

**BOARD OF SUPERVISORS MEETING  
FORTY-SEVENTH MEETING, 2024 SESSION (47)  
DECEMBER 3, 2024**

The Buena Vista County Board of Supervisors met in regular session on Tuesday, December 3, 2024, at 8:30 A.M. in the Boardroom with Chairman Ringgenberg presiding, and the following other members present: Croker, Hartman, Merten, Snyder, and with Election Deputy Karla Ahrendsen as clerk for the meeting. Absent: None.

Unless otherwise indicated, all the following **motions** offered at this meeting were carried with the following vote: Ayes: Croker, Hartman, Merten, Ringgenberg, Snyder, and. Nays: none. Abstentions: none.

Motion by Snyder, second by Hartman, to approve **today's agenda**. Carried.

Motion by Hartman, second by Merten, to approve and authorize the Chair to sign the **Winter Maintenance Agreement** with the City of Lakeside. Carried.

Motion by Snyder, second by Hartman, to approve and authorize the Chair to sign the **Winter Maintenance Agreement** with the City of Linn Grove. Carried.

Motion by Merten, second by Croker, to approve and authorize the Chair to sign the **Winter Maintenance Agreement** with the City of Rembrandt. Carried.

Engineer Bret Wilkinson asked the Board whether they wanted his department to repair the pickup that was damaged in an accident, or whether to total it out. Wilkinson did hear back from the insurance company that there would be liability coverage if the county repaired the truck. Motion by Merten, second by Hartman, to **buy back the truck from the insurance company and repair it with the \$23,000 payout**. After a discussion Hartman, Ringgenberg, Merten Ayes and Snyder Croker Naves. Carried.

Engineer Bret Wilkinson informed the Board that his office manager would be leaving employment the first part of January, 2025. Wilkinson would like to place an ad for an administrative assistant, replacing Karen Crilly. Motion by Hartman, second by Snyder, to approve and authorize Wilkinson to advertise for an **administrative assistant** to replace Karen Crilly. Carried.

**Secondary Road Report**: All the snowplows went out yesterday for the 1<sup>st</sup> time as the county had its first measurable snow of the year. The guys continue to concentrate on brush cutting while the ditches are empty and work on cleaning up and organizing the shops for the winter days ahead. Merten asked if Wilkinson had followed up on the request to have trees cleared in the ROW at C49/M54 due to sight problems. He said that he thought it had been but would double check. Rock is still being hauled to the stockpiles until quarries close for the season. PCI continues work on 70<sup>th</sup> Ave by Platinum Crush by adding dirt in and around culverts. They will be to the point of shutting the entrance and all traffic will need to enter from 80<sup>th</sup> Ave. He will continue to coordinate with everyone involved in the best way to maneuver the road closures. The second round of bridge work is almost complete, and they will move on to the third round shortly. Wilkinson told the group he would be in Des Moines for training this week.

Motion by Snyder, second by Merten, to approve the **minutes** of 11/19/2024 as presented, today's **claim approval list, stamped warrant register, and Auxiant disbursements**, and accept the following **reports**: September Board of Health minutes, and October NW IA Yes Center minutes. Carried.

Motion by Croker, second by Snyder, to accept the Assessor's recommendation for allowance of the **2024 Family Farm Credits**, as per Iowa Code Section 425.3. Carried.

Curt Stroth, Trevor Smith, Joanne Fallon, and Alyssa Petersen, Iowa Lakes Corridor, presented the FY26 funding request. They started off by telling the group that they are back in their office after the June flood finally. They explained that they worked with Ranco Fertiliservice, Inc in Sioux Rapids to apply for and receive a \$500,000 grant to help replace equipment lost during the flood. They reviewed some of the new programs that will be implemented in 2025 including a competition to help entrepreneurs to get their startups going and initiative award for local residents that return to the area after being educated and making the corridor their homes. The group thanked the board for their continued support.

The Chair opened the Public Hearing on the 3rd Reading of Ordinance #6.9 Wind Energy Conversion System with Env Health/Zoning Director Ben Mueggenberg, John Pitstick, and Harlan Grau present, and 5 callers online. Mueggenberg stated that he has not received any comments on the Ordinance, either for or against. Pitstick questioned if there was a requirement to remove the turbines when they were no longer in service. Mueggenberg said there was and gave him a copy of the ordinance and pointed out that portion to him. Motion by Snyder, second by Hartman, to close the public hearing. Carried. Motion by Merten, second by Hartman, to approve the 3rd Reading of Ordinance #6.9 Wind Energy Conversion System, waiving the physical reading of the document. Carried.

### **BUENA VISTA COUNTY WIND ENERGY CONVERSION SYSTEM ORDINANCE #6.9**

**Title:** AN ORDINANCE ADDRESSING THE STANDARDS, CONDITIONS, APPLICATION, PLAN REVIEW AND APPROVAL FOR THE CONSTRUCTION AND MAINTENANCE OF WIND ENERGY DEVICES WITHIN BUENA VISTA COUNTY IOWA.

BE IT ENACTED by the Board of Supervisors of Buena Vista County, Iowa:

**SECTION 1- PURPOSE:** The purpose of this ordinance is to provide regulation for those engaged in the construction, erection, placement, location and maintenance of wind energy devices within Buena Vista County; and to preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of wind energy devices and associated structures.

**SECTION 2- DEFINITIONS:** For use in this ordinance, the following terms or words shall be interpreted or defined as follows:

1. Zoning Administrator. Any person or firm appointed by Buena Vista County Board of Supervisors to oversee the permitting and compliance of the wind energy device regulations.
2. Commercial Wind Energy Device (CWED). Any wind energy device with a nameplate capacity greater than 100kw of which its primary intent is to generate electrical power to be sold to utility or power companies.
3. Construction Start Date. When the Owner has provided the contractor with the Notice to Proceed.
4. Ground Clearance Height. Means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its lowest point.
5. Meteorological Tower (or Met Tower). Any meteorological, measuring or surveying equipment erected on or attached to any tower, monopole, or guyed structure to verify the wind and weather resources found within a certain area. Meteorological towers are also subject to permitting on both temporary and permanent structures.
6. Owner. Shall mean the individual or entity that intends to own and operate the wind energy system in accordance with this ordinance.

7. Permanent. For purposes of this ordinance, permanent shall mean any building or structure continuing or existing without fundamental or identifiable change for a continuous period of at least two (2) years. This definition shall not include those temporary or non-permanent buildings and structures utilized during construction of a wind energy project.
8. Permanent Residential Dwelling. Means any occupied or unoccupied buildings or structures intended for human occupancy of which physical construction of the building has commenced, and which shall be placed upon and securely attached to a permanent foundation. Buildings or structures containing a home occupation of which is part of a residence shall be considered a permanent residential dwelling. Mobile, manufactured or factory-built housing that is permanently attached to a foundation is also defined as a permanent residential dwelling. Recreational vehicles, campers, or other temporary forms of housing are not considered a permanent residential dwelling.
9. Rotor Diameter. Means the cross-sectional dimension of the circle swept by the rotating blades.
10. Small Wind Energy Device (SWED). A wind energy system that is used to generate electricity and has a nameplate capacity of 100kw or less. Wind energy devices with a generating capacity of 20kw or less used for residential or personal use. A wind energy device with a generating capacity between 20kw and 100kw is considered small wind energy for commercial/industrial applications. A wind energy device is considered "small" only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supply by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with Section 199, chapter 15.11 (5) of the Iowa Administrative Code.
11. Total Height. Means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
12. Tower. Means a monopole, freestanding, or guyed structure that supports a wind generator.
13. Wind Energy Device (WED). Means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, wire, inverter, batteries or other components used in the system. The term wind energy device often refers to and includes wind towers, wind turbines, wind generators, windmills or wind energy conversion system.

### **SECTION 3- GENERAL REQUIREMENTS:**

#### **1. Location and Height.**

CWEDs shall not be permitted within any defined residential zoned district. CWEDs shall be limited to a total height of 250 feet within 1,200 feet of any residential zoned district. No height limitations shall apply in all other zoning districts, except that no WED, meteorological tower or other associated structures shall be permitted to extend into approach zones, clear zones or other restricted air space required for the protection of any airport.

SWED are exempt from any zoning height limitations, except that no WED, meteorological tower or other associated structures shall be permitted to extend into approach zones, clear zones or other restricted air space required for the protection of any airport.

#### **2. Setbacks.**

CWEDs shall be set back a distance equal to 110% its total height from any public right of way and overhead utility lines or adjacent property lines not under the same ownership unless written consent is granted by the property owner or entity with jurisdiction over the street, utilities or adjacent properties. With

that stated, those WEDs that are located on land adjacent to property under the same ownership may have the property line setback requirement waived; however, the setbacks still apply to overhead utility lines and public right-of-ways. CWEDs shall be setback a distance of no less than 1,200 feet or 1.5 x height, whichever is greater, from the wall of any Permanent Residential Dwelling.

SWEDs located on a freestanding pole or other tower structure must maintain a setback distance equal to 110% of its total height from any public street or road right-of-way, overhead utility lines or adjacent property lines not under the same ownership unless written permission is granted by the property owner or entity with jurisdiction over the street, utilities or adjacent properties. With that stated, those WEDs that are located on land adjacent to property under the same ownership may have the property line setback requirement waived; however, the setbacks still apply to overhead utility lines and public right-of-ways.

3. Placement or Spacing.

CWED spacing will vary depending on common industry practice and manufacturer specifications. The Owner shall consider the public interest and the natural environment and maintain the intent and purpose of this ordinance.

SWEDs designed for residential or personal use shall be erected on either a freestanding pole or tower. In all residential zoned districts, no SWED or accessory structures shall be permitted within the front yard.

4. Public Lands or Waterways. It is required that the Owner of any WEDs have an Environmental review with the Iowa Department of Natural Resources (IDNR) and the Buena Vista County Conservation Board early in the planning stages of all WED projects located in Buena Vista County. This review will allow the IDNR and/or County Conservation Board to comment and offer suggestions regarding the siting of WEDs near wildlife habitats. The review will also allow IDNR staff or the County Conservation Board to identify sensitive environmental concerns near public lands or waters, and to work with the Owner to voluntarily identify alternative siting options that minimize negative impacts to environmentally sensitive areas.

5. Electrical Wires. All electrical wires associated with any WED, other than wires necessary to the operation of the wind turbine itself shall be located underground, unless approved by the County. In the instance of commercial wind energy projects, transmission lines or high-capacity electrical lines from substations transferring cumulative energy resources from a wind energy project shall not be required to be placed underground.

6. Lighting. Any WED shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

7. Appearance, Color and Finish. Any WED shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the special use permit. Finishes shall be matte or non-reflective.

8. Signs. All signs shall be prohibited other than the manufacturer or installer's identification sign and appropriate warning signs. Documentation showing any signage is required with the application. Signs indicating the 911 rural addressing of each CWED or grouping of multiple WEDs shall be placed at each WED site and/or the entry points of access roads as per the Buena Vista County 911 rural addressing signage requirements. Owner point of contact information shall be included on signage for emergency events, complaints, or questions from the general public.

9. Complaint Logs. The owner shall log and respond to all complaints alleging non-compliance with this ordinance within a reasonable time, not to exceed 72 hours, and shall take necessary actions to resolve all objectively verified complaints. Log information shall include the name, address, and reason for

the call. The Owner shall provide the complaint log to the Zoning Administrator upon reasonable request, to the extent allowed by the law.

10. Access. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

11. Code Compliance. Any WED shall comply with all applicable state construction and electrical codes, and the National Electrical Code.

12. Utility notification and interconnection.

CWEDs that connect to the electric utility shall comply with all local, state and federal regulations regarding the connection of energy generation facilities.

SWEDs shall not be installed until evidence has been given that the utility company has authorized interconnection of the small wind device to its electric distribution or transmission, under an agreement approved by and subject to regulation adopted by the Iowa Utilities Commission. SWEDs not connected to a public utility system shall be exempt from this requirement.

13. Sound. Sound produced by any WEDs under normal operating conditions, as measured from a permanent residential dwelling shall not produce sound at a level that would constitute a nuisance. Industry standards support that noise created by a CWED should not exceed 50dba at the nearest exterior wall of a Permanent Residential Dwelling.

14. Climbing Apparatus. Any CWED tower must be designed to prevent climbing within the first ten feet (10').

15. Change of Ownership. Any CWED, whether singularly or within a group of multiple WEDs, shall submit to the Buena Vista County zoning administrator notification upon change of ownership of CWEDs. Requirements and responsibilities of this Ordinance are transferable to all future Owners.

16. Communications Interference. Any WED shall be designed and constructed so as not to cause radio, communication or television interference of a signal that exists at the time of the zoning compliance permit. If it is determined that the WED is causing interference with radio, communication or television signals, the Owner, at their expense, shall take the necessary corrective action to eliminate this interference or provide an alternate service, subject to the approval of the appropriate county authority. A zoning compliance permit granting a WED may be revoked if radio, communication or television interference from such device becomes evident and is not corrected by the Owner.

17. Minimum Ground Clearance. The ground clearance for rotors or blades shall be no less than fifty feet (50').

#### **SECTION 4 – NOTIFICATION:**

The Owner shall be responsible for obtaining and submitting Buena Vista County an abstractor's or attorney's certificate, at the time the application is made, showing the names and last known addresses of the Owners of all property within 1200 feet of the parameter of the total project development site containing WED(s). Prior to the public hearing for such special use permit, notice from the Owner shall be given by ordinary mail to all adjacent property owners and owners of property within 1200 feet of the proposed site(s) for which the special use is requested.

#### **SECTION 5 – SPECIAL USE PERMIT:**

CWEDs, wind energy towers or meteorological towers erected in any zoning district may be granted as a special use and approved by the Board of Adjustment after a public hearing. The Zoning Administrator shall perform an assessment of the issues raised as a result of erecting WEDs and issuing special use permits in the zoning district prior to any public hearing and any action by the Board of Adjustment. Any

conditions or requirements issued as part of the special use permit shall not be more lenient than the stated wind energy requirements in this Ordinance. Additional conditions or requirements for the acceptable erection and operation of WEDs in any zoning district shall be clearly stated in the special use permit.

SWEDs designed, marketed and sold explicitly for personal or private residential or business applications, which has a nameplate capacity of 100kw or less shall be considered a special use in all zoning districts. For SWEDs only, if such device is used expressly for agricultural purposes or to supply power for agricultural purposes and not intended to be connected to an electrical grid and sold for profit or power credit, then the WED is determined to be farm exempt, and not subject to these regulations.

#### **SECTION 6- PERMIT APPLICATION SUBMISSION, REVIEW AND APPROVAL:**

A zoning compliance permit shall not be granted by the Board of Supervisors for a WED or CWED project unless and until the following procedures have been fulfilled:

1. Approval of Special Use Permit from the Board of Adjustment.

2. Agency notice/review. Prior to submitting an application for a Special Use Permit for any WED, the Owner shall be responsible in notifying state, federal, and county agencies of the planned project and allowing each agency 90 days advance notice to do a preliminary review. Documentation of notification of these agencies, and any reports from the agencies are to be provided to the county when the application is submitted. If any agency does not act within 90 days, the plan may be deemed approved by the agency that failed to act upon proof of notice. It is recommended that any issues be addressed prior to the public hearing. Buena Vista County staff will discuss with the applicant or Owner and establish and agree to a list of the applicable following agencies to which Buena Vista County will require notice from the Owner prior to considering an application for a specific wind energy project.

3. Public Hearing - Within 60 days of receiving the official zoning compliance permit application for a WED, the Board of Supervisors shall schedule a public hearing regarding the zoning compliance permit request. Notice shall be given to the public no less than 10 days and no more than 30 days prior to the public hearing by publication for two consecutive weeks in the official newspaper(s) of Buena Vista County as well as publication in a newspaper within the general vicinity of the proposed project site.

The Owner is responsible for publishing a public notice of the hearing that shall include at a minimum the name of the proposed project, a contact person for the project, the location of the project, the time and place of the public hearing and a description of the project activities.

Prior to the public hearing, the County Zoning Administrator shall provide notice by ordinary mail to all adjacent property owners and all property owners located within 1,200 feet of each proposed wind energy device for which the permit is requested.

4. The Board of Supervisors may prescribe additional appropriate conditions and safeguards in conformity with this ordinance and other ordinances of the county.

5. A zoning compliance permit fee of \$1,000.00 per WED must be received and acknowledged prior to approval of said application by the Board of Supervisors.

A concurring vote in the affirmative of the majority of present members of the Board of Supervisors grants approval of the zoning compliance permit. Approval of the zoning compliance permit for a WED shall be valid for a period no longer than two (2) years from the date of issuance, unless construction has commenced, or the Board of Supervisors specifically grants a longer period of time for the building permit.

The approval and issuance of a zoning compliance permit for the construction or installation of a WED under this ordinance shall not relieve any Owner from compliance with all legal requirements, nor relieve the Owner of any liability for damage or loss resulting from the placement, construction or

maintenance of such WED. Buena Vista County assumes no liability whatsoever by virtue of the issuance of a WED zoning compliance permit.

#### **SECTION 7- MITIGATION AND DAMAGES:**

1. Drainage system. The Owner of the WED shall remedy any adverse effect on any duly established drainage tile caused by construction or repair of such project. A separate Drainage District agreement which clearly lays out the rights and obligations of the Districts and the Owner with respect to the construction, maintenance and use of easement in connection with the development project will be required prior to construction start date.

2. Roads. Costs of repair from damage or maintenance to county roads, rights-of-way, or any county infrastructure resulting from the construction or repair of WEDs shall be the responsibility of the Owner of such project. A separate roads agreement which clearly lays out the rights and obligations of the County and the Owner with respect to the construction, maintenance, and use of roads in connection with the development project will be required prior to construction start date.

#### **SECTION 8- DISCONTINUANCE OR ABANDONMENT:**

Each application for a CWED shall have a decommissioning plan outlining the anticipated means and proposed financing methods adequate to remove such structure(s) upon becoming a discontinued use. Any CWED that is out-of-service for a continuous one (1) year period will be deemed to have been abandoned and discontinued for use. At such time the WED is determined to be abandoned, the Owner shall remove the WED at the Owner's expense within one (1) year of receipt of notice. If the Owner fails to remove the WED, the zoning administrator may pursue legal action against the Owner of such WED(s). If the WED has been out-of-service for more than one (1) year due to supply chain issues, the Owner may send a repair schedule to the zoning administrator for review. The repair schedule shall include documentation of the parts ordered to repair the CWED, when the parts will be received, and when the parts will be installed to bring the WED back into service. The Owner shall make the following financial assurances to the County: A. Financial assurance may be in the form of cash deposited with County, a corporate guarantee, a performance bond, or surety bond, as long as the form of the financial assurance is mutually agreeable between the County and the Owner, and the security is equal to or greater than the net amount set forth in the decommissioning plan. Review of the adequacy of the financial assurance shall be every 36 months and shall subject to change if deemed by the County as being inadequate at the time. A financial assurance report shall be completed by a third-party engineer at the cost of the Owner. B. Such financial assurance shall be adjusted corresponding to the decommissioning plan updates and the minimum amounts provided for in this article. C. If the cost of the restoration of the project exceeds the salvage value and financial assurance amounts, the Owner shall be responsible for any differences. D. If any financial assurance required hereunder lapses or the Owner otherwise fails to post the same, the Owner shall be obligated to do so within twenty (20) days of written notice from the County to do the same or otherwise shall be considered in default hereunder. E. Such financial assurance shall be released after the project has been decommissioned or removed and a certificate of completion has been provided and accepted by the County. A utility regulated by the Iowa Utilities Commission, with ratepayers in the state of Iowa and in good financial standing, shall not be required to provide financial assurance.

#### **SECTION 9- JURISDICTION:**

The jurisdiction shall be considered any unincorporated area within Buena Vista County exterior boundaries.

**SECTION 10- PENALTY:**

It shall be unlawful for any person, firm or corporation to construct, install, or operate a WED that is not in compliance with this ordinance or with any special conditions contained in the special use permit. The zoning administrator may enter any property for which a permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met. Any person who fails to comply with any provision of this ordinance or an approved special use permit for any WED shall be deemed a county infraction and punishable by a civil penalty of not less than \$100.00 but not to exceed \$750.00 plus court costs for the first offense and not less than \$500.00 but not to exceed \$1,000.00 plus court costs for each repeat offense. Buena Vista County may seek all relief prescribed by State law for county infractions. The Buena Vista County Auditor and the Buena Vista County Zoning Administrator are the officers authorized to enforce this ordinance by issuance of civil citations for county infractions. Each WED determined to be in violation will be considered a separate infraction. Each day that a violation occurs or continues to exist constitutes a separate offense.

WEDs installed prior to the adoption of this WIND ENERGY CONVERSION SYSTEM ORDINANCE #6.9 are exempt from this Ordinance and any future updates.

Any existing previously permitted WED may continue with normal operation, maintenance, and repair or repowering and replacement utilizing the same WED location, that may increase the total height of the WED.

**SECTION 11 - REPEALER:** Any ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 12 - SEVERABILITY CLAUSE:** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 13 - EFFECTIVE DATE:** This ordinance shall become effective after its final passage and approval and publication as provided by law.

PASSED, APPROVED AND ADOPTED this 3rd day of December 2024.

/s/ Rhonda Ringgenberg, Chairperson, Board of Supervisors...../s/ Karla Ahrendsen, Election Deputy

First reading 11/04/2024, Second reading 11/19/2024, Third reading 12/03/2024

Chairman Ringgenberg asked if there was anyone online that wished to be heard during **Hear the Public** and there was none

Election Deputy Karla Ahrendsen presented the Urban Renewal Annual Report and asked the Board for approval to have the chair sign. Motion by Croker, second by Merten, to approve the **Urban Renewal Annual Report** for the county and allow the Chair to sign. Carried.

Suana Wessendorf, President of the **Newell Historical Society** was present to update the Board on the past year and to ask for continued support in the future year. She gave a summary of all the activities that have taken place over the last year and a brief update of future plans.

Conservation Director/Weed Commissioner Greg Johnson informed the Board that the temporary management agreement for the Marina would be expiring at the end of December 12,2024. Johnson stated that it will be a while before a transfer agreement is done, so he would like to extend the temporary agreement until December 31, 2025, or upon completion of the transfer of portions of the included property from the DNR to the County whichever occurs first. Motion by Snyder, second by Croker, to approve and allow the Chair to sign the **Temporary Management Agreement** for the Marina. Carried.



The Board then questioned Director Johnson about setting up **interviews** with the applicants for the appointment of the Conservation Board Member. Supervisors Croker and Hartman volunteered to do the interviews. Croker and Hartman would reach out to Johnson to set up dates and times to do these interviews and then report back to the Board of Supervisors.

County Attorney Paul Allen was present for his appointment. Motion by Snyder, second by Merten, to go into **closed session** (at 10:29 A.M.) under Chapter 21.5(1)(c) of the 2024 Code of Iowa, to discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation. Ayes: Croker, Hartman, Merten, Ringgenberg, Snyder. Nays: None. Motion carried.

Motion by Snyder, second by Merten, to go out of **closed session** at 11:25 A.M. Carried.

There being no further business, motion by Merten, second by Croker, to adjourn the meeting at 11:29 a.m. until Tuesday, December 10 at 8:30 a.m. for a special session.