

Tuesday, May 14, 2019
Newkirk, Oklahoma

The Board of County Commissioners (BOCC) of Kay County, Oklahoma, met in special session at 9:00 o'clock a.m. on Tuesday, May 14, 2019 the meeting was posted for public information on May 9, 2019, at 8:00 a.m. at the Courthouse front door, Commissioners Court, and basement handicapped entrance of the Kay County Courthouse in Newkirk, Oklahoma.

Chairman Jack Godberson called the meeting to order. Those present were as follows: John A. Wilson, Member; Jason Shanks, Member; Brian Hermanson, Kay County District Attorney (DA); Billie Chrz, Kay County First Assistant District Attorney; Kay County Assessor Susan Keen and Janell Leaming, First Deputy Assessor; Sharon Rowen, kaynewscow.com; Claude Williams, Taxpayers for Transparency; Tammy Reese, Secretary/Kay County Clerk. (See sign in sheet).

Chairman Jack Godberson led the Flag Salute.

DA Hermanson asked Chairman Godberson to Recess (9:02 a.m.); Godberson told those in attendance we would Recess to Courtroom B on the 2nd floor of the courthouse. (Moved to Courtroom B to accommodate large crowd). A notice of meeting room change was placed on the Commissioners Court notifying the public.

Chairman Godberson called the meeting back to order (9:05 a.m.).

Duke Frontier Wind Power II Road Use Agreement (RUA): Chairman Godberson began by saying he hoped after this meeting everyone here can still be friends. Jeff Neves, Amshore US Wind, LLC, made a presentation and told about updates. He discussed the changes and adjustments that have been made and stated Duke Energy has tried to coordinate with the community, the county, the city and Kaw Nation. Mr. Neves said they were close to a final layout but mentioned there will still be adjustments made and stated even after going forward there will be changes. He showed the original layout, told the project had been filed with the Federal Aviation Administration (FAA) and they had received approval on the project. Mr. Neves talked about the setbacks from the city limits and the protections around city limits. He said he has appreciated input, held open meetings and discussed with Kaw Nation and citizens one-on-one. Graham Furlong, Duke Energy, referred to a map as he explained that turbines west of Newkirk Cemetery going west have been taken out of the project. He said turbines 55, 57, 60, 61 and 62 have been struck and said turbine 52 is highly unlikely to be built. Mr. Furlong said the project is focusing on the east side of Hwy. 77; he said 70-80 turbines would likely be built. Mr. Furlong referred to and displayed a map and told the definitive places and noted the changes. Terry Willits told he wanted and asked for turbines 53 & 56 to be moved. Mr. Furlong explained the issues with that change, upwind concerns, told about the geographical problems and said it is not flexible; he said it is 2000 feet from the cemetery. Jeff Neves talked about the cemetery concerns, FAA filings and stated it will not affect the RUA. Kim Spady, Citizens Attorney, asked for the BOCC to wait to present the RUA and began asking questions and wanting to know about meetings Duke Energy has had to inform the citizens. Duke Energy responded they have been holding meetings, educating citizens since April 2016. Ms. Spady began talking about the initial filings and said they have been terminated. Mr. Neves told the process of the filings, step-by-step and noted Duke has held many public meetings. Ms. Spady told the 2016 filings were terminated and asked for BOCC to wait on signing the RUA until everything is finalized. Duke Energy told this will not affect the roads. Ms. Spady talked about possible additional changes and how it would affect the RUA and fees to maintain the roads. Duke Energy said if changes were needed, they would do an amendment. Ms. Spady said once the BOCC signs the RUA they don't have any say; she asked for more restrictions in the language in the RUA. Duke Energy said once the RUA is signed and changes are needed it would become a discussion between BOCC and Duke Energy. Jeff Neves told safety issues would be Duke's liability, he said we know and understand the layout and we have worked with the BOCC for over a year. DA Hermanson said any changes made would need to come before the BOCC. Terry Willits said none of the northwest turbines are being moved and now we are giving up the whole north end. Mr. Furlong talked about underground lines to turbines, connection, geotechnical issues and geological locations. Jay Fagan asked about sub-stations, Mr. Willits questioned distance of turbines 51-56. Mr. Furlong said they are trying to balance. Turbines 51-60 and 63-65 were discussed. Citizen Virgil Brandon asked the BOCC what is the purpose of the meeting – what is on the agenda. Chairman Godberson told it was the RUA; he said this agreement has been worked on for 1 ½ years. He referred to the RUA page 4, 1.5 Compensation: Payments and read 1.5(b) – Except as set forth in Section 1.5(c), and 1.2(c), the Parties agree that the payments set forth in Section 1.5(a) shall be the

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sole and exclusive compensation paid by the Developer to County EXCEPT for asphalt and concrete roads. If repair expense exceeds set amount in Section 1.5 (a) per mile then Developer shall reimburse the County for the extra expense. Caryl Morgan said she wanted a big road map because she only has a small one and she wants Exhibit B. Commissioner Shanks told her there were no changes on the map she was requesting and showed her a copy of Exhibit B which was basically a blank page. He assured her it would not affect her property. Mr. Fagan said it is our interest where these roads are going. People in room began talking and conversation completely broke-out in the room. Shanks said the BOCC cannot control what happens on private property and RUA doesn't affect private property. Conversation again completely broke-out in the room. Jeff Neves, Duke Energy, said this is not our first project, we have worked with the county for 1 ½ years and we have tried hard to address your concerns. Ms. Morgan expressed her concerns are her trees, house, asthma and dust control. It was then mentioned why the use of Earth Rd. was needed, the kind of rock to be used on the roads, etc. Frank Cain spoke up and addressed the BOCC and District Attorney and told them this was not a good RUA; he said Duke Energy will be able to do whatever they want and the BOCC needs to get control. DA Hermanson told the BOCC have worked on RUA's in the past. Commissioner Shanks said it all boils down to county laws and reiterated we do not have county zoning and we do not want county zoning. Ms. Spady mentioned the turbines that were being eliminated. Conversation again broke-out in the room. Commissioner Shanks and DA Hermanson stepped out of the meeting and then returned. Ms. Spady asked if BOCC was only getting a breaking-even situation with the RUA. Godberson told her Kaw Nation will not supplement on damages to roads and said we want to stay good neighbors with Kaw Nation; he told how much Kaw Nation has done for county roads and expressed appreciation. Godberson told BOCC will be hauling rock constantly to the roads. He then said 39 miles of roads will be used and talked about the kind of rock that will be used on the roads. Ms. Spady asked what benefit is this to BOCC constituents. Commissioner Shanks told the roads will be better than before. Mr. Furlong said on Phase I upon completion the roads were better or the same. Ms. Spady asked if BOCC said "no" to Duke Energy if Duke could still use the roads. Godberson said they could; he said oilfield trucks use these roads and do not pay but Duke Energy will pay to maintain. Other discussion: citizens wanting Ms. Spady's concerns addressed since this was her first attendance in a BOCC meeting regarding this matter, bar ditches and road conditions. Commissioner Wilson stated there are three wind farms in his district; he said after eight years the roads are still in better shape than before. He told calcium chloride can be put down on roads to help control the dust. Cody Blair asked if the RUA could be tabled so the citizens could review the agreement with changes. Commissioner Shanks said he was elected to make these tuff decisions. Shanks discussed Earth & Prentice Rd. and wanted to verify with Duke Energy regarding Caryl Morgan's situation and make sure her concerns were addressed.

Motion was made by Godberson and seconded by Shanks approving the Road Maintenance/Repair Agreement by and between the BOCC and Duke Energy Renewables Wind, LLC. Before roll was made Shanks stated the BOCC has done their due diligence and have worked hard and worked on this RUA a long time. Motion carried: Godberson, aye; Wilson, nay; Shanks, aye.

Conversation broke-out in the audience.

There being no other business, motion was made by Godberson and seconded by Wilson to adjourn, 10:30 a.m. Motion carried: Godberson, aye; Wilson, aye; Shanks, aye.

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Newkirk, Oklahoma

Approved this 20th day of May, 2019.

JACK GODBERSON, CHAIRMAN

JOHN A. WILSON, MEMBER

JASON SHANKS, MEMBER

ATTEST:

TAMMY REESE, COUNTY CLERK
COUNTY OF KAY, STATE OF OKLAHOMA SECRETARY,
BOARD OF COUNTY COMMISSIONERS
(SEAL)
