



Solano County
Airport Land Use Commission
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John Foster
Chairman

SOLANO COUNTY AIRPORT LAND USE COMMISSION

MINUTES OF THE REGULAR MEETING OF March 13, 2008

The regular meeting of the Solano County Airport Land Use Commission was held Thursday, March 13, 2008 in the Solano County Administration Center, Multi-Purpose Room, 675 Texas St., Fairfield, CA 94533.

MEMBERS PRESENT: Chairman Foster, Commissioners Baldwin, Baumler, Demos, Potter, Schoch and Stockard

MEMBERS ABSENT: Commissioner Cavanagh

OTHERS PRESENT: Jim Leland, Resource Management; Lee Axelrad, County Counsel

Items 1, 2 & 3: Chairman Foster called the meeting to order at 7:00 p.m. After the Salute to the Flag, Roll call was taken and a quorum was present.

Item 4. Ceremonial Matters – Presentation Honoring Outgoing Commissioner Peters
Mr. Peters was unable to attend the meeting.

Item 5. Reorganization – Receive New Commissioner
Chairman Foster welcomed the new District 3 Commissioner Dale Baumler to the Airport Land Use Commission.

Item 6. Approval of the Minutes of January 10, 2008
The minutes of the January 10, 2008 minutes were approved.

Item 7. Staff and Commission Member Comments and Items from the Floor
Chairman Foster announced that Solano County Counsel informed him today of a letter from enXco that asked that the Chairman recuse himself from participation in agenda item 8. Chairman Foster stated that he wanted preclude any potential perceived issue or question regarding his participation and would recuse himself from agenda item 8. Chairman Foster stated that Commissioner Stockard would conduct the meeting for agenda item 8.

Item 8. Re-consideration of the Consistency of the Proposed Shiloh II Wind Plant Project.

Commissioner Stockard began by stating that the item was a public hearing to re-consider the consistency of the proposed Shiloh II Wind Plant project with the Travis Air Force Base Airport Land Use Compatibility Plan and that the applicant was Solano County for Shiloh Wind Partners which includes enXco. She asked if there was a staff report to be presented to the Commission.

Jim Leland stated that the Shiloh II Wind Plant project was previously heard by the ALUC in April 2007 at which a resolution was passed that found the project inconsistent with the Travis AFB Land Use Plan. Since then enXco and County staff had been working with the Air Force to find solutions to the issues raised. At this time County staff and enXco were back before the Commission with solutions that they hoped would enable the ALUC to find the project consistent with the Travis Plan. The supplemental staff report suggested that an appropriate course of action might be to say that the project was not consistent with the plan because the wind turbines do create some minor level of interference. However there was an exception procedure in the ALUC procedures handbook that would allow an exception to be granted in the case where certain findings could be made. He asked the Commission to make a determination whether or not the project is consistent with the Travis Plan or if it isn't consistent whether they wanted to make an exception for the project. Commissioner Stockard asked if the applicant or consultants for the County wished to speak.

Ken Solomon, contract planner for Solano County Planning Division, stated that since the Shiloh II Wind Plant project was last heard by the ALUC in April 2007 new information had been received from Travis AFB. The Commander of the Air Mobility Command in a letter addressed to enXco stated that there was a reasonable expectation that the additional 75 new wind turbines would not further degrade the performance of Travis AFB radar systems and would not increase the current level of aviation safety risk at the Base. A second letter from the Commander of Travis AFB in a letter addressed to Solano County essentially confirmed the same message. Additionally, concerns raised in letters from the Air Force dated 3/8/07 and 9/11/07 as they pertain to the Shiloh II project were withdrawn. However it was noted that Travis AFB will continue to express aviation safety concerns regarding unknown cumulative effects of any planned or future wind energy projects in the area. Mr. Solomon also stated that Regulus Group, engineers for enXco, had provided the Committee with a summary of the seven month radar analysis study jointly conducted by the Air Force, enXco and Regulus Group.

Mr. Solomon also stated that following the Airport Land Use Commission public hearing the Shiloh II project will be heard by the Solano County Planning Commission. The staff report for the Planning Commission will recommend adding two conditions to the project that were not previously

considered. One condition regards the restrictions of the project to 75 wind turbines upon which the Air Force conclusions were based. The second condition pertained to enXco's offer to the Air Force of an unsolicited 1 million dollar gift for radar enhancement. Planning staff recommended that the gift be solidified as a condition of approval for enXco's Use Permit if the Air Force accepts the gift. Mr. Solomon also added that the Final Environmental Impact Report would be amended to reflect the latest communications and conclusions regarding radar issues, an update on greenhouse gas emissions for the project and to provide an explanation for the reduction of the number of turbines from 88 to 75.

Commissioner Baumler asked if small light aircraft without transponders were picked up on the current radar system. A representative from the Air Force stated that aircraft without transponders would not be picked up by the radar. Commissioner Baldwin asked what the remedy would be if the study had miscalculated the level of risk. A representative from the Air Force stated that they would have their experts come in and assess the problem.

Annie Mudge, enXco, gave a power point presentation of the history and status of the Shiloh II project. She stated that it was a 75 turbine project that would generate 150 megawatts of energy and was within the existing Wind Resource Area. One megawatt could provide clean energy for 300 homes. It was an important renewable energy project for the county and the state because it would help California meet its renewable portfolio standard that requires that the state purchase 20% of its energy from renewable resources by 2010. After the Airport Land Use Commission found the Shiloh II project inconsistent with the Travis AFB LUCP in April of 2007, a Joint Technical Committee was formed to evaluate the impacts of the wind turbines on radar systems and to develop methods to reduce interference on radar systems. Baseline analysis of radar performance in November 2007 found improved performance. Based on that analysis the Air Force concluded in February 2008 that the 75 additional wind turbines would not further degrade the performance of Travis AFB's radars nor would it increase the current aviation safety risk at Travis AFB. Ms. Mudge stated that the ALUC was now being asked to reevaluate the compatibility criteria of the Travis LUCP in light of the fact that the Air Force had withdrawn its earlier objections to the Shiloh II project. Ms. Mudge asked the Commission to find the Shiloh II project compatible with the Travis AFB LUCP. She also added that the Commission could approve the project by considering it as an exception.

Jeff Blackman, Regulus Group LLC, briefly summarized the technical basis of the analysis of wind turbine impacts on Travis AFB radar system. He stated that the purpose of the study was to determine what impact if any the proposed Shiloh II project would have on Travis AFB existing Air Surveillance Radar model-8 (ASR-8) radar systems and future ASR-11 radar systems. The radar analysis lasted seven months and concluded that the construction of the Shiloh II project adding 75 wind turbines to the existing 737 in the Wind Resource Area would not further degrade the performance of the radar

systems or the current Air Traffic services at Travis AFB. Mr. Blackman asked if there were any comments from the Commission.

Commissioner Baumler stated that it looked like the risk factor would go down with the ASR-11 and the compatibility would be increased. Mr. Blackman agreed with his statement. Commissioner Potter stated that wind farms were being banned near airports in Europe. Mr. Blackman stated that many of the radar systems being used in Europe were an older, analog type than the system that will be used at Travis AFB. In the U.S. there are more wind farms near ASR-11 systems than any other radar. Commissioner Stockard asked if there were any public comments.

Laura Calderon, Suisun City, stated that she lives near the Base and wanted to share her concern about air traffic safety with the ALUC. She said that she trusted that the Airport Land Use Commission would look out for public safety and would protect the viability of Travis AFB. Commissioner Stockard closed the public hearing.

Mr. Leland stated that staff would like to make the following observations. EnXco had done a lot of work since they were last before the Commission in April 2007. Staff suggested that the ALUC approve the project by considering it as an exception. The exception process was designed for case by case analysis of a project rather than stating that the plan allows certain amounts of interference incrementally to be approved and generalizing that to all potential turbine projects. The Air Force has said in their letter that they have a concern about future wind turbine construction. These future projects should be analyzed on a case by case basis. The Air Force wanted to reserve the right to review and make judgments on each case individually. For that reason county staff urged the Commission to consider approval the Shiloh II project using the exception process rather than finding a "blanket" consistency with the Travis Plan. The Travis Plan prohibits any land use that creates electronic interference.

Commissioner Potter stated that he was concerned that this decision would set a precedent for future projects. There was a problem now and an incremental impact on the radar system makes the existing degradation worse no matter how small. Mr. Leland stated that staff's concern about setting a precedent was the reason staff was suggesting that the ALUC consider using the exception process to make their determination. The exception process is site specific and the findings that had been suggested in the staff report are not generalizing a precedent for future proposals. How the ALUC handles this application could be a precedent for how it handles future determinations in this area.

1.27.15 Commissioner Baumler made a motion that the Commission accept the Shiloh II project as an exception. Commissioner Schoch seconded the motion. Mr. Axelrad clarified that while the project might normally meet the criteria for the Commission to find it incompatible, based on the existence of

special factual findings relating solely to the Shiloh II project, the Commission may find the project to be compatible and consistent with the Travis AFB LUCP. Specific factual findings were:

- The project was located within the existing Wind Resource Area.
- The existing 737 turbines mask the effects of the additional 75 turbines.
- The project will not cause an increase in electronic interference that could cause a hazard to flight.
- The change represented by the project would not impact the ability of the air traffic controllers to safely control traffic.
- The Air Force's withdrawal of objection to the project is site specific and does not apply to other wind projects.

Mr. Axelrad stated that if the Commission decided to approve the motion then a resolution would also be adopted that would contain findings such as those listed above and possibly other findings as well that would demonstrate that special conditions exist that apply solely to the Shiloh II project.

Commissioner Demos asked what was being done about the existing problem of wind turbine interference on airport radar systems. Mr. Howard Swanson stated that a case by case analysis of where to site turbines was being done to minimize interference on radar systems.

Mr. Axelrad asked the Commission to take a straw vote on whether they would like to review a draft resolution for the project. The straw vote passed and after a brief break Mr. Axelrad passed out copies of a draft resolution with specific findings for the project for the Commission's review and comment.

Mr. Leland stated that before the Commission took action regarding the resolution he wanted to bring their attention to six special conditions shown in the resolution and three additional conditions (7, 8 and 9) to be considered as additions to the resolution. The conditions read as follows: *(1) the incremental impact on radar detection would be near neutral, negligible, and insignificant; (2) the conclusion of insignificance is the result of a long process of consultation by the joint technical working group in which the Air Force was fully engaged; (3) letters from senior Air Force officials have withdrawn the Air Force's objections to the Project and stated that there is a reasonable expectation that the 75 additional wind turbines proposed by the Project will not further degrade the performance of Travis Air Force Base's radar system; (4) the current radar system interference that results from the wind resource area is caused by existing entitled projects; (5) the letter received from Regulus Group and the letters received from the Air Force set forth conclusions based upon technical expertise and detailed consideration of the Project's anticipated impacts; (6) the conclusions set forth in the letters received from the Air Force are limited solely to the Shiloh II Wind Plant Project and do not restrict the Air Force or Commission in any way with respect to consideration of any future project within the wind resource area; (7) the existing turbines in the wind resource area would mask the effects of the project's additional 75 turbines; (8) the project would not cause an increase in interference that would amount to an increased hazard to flight; and (9) the project would not cause an impact on the ability of air traffic controllers to safely control traffic.*

Mr. Axelrad suggested that an amended motion call for the text of the draft resolution be used in the resolution that is adopted. Mr. Baumler withdrew his

earlier motion and asked to be able to restate the motion. Mr. Baumler's restated motion was to accept the resolution as presented and to include the three additional special conditions reviewed as numbers 7, 8 and 9. Mr. Schoch seconded the motion.

Mr. Potter stated that he didn't mind the exceptions but he was not comfortable calling the project consistent with the Travis AFB plan. Mr. Axelrad pointed out the following text in the resolution:

RESOLVED, that based on the forgoing facts, the Solano County Airport Land Use Commission finds that the Shiloh II Wind Plant Project would contribute incrementally to the adverse impact that the wind turbines currently operating in the wind resource area have on the Base's radar coverage and **therefore the Project could be found inconsistent with the Travis Air Force Base Land Use Compatibility Plan of 2002 but for the existence of special conditions, factors and circumstances pursuant to Section 2.4.3(f) of the Solano County Airport Land Use Compatibility Review Procedures, as set forth below;**

Mr. Potter was satisfied with the wording of the paragraph.

Commissioner Stockard called for a roll call vote on the motion. The motion was passed by all six Commissioners present. Commissioner Stockard called for a short break to bring Chairman Foster back into the room.

Item 9. Consider Adoption of Amendments to the ALUC Bylaws.

Mr. Axelrad stated that he had received some comments on the draft bylaws. As background there had been a couple of drafts of the bylaws previous to the current draft. The current draft of the bylaws reflected the work of the subcommittee comprised of Commissioners Potter and Cavanagh, comments from previous meetings and amendments to meet current legal requirements. He stated that there was a procedural requirement that the Commission have 10 days to review the draft bylaws before their adoption. He asked the Commissioners to send him their comments on the current draft before then and he would prepare a final revised version of the bylaws.

Commissioner Potter suggested that the Commission review some of the bylaw sections and take a straw vote to determine agreement on text revisions. Chairman Foster agreed with Commissioner Potter and added that he proposed the inclusion of a Section 10 to the bylaws. The proposed section 10 would address adopting procedures for project referral and review. The Commission agreed to review the sections in numerical order.

Commissioner Potter began with Section 3.01 stating that it was unnecessary that the bylaws call for an annual organizational meeting be held each May. It should be stated in the bylaws in a more general way. A specific meeting date can be called out in the operating manual. It was suggested rewording Section 3.01 to reflect that the organizational meeting would be held on the first regular meeting of each year. The Commission agreed to the amendment of Section 3.01.

In Section 4.04 Commissioner Potter suggested replacing the word "*Clerk*" with the word "*Secretary*" because the word secretary is the norm and has historic meaning of who takes the record. The Commission agreed to the amendment of Section 4.01.

Commissioner Potter also suggested amending Section 5.01. to not specifically state when during the month the meeting will be held. Chairman Foster stated that a specific day and time of the meetings must be shown in the bylaws. Mr. Axelrad agreed stating that it was a requirement of the California Government Code. He added that the Commission had the option of changing the date and time of a specific meeting by noticing and holding a special meeting. The Commission agreed to amend Section 5.01 by replacing the word "*hold*" with the word "*schedule*".

Commissioner Potter questioned the meaning of the following sentence in Section 5.08: "*Fewer than a quorum may adjourn from time to time and compel attendance of absent members.*" Mr. Axelrad stated that it was a confusing sentence but that it does address a specific but rare circumstance. In theory in order to take official action with respect to scheduling a meeting in the absence of the Chair for example a group would need a quorum. If a Commission was in a situation where nobody was showing up or so few were showing up that a quorum was perpetually unavailable there would need to be a provision in the bylaws that would empower that minority to adjourn the meeting and schedule the next meeting. By including this provision in the bylaws the members that were absent could not complain that the scheduled meeting was not a regularly scheduled meeting. The last sentence was amended to read as follows: "*Fewer than a quorum may adjourn from time to time pending the next scheduled meeting*". In the second sentence of the section the Commission agreed to replace the word "*absentee*" with the word "*Commissioner*".

Chairman Foster suggested adding a Section 10 to the bylaws that addressed adopting procedures for project referral and review. Commissioner Schoch didn't think that procedures for project referral and review should be included in the bylaws. Commissioner Potter stated that he had suggested to Mr. Axelrad that he include in the bylaws a referral to the appropriate policy manual regarding matters of project review. The specifics on procedures for project referral and review could be stated in a separate policy manual rather than in the bylaws. Chairman Foster stated that his goal for the bylaw review along with the subcommittee was to have a section that talks about review procedures and at least includes an update of the Commission's current practices regarding existing review procedures. Mr. Leland stated that from staff's point of view a reference to existence of a review procedures document in the bylaws is appropriate but that the details and specifics of the review procedure should not be included in the bylaws. It would be very cumbersome to amend review procedures that were imbedded in the bylaws. He also stated that there were a number of procedural changes that need to made and memorialized in the procedures document. After the work on the bylaws

was completed staff would come back to the Commission this year with those amendments for the procedures document. Mr. Axelrad pointed out that the Solano County Airport Land Use Compatibility Review Procedures were referred to in Section 2 of the bylaws. Based on discussion with county staff and the Commission Chairman Foster withdrew his suggestion to add a Section 10 to the bylaws.

Commissioner Potter suggested term limits of two consecutive two year terms for the Chair and Vice-Chair so that the Commission could never be accused of having a perpetual Chairman. Chairman Foster stated that the Commission did not need term limits because they had an election every year for Chair and Vice-Chair. Commissioner Stockard agreed with Chairman Foster. Based on a straw vote the Commission was not in favor of term limits. Chairman Foster thanked Commissioners Potter and Cavanagh for all their hard work on the Bylaws revision.

Item 10. Discussion of 2008 Work Plan
Item 10 was continued to the next meeting.

Item 11. Adjournment

The next regular meeting of the Solano County Airport Land Use Commission will be held on **Thursday, April 10, 2008**, in the Solano County Administration Center, Multi-Purpose Room, 675 Texas St., Fairfield, CA 94533