

June 2nd Sub-committee @ 9am @Mercer County Courthouse

Members: Mike Eslinger, Chris Renner, Kevin Hafner

Attendees: Scott Harmstead, Casey Voigt Lori Hammer, Wayne Bertsch, Mike Knuth, Kay LaCoe, Stephanie Morales, Nancy Evanoff, Chase Daenahuer, Melissa Brooks, Linette Irwin, Michael Berg, Weston Berg, Jen Gabel, Steven Guenther, Pam Guenther, Erik Edison, Monica Jurgens

Meeting called to order: 8:59AM

Scott: There should be 5 different copies, Wind, Solar, Data Center, Industrial use, and Industrial district.

Mike: A clarification on wind would be what a habitable structure is.

Scott: Anything that is tied to a 911 address, each county does it.

Comment: How accurate is it though?

Mike: What about hunting for cabins, or shops?

Scott: I am not sure on that; this is where the emergency manager would come in.

Mike: There are 3 requirements for habitable: a place to eat, sleep, and use the restroom. We try to include this so that they can't build a wind turbine next to someone's shop.

Scott: I would talk to the emergency manager; they can decide when and where to assign these addresses.

Mike: Andy said that a 3-month period is something that is lived in.

Comment: If it's one day out of the year then it's lived in.

Mike: Andy made a plain that there is a time, such as the 3 months. That would be based on emergency management.

Scott: Yes, I can make that call this week.

Mike: okay and that will be included in the draft.

Scott: Also, wind can be used as an accessory to your home, there is a revision for that in the draft as well.

Mike: Yes, and that comes into play with Solar as well because if you want to place panels on your home. I also believe Solar is good to go. What about Industrial use?

Scott: Yes, I believe that is ready to go as well.

Mike: The industrial use in data centers we have ownership listed, I am wondering if that should come out of the data center ordinance and go into the industrial use so it would cover any industry that should come in.

Mike: Anything else on the industrial use permit?

Scott: No nothing major just a few things moving around in the paragraph.

Mike: Okay, this will go to the June 10th meeting as well. Next will be sand and gravel.

Scott: Nothing has changed since the last meeting. In section H in sand, mining, and processing: this is more for frac sand. Section I is for anything else. There are similar requirements between the two and I combined those requirements together such as high wind shut down. I created definitions to clarify between frac sand and not as well too. This is the one difference, and it is noted. On section 13 it talks about the vehicles going on and off sight- These deal with vehicle inspections etc. but this will be more for the attorney to deal with.

Mike: We have had some issues with gravel permits lately. We need to make sure they go under weed control.

Scott: This is already in there and it is pretty robust.

Mike: Of course, working with the water, we need to make sure that the water board is okay with the permits going out. Then hauling during daylight hours:

Casey: Ground water source, would fall under federal source county board would fall under storm water

Mike: This will be for the board to decide. I am not in favor of the sand because it gets hauled out of the county. We benefit from the gravel and scoria pit not the sand.

Comment: Is the fee structure the same for both?

Scott: The fee's structure should be discussed separately.

Mike: Gravel pits and scoria pits need to abide by weed control and hauling times. It does seem to be better to have sand and gravel combined and pick out the specifics later on. Is this double do you think, Chris?

Chris: I think so.

Steve: On #4 it is talking on the stockpile is being 500 feet from the road is this enough?

Casey: This is the same as coal and coal blows as well

Mike: This is where the compliance officer would come in.

Steve: I think that the compliance officer should also include the land use admin then go to the commissioner, the person who oversees them.

Scott: I can add that in there.

Mike: Okay those will get added in the draft and get ready for June 10th as well.

Chris: On number 15, why is it only for frac sand why would it be for all sand? For high wind?

Mike: Some original intent for sand and sand for frac, there is a chemical process that takes place with frac sand. When using sand for local use there is no chemical that takes place. They mine the sand then haul it out now and do the chemical process elsewhere. The sand mining goes through a chemical process. The chemical and mineral they use is harmless for now. When this was originally thought of if the chemical they use becomes hazardous, we have a way to go back to this. This is the

Mike: When you get an individual application, we do the conditional use, we can require certain things just like we can with any other ordinance. Just because they put an application in does not meet, they get approved. This is ready for June 10th as well. Will we want to prioritize this better, so it does not go all to the commissioners at one time?

Casey: No, it will probably have to come at once.

Mike: For those that are aware we started doing that a couple years ago for their funds. They look at it in a 5-year period then up the bond so that at the end of the project they still have funds.

Comment: Is there anywhere we can check for native plants; we have certain things that are endangered. Should we add this in? Out at the plant they had to do this along with when they had to go around a tree that had an eagle's nest in it.

Scott: This is something I am going to have to check with Jen on where these different permits are going to go to keep all these different agencies involved.

Mike: If you do not have the agencies involved there is always the possibility it can be missed. So yes. Let's do the next one.

Scott: Replots, lot sizes. For the lake lots for the subdivision proposed at the lake. There are 2 ordinances, rural residences with 3 options. R1 -1 acre minimum, R2 2-acre minimum R3- 5 acres minimum. On page 6 you get into the design of residential lots for septic should not be less than 2 acres in size if using septic. We should investigate what their minimum is currently.

Mike: All the lake size and lots go through Custer Health. They do soil samples and make sure there is proper drainage as well. I do not have a lot of expertise at the lake; we have been told 1 acre is the right direction to go. We need to be more diligent, and the compliance officer does the right thing and not just sign off because you are buddies. We need to keep as many people involved as possible, SW water, Custer Health, Telephones, Etc. Lake life is different than everyday life. There are a lot of things that are allowed out at the lake compared to if you lived in town. We have a certain structure for year-round living and then seasonal living?

Kevin: I think we should explore that.

Comment: In reality 1 acre is not that much.

Mike: granting 1 acre lots does not guarantee it will pass Custer health as well. Like I said we need to get as many agencies involved. I would be in favor of 1 acre; people already live closer together at the lake then they do in town.

Chris: Personally, I oppose because I go to the lake to see the lake not a trailer park.

Comment: Chris so you're not in favor.

Chris: On one hand I do not like it but on the other hand we should look at it. I do not feel we should prohibit people from doing what they want.

Mike: We are limited to boat docks and things we are limited to put in. There are boats and campers that are packed at the local Cenex every weekend. 1 acre is good; it might not be something that certain people will like. But we will go in this direction and bring it before the board.

Mike: In some of our meetings we have talked that the population swells on the weekend. If a bad storm comes through, we will have a problem. We have talked about the developer having to create storm shelter. They do have sirens and weather warnings at the lake now, whether they can hear them. But they must have warnings and a place to go.

Scott: Are we talking about permanent homes or campers?

Mike: Camper trailers. We should investigate this. I think 80% will be a good place to start. It goes for the whole development to use the facility.

Scott: This is something we can check into, but I will talk with Emergency Management on this.

Mike: We will check out these issues and other things before they go to the full board though. Anything else on lake sizes, water run-offs, green space, etc?

Scott: Green space is normal.

Mike: This allows for a playground not just for water to run off. Anything else? I know there are people who want to start selling these lots, is there anything we need to put in there?

Comment: We are not working at the data center. Even though the motion did not receive a 2nd we have some concerns. Does this mean we cannot comment?

Mike: You can before the full board. We are awaiting terminology.

Comment: Would you entertain questions? Especially for conditional use permit I asked question if there is language if it is sent back to commissioner if there were any plans to increase electrical loads or footprint. So, I think that the section you are referring to that there are those requirements are on page 13 in section K where it lists any changes to plan or conditional use permit. If that is the section you are referring to at the last P&Z my question is, is the language in section k that shall provide the report and the sections 1-5? Will the commission agree that the members should think the language should properly enforce the change of plans, size, etc. I am not sure this gives the commission enough power. I would ask how you would go between a 60-watt facility and 600-watt facility. That is not in this section it would be in the definition. We know the one coming would be well above 600 Watt. Does this give the power for anything about 600 watts? Do we want this ordinance to be simple or have the teeth?

Scott: There is a noise study requirement along with other things. That will look at some of the scopes. There is Emergency Manager section. These goes above anything. I think all the requirements we have are scaled to any size. The objective is to have science. Because that stands up best in court.

Comment: Owner operator shall provide report to commissioner noting the following: If footprint bigger and water usage increases per year. What happens during that year though?

Chris: If it grows, they must apply for a new permit.

Scott: That is why we have the maximum output required.

Comment: On the last page it talks about the size and an amendment to the permit must happen. It does not say how they are coming back. I am not sure if I am not understanding it, how do we enforce it.

Next Era: I want to clarify how load works: we the developer electrically must apply for SPP and Basin what they want to receive for maximum load amount. SPP and Basin determines that.

Comment: And This is why I think the wording is weak. I think what we have done is great, but we need to do better so the county commissioners have something to look at.

Chris: When it comes to load it is not up to the county completely there are also federal requirements.

Mike: The simple terminology needs not be for us; it needs to be for the future.

Comment: My statement about how we know difference between 60-600. Anything above 50 is large. How do we determine what is larger though? A large data center has more than a small permit. There is a difference between 60-600. If they are building a 1 gigawatt. The difference between 50-60. There needs to be more requirements for larger plants. We are not putting enough teeth in our ordinances. I am asking for a tiered way to classify the centers, more specifically.

Mike: Can we set up a tiered system?

Casey: It should still come down to noise study and power.

Comment: will you require same standards for 60 watt as a 1 gigawatt. Will they have to have the same standards?

Chris: Why wouldn't they?

Comment: Okay great then it needs to state that better. It does not say that very clearly.

Chris: It needs to be mainly based on the facility. Needs to base on the project itself not on a project rule.

Mike: I am open to suggestions. I want to put 1 megawatt in there, so they have to follow the same thing. Anything else? Okay just so you know, Wind, Solar, Industrial Use, Sand & Gravel going before the board. Lake lots need more time. Data Center should be done in the next day or two and we will send out the drafts before the June 10th meeting.

June 10th 7PM Beulah Civic Center is the next P&Z. June 16th is the next subcommittee meeting at 9AM at the Stanton Civic Center. If things go well, the first public hearing will be June 24th. That will be if things pass.

Comment: If so, much stuff is under industrial use what happens if it doesn't pass?

Mike: If industrial use doesn't pass, we will not look at the others.

Casey: 1st and 2nd readings depend on how June 10th comes.

Public readings happen at P&Z, the 1st and 2nd readings are at the county commissioners

Jen: Public hearing June 24th at Planning and Zoning.

Meetings Adjourned: 10:26AM

