights of Ag producers to participate in Ag activities include wind energy development must be preserved.’ Then he talks about its importance of renewable energy. And because the farm economy is in its worse economic down turn this would be helpful. And he has been doing public education. That is kind of just a general summary. Kauffman Farm Agency, signed by Jason D. Woods. He is in support of it. ‘Our company represents seven separate land owners who own nearly 5,000 acres of farm land. Two (2) of these land owners are located within the proposed Thunderhead footprint. Combined, these land owners paid a total of \$222,508.66 of real estate taxes in 2018. It is my understanding that these new wind energy products will generate millions of dollars in taxes and revenue each year. This additional tax revenue is one of the main reasons why he thinks it should be approved.’ Then he goes on about the influx of money you know, and how that keeps doubling. They manage farms in north central Iowa, and southern Minnesota as well. Where the wind developments. Many of these projects were greeted with resistance by local residents who feared what the changes would do to the aesthetics of the landscape and their personal enjoyment of their property. However, over time those feelings diminished and the longer-term benefits have outweighed the negatives. Hotels and restaurants are still full. Energy company employees are enrolling their children in the schools and counties and towns have additional tax revenue for roads, hiring teachers and building schools.’ Calvin and Pam Heithoff are in support because of the benefits to the community. When we support economic development, and it goes into some of that, increased tax revenue is welcome. And, it can help farmers and landowners especially when commodity prices are down. The source of income can be boost during uncertain times. And helps to keep our family farms operating for generations to come. And then in the application there is a list of some names that were in support of it. And I received this – it is like two and two-thirds pages of names in support of that.

ES: Approximately how many?

LD: (Counts) There is 13 per pages, so that is what, thirty-four, and that is in addition to what was in the application. So... that is all I had.

LK: Ok. Thank you. Is there anybody else that wants to testify in favor of them?

CHARLIE MEIS: I am Charlie Meis. We have three (3) turbines on our original family farm under Prairie Breeze I. There is also half mile of above ground power, going across the farm over the substation at Meadow Grove. There is underground lines from Prairie Breeze I and Prairie Breeze II. These guys do it right. I have signed up all of the rest of the family owned land with Invenergy, including Thunderhead. I have raised five kids in rural Nebraska. And none of them are in rural Nebraska. We need the local jobs. We need these projects. Thank you.

LK: Thank you, Charlie. Anybody else want to testify in favor?

ROBERT JONHSTON: Chairman, Board – Robert Johnston. I am a proponent of any project in the county that will broaden the tax base. We all received these letters last week. Property taxes are due. Anything that will broaden the tax base, I am in favor of. Thank you.

LK: Anybody else want to testify?

KEITH HEITHOFF: I would like to echo what he said.

LK: Introduce yourself.

KH: Keith Heithoff, Elgin, Nebraska. My family has three wind towers on our farms. And we have been very happy. You couldn’t ask for a better neighbor. They fix their roads, fix the fence. Access in and out, no problems. How do you destroy an economy? You chase away business that brings money back. Now, we are talking about how much tax dollars goes to the courthouse. But that same amount of dollars goes back to the farmers that own the land. And that gets spent buying tractors, parts, groceries, mail, and keeps our communities going, keeps our schools up, and it makes our towns vibrant. It allows us to live until the next generation. Thank you.

LK: Anybody else want to testify in favor?

(Background – you’d do three more? Yes, thanks. I wish I could. Are they noisy? KH: No.)

JOSH MOENING: I would just like to weigh in. Josh Moening from Norfolk. Just weigh in quickly. I have been involved in some local economic development efforts and well there is no panacea for rural economic development. There also isn’t many industries that are coming to our counties investing hundreds of millions of dollars, creating good paying jobs, for local kids. A lot of them trained at Northeast Community College. Also, as was just stated, paying farmers. Since 2009, Nebraska farmers have received almost \$17,000,000.00 in lease payments from wind farms. That is a pretty big deal especially giving the Ag economy right now. Property rights, I have heard that argument. I think it serves us well to remember that that works both ways. And that typically we try to be supportive of people utilizing resources on their land to generate new income. When they do it in a responsible way. In this instance, creating energy, not using water well doing it, not polluting and still being able to farm around it. So, I think that makes a lot of sense. Talked about the economic impacts of these farms being built, and these investments in our counties and communities, we have seen it. I think you guys have seen it in Antelope County. In fact, I heard reports of local business, local hardware store – sales being up 25-30 percent over the last six-month period during Upstream being built. In Norfolk, we feel it. We see it. Our sales tax receipts were up an average of 13-14% each month over the last five months. I think a lot of that has to do with wind farms being constructed in this area. Upstream right here, and to the north and east of us in Dixon County. So, we are feeling the impact. I know you guys have a lot to weigh, and I respect everyone’s opinions on this issue. But you can’t deny the local economic benefits, tax revenue generation to counties, payments for farmers, and the impact that our restaurants, hotels, and local businesses are feeling from this economic activity.

LK: Thank you. Anyone else want to speak in favor?

JIM KOENIG: Can I speak right here.

LK: Come forward please.

JK: Jim Koenig, Clearwater. I have turbines in the Upstream wind project. I guess I don’t see the problem with this removal bond. We worked with a lawyer on the contract, he went over it. Obviously, nothing is 100%. Invenergy may go bankrupt, and you are left standing. But that happens to anything. I have sold corn to a grain elevator right here in Neligh, and it went bankrupt. I was out. You know that happens in everything you do. Nothing is 100%. But the lawyer we worked with, he’s got that headed down. They signed it. I have the contract signed by Invenergy that their removal bond will go into effect. So, I don’t know how much more you can do about that. But I just would like to... also the impact the economic impact to the county. It is just tremendous. I think if I remember right, don’t quote me on this, but I think when Emily was here, she said a rough estimate of 94 million on the Upstream project economic benefit to Antelope County. That is just tremendous. I mean we just cannot keep turning this down over and over. We have to move forward if we want to. Thank you.

LK: Thank you. Anyone else want to testify in favor? Kathy?

KATHY SCHULTZ: My name is Kathy Schultz. I just want to say I support the wind energy in Antelope County. I know we have had other opportunities for things to come into Antelope County, and it has been shot in the foot. You cannot keep doing that if you want Antelope County to survive and grow – so I truly support the wind tower entity.

LK: Thank you, Kathy. Anyone else want to testify in favor?

DUANE CHILDERS: Duane Childers. I think it is a great opportunity to keep some of our kids back home. We work so hard schooling our kids to leave, saying they have no opportunity. This is a great opportunity. And if you look to the south there is a lot of young kids that are working on these projects. They have grown up around here. They moved back. It is a great opportunity. It’s great for the tax base. If you have ever been out in the southwest Antelope County, our roads are crap. It can’t get worse. They will build our roads up better. Thank you.

LK: Thank you. Anyone else that wants to testify?

KEN SCHINDLER: Ken Schindler. I kind of like Duane said here. I work for the county. I've seen what they did south of Elgin years ago, tore some roads up a little bit here and there. But when they were done, it benefitted us greatly. We got a lot of product from them, culverts from them. They widened some intersections for us. And that area right there is the area I take care of and I got a farm there with an 'X' on it. So, I am kind of for it. But that is my area I take care of, and if I can get any help fixing some of those sand roads up, it is all good. And I think they will, from what I seen down south of Elgin.

LK: Thank you! Do I have anybody else that wants to testify in favor?

DAVE BEHNK: I'll speak. (LK: Ok.) I am David Behnk. And I am in favor of them. We got to do something the way taxes and stuff are. We got to have some revenue coming in from something. I am just for them.

LK: Ok. Anyone else that wants to testify in favor? Anybody in the hallway? (Lisa checks the hallway. No answer.) At this time, I will ask the applicant to clarify any issues that may have come up.

CH: LeRoy, I want to state that I have gotten some phone calls and they have been in favor of. From different people that was not going to be able to come to the meeting.

LK: I have too. Ok.

JF: Yeah. Mr. Degan wanted to touch on a couple of points that have come up. Then I am happy to answer any direct questions that you guys have during deliberation. (LK: Ok.)

MIKE DEGAN: Thank you! I just wanted to briefly address the Board with a couple of legal questions that were raised during the public portion of the hearing. The first was there was some commentary regarding decommissioning. I just want to assure the Board that the County is protected with multiple layers here. For starters, it is requirement of state law. So, the certification that we receive from the Nebraska Power Review Board, which is the state regulatory agency that has jurisdiction here, requires us to enter into a binding Decommissioning Plan with the County. So, we have got the state looking over our shoulders before we even come here to Antelope County. And that includes up to the final approved Decommissioning Plan, that the state has an interest in. Secondly, it is in our leases with our land owners. So, we have an agreement with our landowners that requires us to comply with an adequate Decommissioning Plan. Of course, finally, it is a condition of the Conditional Use Permit that we have to negotiate with and enter into a Decommissioning Plan with County. Just like Invenergy had done with each of the prior projects that has been done before in the County. So, the Decommissioning Plan will absolutely be put into place like Invenergy has done in the past. The second comments, is in respect to the project going bankrupt. A quick note on the bankruptcy here. These projects literally cost hundreds of millions of dollars to build. The turbines themselves are several million dollars apiece. In order to build these projects, there is a great deal of financing that is involved. And these are sophisticated New York banks and lenders. It is equivalent to a mortgage. They have a lien on these projects. If for some reason Invenergy was to default on its obligations here, which Invenergy has never done. There was a portion of Prairie Breeze that was sold to a different entity that then went bankrupt. But that project was immediately sold to another entity. Which took over the operation of the project. There was not one minute that that project ceased operations. Of course, that would be the case with any multi-hundred-million-dollar project that is built. If for some reason the operator fails, the parties that provide the financing will instantly replace the operators with somebody that makes sure that they get repaid. The final comment I want to make is there was several comments made that additional wind it not appropriate for Antelope County, or is not consistent with health, safety, and welfare of the community. The only thing I wanted to point out here is to put it in context that Nebraska passed a law several years ago 66-901, which expressly authorizes counties to allow for utility scale wind farms. In fact, the state wanted to encourage the construction of these facilities here in Nebraska. That statute provides that in order to allow utility scale windfarms that a county may do so by enacting regulations that provide adequate protections in terms of numbers, heights, setbacks. All of those types of issues. Well in fact Antelope County did that. You passed a comprehensive utility scale wind regulation a number of years ago. And then those were overhauled over a two-year period with Marvin, that I believe was just completed earlier this year. And those regulations are clarified in Section 8 of County Zoning Regulations. It is a comprehensive set of requirements for the appropriate construction and operation of utility scale wind farms. So, the point there is the County has very carefully over a number of years balanced all of the interests at play here to come up with a comprehensive set of regulations, that allows both for economic development and provides a reasonable protection for the citizens of the county. So, it is an authorized conditional use. And so really, the questions that is before this Board is not whether to, or whether Antelope County should have utility scale wind farms; the questions before the board is whether this project meets the conditions and requirements that this county has already voted and approved. That is the question that is submitted to this Board. Thank you.

LK: Thank you.

CH: LeRoy, correct me if I am wrong, but there is an escrow account that will be set up for the decommissioning. Correct?

MD: On which project?

CH: On any of the projects. As they are agreed upon, right?

JF: Um, so there is a... Specifically, with Upstream there was a decommissioning plan resolution that was agreed to. And I believe that in year seven there is a certain percentage and then a number of years later. There is discretion there. So that can be treated by individual, by every project. The back stop that Mike mentioned is the power company requires it at year 10, at a minimum. That would be something we would bring before the Board. Ideally, it would be updated because we talked about not building all of these locations. So, it would be specific to what matches the site plan. Then it would also discuss when form of security to be provided. Because there are multiple options. So then, I think that would be a point of negotiation between the County and us at the time. Is it a letter of credit? Is it a bond? You know we have a road bond in place right now. We have used it for things. So, I would need to check what is planned for Upstream. But there is precedent but Thunderhead can be treated however is appropriate.

CH: That was a long way to answer me if there was a 'yes' or 'no' answer. No, it wasn't.

MD: A.K.A. Yes.

LK: Ok. Thank you. Casey, at this time do you have any comments?

CASEY DITTRICH: Yeah. I mean we... I think that... of everyone in this room, I think I dealt with this the most with Upstream. We had some serious growing pains with some of the subcontractors. I had an at length conversation over the phone with Josh last week, because last meeting I brought up concerns and suggestions that Holt County uses a letter of credit. To kind of sum that up, they have a separate account that the County can draw on if need be. We had that scenario this time. We had roads that were closed. We had a local farmer that couldn't get to two (2) quarters of corn that was in the field. The combine would go through the field, but the truck wouldn't go down the road. That is a serious problem. I think we need to have some kind of progressive action, short of suspending a Conditional Use Permit. Because when we tried that this year, Liz worked with me hand and hand. We did written grievances, and come to the board every time it was a delay. We had to wait until the next meeting to discuss it. Then we had to wait until the next meeting to decide if they had remedied it. I feel that my relationship with Marlin Conry and Invenergy has given me the power, so to say. And we have been in agreement with roads we closed. And several times this year we closed roads up to eight miles that were closed for several days during harvest. I don't think that should be a concern for the Commissioners. I don't think I should have to wait for a meeting to decide if these guys are out of their limits of the Road Use Agreement. I would like some verbiage to be added to the Road Use Agreement. Josh called me and we talked about a fine amount per day. They suggested \$2,500.00. I would like the Commissioners to address that. I do not know how you decide what a mile of road is worth to a farmer who has got \$240,000.00 worth of corn out there that he can't get to, with an impending rain storm. I think that should be addressed today. I understand that this is preliminary and that there are more permits that have been issued for each tower. But, when do you negotiate the new rubber on a machine? I think you do it before you sign the line. I think that Invenergy is ready to play ball with that. Josh, I don't know if you can speak to that, and if your board had a chance to review that amount. Through our phone conversation, we suggested \$2,500.00 a mile. I know Mr. Abler does not like the word fine, penalty – whatever word. That is why I did not

put it in writing, and I would ask Joe to do that for us. We need something short of pulling a Conditional Use Permit to hold the subcontractor's feet to the fire on the condition of the roads, and I think now is the time to address it.

JF: Yeah. Um, I appreciate... Casey has been really good to work with. And Marlin and Casey have been coordinating a lot on Upstream. It was a learning process that comes to me as well as we are going to improve projects. How do we improve what we have in place? And that was one of the key concerns that Casey brought up. Wanting some sort of mechanism to deal with issues and get through those quickly as well as there was already an amendment done for penalties for going outside the Road Use Agreement. Casey discussed this for road closures. That, you know I think is a little bit extra of a stick that will basically provide to our contracts just to say you and are now paying me for this if you are not out there quickly, making a road back to where it was. As far as, you know how his concerns wrap into this, I would, you know, the Road Use Agreement is a separate requirement under the Conditional Use Permit, similar to the Decommissioning Plan. We have started talking about those specific line items and red lines with Casey, and I don't know if this has gotten to Joe yet. But if this is something you want to be a condition that there is an update. But I mean to me, and maybe Casey has something in mind. But the Road Use Agreement is a requirement for the Conditional Use Permit, before construction can start. So, we should be able to dive into that in detail when we are presented that. Because we wouldn't be able to move forward to get the zoning permits. Which means we wouldn't be able to move forward with construction unless we got our Road Use Agreements. So, uh, Casey, do you want to do something more specific as part of a condition? Because we do have that as a condition now.

CD: Absolutely. You suggested an amount of \$2,500.00 a day per mile. I feel that that is adequate. I think in that there is some verbiage about the amounts we had about the amounts we had accepted for Antelope County's equipment and labor to fix the roads. Right now, as it went this summer, it would rain we had some roll over vehicles, some that were directly connected to this project, some that weren't, some people just went off in the ditch. I would go out and close the road. I would reach out to Marlin, that their subcontractors would close the road and it would stay closed until they could go out there and fix it. Had they used proper materials at the proper time it would've never been closed, and it possibly could have been opened sooner than what they did, I think a fine amount per day will, number one, keep them from letting it get that far. They didn't want to use road gravel, because of the expense and it didn't last long on the road as what they wanted. It wouldn't have prevented all of these headaches. Which, I don't want to sound like a complainer, but it was a big deal. It was very time consuming. It was a big issue for area farmers, especially at the time of year that it happened. I think this fine amount will keep the subcontractor from keeping it from happening again. Also, if it does get there, the county can either go out there and put down some red rock or gravel, maintain it and we can charge them for it. It just protects the County a little bit more, and the people will get to use the roads every day. It has been addressed the roads in this project area are blow sand. There is going to be some times, maybe not like north of Neligh where it was so muddy it couldn't be used, but when they are running that many concrete trucks it is going to be all hands-on deck. And I just think we need something today. I understand there are more permits to come. Now is the time to negotiate it. I think we should do it, I do not know why we would wait. Decommissioning is a hot item. But this is a pretty simple deal. Josh came up with a number, I personally like it. I would like the Board to say if they think it is too much, too little. Whatever it might be, but I think it is something that should be addressed today.

JOSH FRAMEL: So, this is a thought. Maybe one of the conditions of approval is Road Use Agreement. That maybe gets reworded which includes language such that road closure will be fined of \$2,500.00 per mile per day. So, then it captures that piece and makes it automatically a starting point for the road Use Agreement later. But it is a condition.

CHARLIE HENERY: I think that would be the way to handle it. Is put that in the condition. And if they don't meet the condition.

LIZ DOERR: And if you want to help us word it correctly, Joe. Do we call it a fine or penalty?

JOE ABLER: I would not call it a penalty or a fine. Basically, a special assessment.

LIZ DOERR: A special assessment.

JOE ABLER: And I believe, quote me if I am wrong, Invenergy. Our Road Agreement now states that the County, in the event that you guys don't do it the County can go out and do it and assess you.

JOSH FRAMEL: (in agreement) uh-huh.

JOE ABLER: So, it is regulated for the County to do. So, I mean instead of well, I am not saying Invenergy is sitting on their thumbs for seven (7) days. The county certainly has the right to go out and do it and do it reasonably and at a reasonable cost, and assess that to Invenergy under the Road Agreement. That is my understanding. So, if Invenergy and their contractors can't do it, we are going to assess them a special assessment of \$2,500.00 a day/per mile. But we can also, if need be, dire emergency, or we have someone that absolutely has to get down that road we can go out and fix that road, as reasonably necessary, at a reasonable cost and also assess that to Invenergy. I believe I had that language in the original Road Agreement.

MIKE DEGAN: That is correct.

CHARLIE HENERY: Can we not ask them to put the dollar amount in a, basically an escrow account, that when this \$2,500.00 fine.

JOE ABLER: Basically, it will be assessed as a special assessment.

CHARLIE HENERY: No, what I am saying is on this \$2,500.00 fine-that there is \$100,000.00 put in an account and it is drawn off of that account. So that that account is in place before. (To Casey) Is that how Holt County is doing it?

JOE ABLER: I guess, what are you wanting. So, you can use it for building a bridge or you can use it for \_\_\_\_\_, or the County can use it - it goes to the County at large?

CHARLIE HENERY: No, just on this project.

CASEY DITTRICH: The Letter of Credit Holt County has is a separate account that is set up and the amount is determined by the preconstruction survey, which would be done by JEO for us. We go out and look at it, so, they can decide what the total impact is on the county. He would come up with a number. That amount is set into an account. The County has authorization to draw from. In talking with Josh, they are bonded. We have never drawn on their bond to my knowledge. I am not sure what the process would be. That is something to be worked out. I guess. We would have to request it. Right now, they are asking if we have to impose this fine and any repairs, we draw on the bond, correct?

JOSH FRAMEL: No, I think the bond is in place to cure defaults. So, if you were to assess fines it wouldn't pay it. Or if you do work and didn't reimburse the county. Then the bond would be put a hold on. But this would be basically we would treat it as a bill. And we would pay that.

CASEY DITTRICH: And it would require an invoice for the repair.

JOE ABLER: And that would go to the general fund. I thought Charlie was asking that if you ear tagged it to go to the Road and Bridge Fund. Anything paid to the county...

CHARLIE HENERY: No, basically, I couldn't.... Letter of Credit, is what - I knew what I wanted to say but I couldn't say it.

LEROY KERKMAN: Ok. Casey, you done? Are there any other comments? Yes.

GALEN FURSTENAU: Galen Furstenau. Just, I didn't quite get the answer from the lawyer on the yes or no on that one question Charlie asked. Maybe I missed it. But I would also like to make the statement that Dean Smith, who will be on here next month has done probably more work on any of this wind energy than any other single person in the county. And, I guess I would like to see him sit here and be able to work with four (4) other guys and get some of these questions answered before any of this stuff is finalized.

LEROY KERKMAN: Ok. Did you have a comment to that?

MIKE DEGAN: Um, unless the Board has any questions. But if the question were the terms of the decommissioning plan that will be negotiating between Invenergy and the County. The County will eventually approve to its satisfaction what the terms of that Decommissioning Plan and security would look like.

CHARLIE HENERY: There will be security.

MIKE DEGAN: There will be security.

GALEN FURSTENAU: That was not the question was is there an escrow account set up at this time? That is the question for the prior projects.

MIKE DEGAN: There won't be an escrow account established until there is a Decommissioning Plan that is negotiated and approved by the county. And that will include whatever form of security the county desires, in terms of negotiation. It may be a letter of credit, an escrow account, a bond. They have multiple ways to do it. They have different costs and benefits associated with them.

JOSH FRAMEL: So, there is an existing Decommissioning Resolution for Upstream for example.

GALEN FURSTENAU: That is not the question.

JOSH FRAMEL: I know, I am answering your question. The debt requires security in place starting the seventh year.

GALEN FURSTENAU: That does not answer his question.

CHARLIE HENERY: It does. It does. He said there is security at seven (7). Required by the state.

JOSH FRAMEL: The state is ten (10). The County and Upstream set it at seven (7) even earlier.

LEROY KERKMAN: OK. At this time is there any other comments from the Commissioners? Eddie?

EDDIE SCHINDLER: Yeah. You base your company on good faith and neighbors. And I know a lot of people don't have them, don't want them, have some reasons you know. But Mrs. Bode over there has got a very dominant. Would you consider meeting with her at all? And, you have like 100 and some sites, and you are not going to use them all, are you? Is there any chance that if you felt this was really going to impact that residence? That you could somehow move or eliminate that tower?

JOSH FRAMEL: Yes, I am happy to meet with you and talk about your concerns even existing ones.

EDDIE SCHINDLER: Let her show you exactly what. And I am sure there will be more of them. But at least hers sounds pretty secure. I know everybody has concerns about having a tower close to them. But some of them are worse than others.

JOSH FRAMEL: Yeah. I think that part of this process and starting with the Planning Commission, and comments we received today and the reason that we have the map for public records is to get that input. We don't have all the information when we are doing sighting. We put in more locations, because we understand there is going to be more information that comes up. That is why we asked for the flexibility we have. And are definitely happy to talk. We have any office a block away. We are there all the time.

EDDIE SCHINDLER: Yeah, I would like to have you meet with her.

CHARLIE HENERY: I want to ask Mrs. Bode a question too. On Elaine's, that was at Elaine's house correct?

SHELLEY BODE: Yes.

CHARLIE HENERY: Is that 365 days a year?

SHELLEY BODE: It is on sunny mornings.

CHARLIE HENERY: The sun moves positions. Plus, the fact of how long is that flicker happening? Because the sun will move and the flicker will go away. Can you answer those questions for me?

SHELLEY BODE: No. But on sunny mornings she cannot stand being in there.

CHARLIE HENERY: On sunny mornings in the summer time or sunny mornings in the winter time?

SHELLEY BODE: Does it matter?

CHARLIE HENERY: Yes.

SHELLEY BODE: Anytime. Why does it matter? So, I have to put up with it during the summer? But it is OK during the summer but not the winter?

CHARLIE HENERY: Because the sun does different positions. Correct? Wind tower people is that correct?

JOSH FRAMEL: True.

CHARLIE HENERY: No, what I am saying is the tower is here and in the summer time the sun is more predominant this way. Have you got more flicker in the winter time when the sun is in this position? And how long is it? Because, the sun will pass past that tower.

SHELLEY BODE: It should be zero.

JOSH FRAMEL: I mean in general I would be happy to look into what that is and what concerns you have.

EDDIE SCHINDLER: I would appreciate that because you got plenty of other places. I am thinking. And if you consider it a problem or severity, I know you guys will take care of it.

JOSH FRAMEL: Yeah. I mean I got a lot of input today already.

LEROY KERKMAN: Ok. Any other Commissioners comments or questions? . . . . Ok, at this time I am going to ask for a motion to close the public hearing.

EDDIE SCHINDLER: So, moved.

ELI JACOB: I'll second.

LEROY KERKMAN: Motion by Schindler, seconded by Eli. (To close public hearing.) (Roll call vote.) Charlie, Schwager, Schindler, Eli. (all respond 'yes') And I will vote yes. . . . . Any discussion about the motion. . . . . At this time I will ask to read the findings and recommendations.

LIZ DOERR: When the Planning Commission held their hearing, these were the findings that they had:

1. That the Zoning district in which the proposed use is to be located is zoned: Ag General - Yes
2. That the applicant has filed an application for a Conditional Use with the Zoning Administrator. Yes.
3. That on October 23, 2018, a Public Hearing was held before this Planning Commission. Yes
4. That Notice of hearing was published at least 10 days prior to the hearing, said date of publication being October 10, 2018 and was published in the Neligh News and Leader, Clearwater Record, Elgin Review and Orchard News. Yes.
5. The Exhibits and comments were introduced at the Public Hearing. That opportunity for additional evidence, comments and arguments were made. Exhibits marked and are included in the file and are part of the record for the public hearing. Yes.
6. The proposed use is allowed by Antelope County Zoning Regulations as a Conditional Use. Yes.
7. The proposed use is allowed and will meet the required setbacks for individual towers. Yes
8. The requirements for the application as shown in Sec 8.08.03 have been met or shall be met before construction begins. Yes.
9. That we find that said conditional use permit **is** compatible based on the following: The Antelope County Comprehensive Plan and the Antelope County Zoning Regulations as shown below:

Do you want me to read all of the regulations on that.?

LEROY KERKMAN: Whatever.

LIZ DOERR: So, in a motion by Rice, seconded by Miller, it was recommended that the above application for a conditional use be **GRANTED** subject to the following conditions and findings of facts as set forth by the Antelope County Planning Commission. So then, um, do you want me to read all of those?

LEROY KERKMAN: Whatever, changes that they have.

LIZ DOERR: Ok, well this is with the changes. This is the same as to what is in the draft resolution. Do you want me to read all of that also?

LEROY KERKMAN: Please.

LIZ DOERR: OK.

#1 This Conditional Use Permit shall run with the land. The ownership of the land and the identity of the developer and operator of the Use shall not affect the right to conduct the Use in accordance with this Conditional Use Permit. In the event the Project is constructed in phases, Thunderhead may submit notice to Antelope County detailing the project company which will own that phase and the size of each Project phase.

#2 Except where necessary, equipment used for Project construction will be located outside of the County Road Right-of-Way so as not to present a public safety hazard. Where it is necessary for equipment to be located within the County Road Right-of-Way, it will only be for such minimal period of time as necessary, and the Project will remove such equipment and materials from the Road Right-of-Way as soon as work within the Road Right-of-Way is complete.

#3 The Conditional Use Permit shall permit the Use on the parcels as identified on Exhibit B Participating Landowner List. Upon the filing of a memorandum with the Antelope County register of deeds documenting a lease on new land which is within the Project Area but not currently under lease, the Conditional Use Permit shall be automatically amended to apply to such property and the updated Participating Landowners List shall be supplied to the Zoning Administrator.

#4 Section 8.08.05 of the Antelope County Zoning Regulations as amended in March of 2018 shall constitute the setback requirements applicable to the Project. Any applicable property line setback does not apply when adjoining properties are within the Project Area and also under lease or other agreement with the subject landowner, including additional land recorded with the register of deeds added within the project area, as described in the proposed Condition #3.

#5 Turbines shall not move more than 900 feet in any direction from the specific proposed location in Exhibit A and shall be sited on parcels identified in the Participating Landowner List (See Condition #3.) All County zoning setbacks and conditions of this permit will apply and must be met in order to place turbines on the Property. To the extent the Project needs to build any Tower/Wind Turbine as part of this Wind Energy Conversion System that is outside the 900 feet from any specific proposed Tower/Wind Turbine location set forth in Exhibit A, the Project will be required to seek separate authorization from the County in the form of a permit amendment for that Tower(s)/Wind Turbine(s), by following the notice requirements of Section 5.03-2 of the County's zoning regulations, as applicable.

#6 All turbines will be installed with a Winter Ice Operation Mode (WIOM) control algorithm for the Turbine Control Software and will thusly meet the requirement for reduced setbacks in section 8.08.05.

#7 All turbines shall adhere to the Special Safety and Design Standards in Section 1504-06 – (I am not sure if that is right. I am going to double check. 8.08.06. (on number 7). That is probably the number from our old regs.)

#8 To the extent any non-participating landowner within the Project Area intends to build a new dwelling unit within the 2400-foot setback or 3500-foot Clustered limitation required by Section 8.08.04 and 8.08.05 of the zoning regulations, the Project agrees not to object to the landowner obtaining a Zoning Permit from the County for said dwelling. To the extent that such dwelling unit is built within the setback, the Project will be deemed in compliance with the Commercial/Utility WECS regulations.

#9 Thunderhead shall be allowed to cross or run parallel to any County Roads within the Project Area utilizing the Road Right-of-Way wherever necessary for the Project's ancillary facilities, including aerial construction or burial of components of the electrical collection and fiber-optic system (including overhang or line-sway of aerial lines located on adjacent private property), provided such crossing or use of Road Right-of-Way shall be in compliance with Antelope County's Criteria for Permit to Use Road Right-of-Way and appropriate County Permits are acquired.

#10 Zoning Permits shall be issued for each individual turbine, approved in this Conditional Use Permit, on or before November 30th, 2020. (That date could be changed if you feel that is necessary.) It is further understood that each Zoning Permit shall expire two years from the date of issuance if said turbine is not constructed.

#11 (There is a number of these that all look alike) Prior to issuance of Zoning Permits for construction of turbines:

- A. A Road Use Agreement and Decommissioning Plan shall be approved by the County Board. (And if we add this part about the special assessment, I would say that should go there.)
- B. A final site plan will be required to be submitted to the Zoning Administrator in order to demonstrate compliance with the clustering requirement in Section 8.08.04 #5 of the Zoning Regulations and Condition #5.
- C. The Planning Commission shall review the final site plan before zoning permits are issued. This review will not be done at a public hearing.
- D. Any environmental permits required by law to be in place prior to commencement of construction shall be obtained, and copies will be provided to the Zoning Administrator.
- E. Applicable Driveway Permits, shall be approved by the County Board.
- F. Thunderhead shall provide exact final global positioning system locations to the Zoning Administrator and the County Assessor for each Tower/Turbine.
- G. A detailed site plan shall be submitted for individual towers and meteorological towers showing that said tower(s) complies with all applicable setbacks.
- H. An acoustical analysis showing that the noise regulations can be met, notice to the National Telecommunication and Information Administration (NTIA), and FAA Determination of No Hazard shall be provided.
- I. A \$500 fee for each individual turbine's Zoning Permit shall be paid. (a regular zoning permit is \$25.00.) (Those will all need to be met before we would issue any Zoning Permits.

#12 Signs shall be posted at the Right-of-Way of each driveway for access to the towers giving the tower numbers, address, and Project name.

#13 Within 24 months of completion of any phase of the Wind Energy Conversion System, the Project will be required to perform a sound analysis demonstrating the Project is in compliance with Section 8.08.06-13 of the County's zoning regulations.

LeRoy Kerkman: OK. Somebody want to make a motion? We got to go out of the public hearing.

Lisa Payne: You closed the public hearing at 11:41 AM. Liz read what the resolution says– plus the verbiage of the special assessment. We will get the verbiage from the County Attorney.

11:53 AM: Charlie Henery: I make a motion to approve this Conditional Use Permit to include the special assessment per Joe's verbiage and all the conditions as read.

Eli Jacob: I will second.

LeRoy Kerkman: I got a motion and a second to approve the Conditional Use Permit. (Roll Call Vote.) Charlie?, Schwager?, Schindler?, Jacob?. All respond yes. I will abstain, conflict of interest.

Liz Doerr, **Zoning Administrator** gave her regular meeting report. Presentation of the November Permit Report. Liz completed a number of inspections on the Upstream Wind Tower Project. The CAV – Community Assistance Visit from FEMA. There were a number of concerns about things, which Liz has started working on. No further report.

Motion was made by Commissioner Schindler seconded by Commissioner Jacob to **adjourn**. Voting aye: Schindler, Jacob, Henery, Schwager, and Kerkman. Nays none. Motion passed.

Meeting adjourned at 11:56 AM.

ANTELOPE COUNTY BOARD OF COMMISSIONERS

By: \_\_\_\_\_  
Chairman of the Board, LeRoy Kerkman

Attest: \_\_\_\_\_  
County Clerk, Lisa Payne