

MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

Meeting of March 20, 2008

The regular meeting of the Solano County Planning Commission was called to order at 7:00 p.m. in the Board of Supervisors' Chambers, Fairfield, California.

PRESENT: Commissioners Moore, Barnes, Mahoney, McAndrew and Chairperson Barton

EXCUSED: _____

STAFF PRESENT: Mike Yankovich, Planning Program Manager; Ken Solomon, Contract Planner; David Cliché, Building Official; Jim Laughlin, Deputy County Counsel; Kristine Letterman, Planning Commission Clerk

Items from the floor - none

THE MINUTES of the regular meeting of February 21, 2008 were approved as prepared.

1. **CONTINUED PUBLIC HEARING** to consider Use Permit Application No. U-05-25 and Final Environmental Impact Report (FEIR) for the **Shiloh II Wind Project**, as sponsored by Shiloh Wind Partners LLC, and to certify the FEIR, as amended, adopt the Statement of Overriding Considerations and to approve the Use Permit and Mitigation Monitoring & Reporting Program to construct a 176 megawatt (MW) wind power project with up to 88 wind turbines on about 6,100 acres of land in the Montezuma Hills area. (Project Planner: Ken Solomon) **Staff Recommendation:** Approval

Commissioner Mahoney recused himself from the meeting due to a conflict of interest.

Ken Solomon noted that this meeting was continued from the meeting of February 21, 2008, representing the 6th continuance from the original hearing date of March 15, 2007. He explained that the purpose of this meeting is for the commission to take final action on the FEIR and Use Permit. Mr. Solomon indicated that the details of the project are provided in the Draft and Final EIR. He said that amendments to the FEIR have also been prepared, noting that Amendment II dated March 2008, supersedes and replaces Amendment I dated April 2007. In addition to the environmental documents, he noted that further analysis and findings are contained in the original staff report dated March 15, 2007.

Mr. Solomon updated the commission on two of the latest project developments. He stated that the wait for direction from the Air Force regarding the radar issues at Travis Air Force Base has ended, as evidenced in their latest two letters. Mr. Solomon stated that the Air Force, in its evaluation, has determined that the radar performance

problems at Travis are an existing condition that will not be further degraded by the installation of the proposed Shiloh II wind turbines. The Air Force has also concluded that the project will not increase the current aviation safety risk at the air base, and it is their opinion that Shiloh II may proceed concurrently with the installation of the new ASR-11 radar system. In addition, the prior objections and concerns of Travis AFB relative to Shiloh II have been withdrawn. Mr. Solomon stated that the second project development relates to the Airport Land Use Commission (ALUC) which reviewed this project on March 13th and found the project, based on special conditions and extraordinary factors and circumstances, consistent with the Travis AFB Land Use Compatibility Plan of 2002.

Patty Murphy of Ecology and Environment, Inc., the Department's EIR consultant for the project, gave an overview of the project including the environmental issues assessed.

Ken Solomon clarified that this project, as with the previous wind energy projects, will result in significant impacts that cannot be mitigated to a level of insignificance. He said that those impacts relate to aesthetics, biological, and temporary air quality impacts. He stated that in this situation the Commission's adoption of a Statement of Overriding Considerations will be necessary to approve the project.

Mr. Solomon stated that there are two proposed conditions that have not been discussed in previous staff reports: 1) Condition No. 72, which is a revision of a previously recommended condition, addresses the current project that includes a reduction of turbines from 88 to 75. He stated that the reduction is due to a power purchase agreement between the applicant and PG&E; and, 2) Condition No. 73 has been added to obligate enXco to formally offer to the Air Force their previously discussed gift of 1 million dollars for radar enhancements. Mr. Solomon stated that staff has recommended this be made a condition of approval for the project, but made note that it is not required or solicited by the air force, it is simply to follow through on the applicant's earlier offer and would provide a greater benefit and additional assurance that the air force could have extra funds to provide radar enhancements.

Commissioner McAndrew referred to the FEIR, Section 2, page 3, and the reference to turbine height. She noted that there was an error in the second measurement because this measurement is based on 67 meters, when the number has been changed to 68 meters. Staff made note of the correction.

Commissioner McAndrew referred to Section 2, page 4, and inquired as to why the blade study is being used as opposed to the overall height of the turbine to determine the setback length. Mr. Solomon explained that the applicant was required to provide additional safety analysis, and that analysis brought forward a measurement of a minimum safety factor of 1.25 times the distance of the maximum throw of the turbine blade. The maximums provided were based on 100 foot separation or elevation difference between the turbine base and adjacent road. Mr. Solomon stated that the

applicant was trying to meet that minimum safety setback of turbine blade throw which is different than the 3 times the height of the turbine, as is required in the Wind Turbine Siting Plan. Commissioner McAndrew wanted to know why the blade throw is being used as opposed to the height. Mr. Solomon stated that the blade throw distance is only being used in instances where they are not meeting the 3 times the turbine height setback.

Commissioner McAndrew referred to Section 2, page 8, regarding the conservation area mitigation. She stated that since there was a change in height from 67 meters to 68 meters, she wanted to know if there is any recalculation based on that change. Mr. Solomon replied that the FEIR captured the minimum change from the 67 to the 68 meter turbine, so everything has been designed to the latest modifications. Mr. Solomon stated that there is a lot of micro-siting that occurs in the actual construction phase of the project, and this is where the minimum setbacks, particularly from biological resources, are maintained.

Commissioner McAndrew referred Section 2, page 25, and complimented staff for adding the comprehensive explanation about how electrocution can happen with birds.

Commissioner McAndrew referred to Section 3, page 11, regarding the impacts to birds. She stated that PG&E is saying that they are not going to do any monitoring, and she inquired as to why they can make this determination and if it is legal for them to do so. Mr. Solomon stated that PG&E is making this statement based on their own understanding and research that it is not necessary. He noted that PG&E has done some preliminary research at this location and did not perceive it as being a problem in terms of large mortality for birds. They do realize that mortality does occur, but the levels are insignificant and to require monitoring for the re-conductoring which is a replacement of an existing line, was not merited.

Commissioner McAndrew referred to Condition No. 73 and wanted to know why the county is making this a condition of approval since this is a private matter between the applicant and the air force. Mr. Solomon explained that this is just a suggestion. He indicated that the applicant never suggested that they were not going to follow through, but it just provides some added assurance that it will happen. He noted that the applicant is not objecting to the condition.

Commissioner Moore stated that he is not in favor of Condition No. 73. He stated that he did not believe the county should be in the business of putting this kind of restriction ahead of issuing permits. He stated that it is voluntary and it is between the applicant and the U.S. Government. Mr. Moore questioned the legality of holding up a permit for this type of matter. He questioned the permitting process and what would happen if there is no avenue for the Air Force to accept this kind of contribution.

Mr. Solomon stated that the way the condition is written, it does not require acceptance of the offer. Commissioner Moore pointed out that the condition specifically states “prior to issuance of a permit”, and in his opinion it should not be part of the approval. Mr. Moore stated that he did not believe a county provision should be connected to this kind of a private agreement.

Jim Laughlin stated that Condition No. 73 was not added to mitigate any of the impacts the project may have, it was added because there was talk of this offer being made, and it was thought of as a follow through on the part of the county to make sure that the offer was made as previously indicated. Mr. Laughlin stated that in the way the condition is worded, it just requires the applicant to make an offer to the Air Force, and once it is shown that the offer is made, the county can go ahead and issue building permits. He said the Air Force is certainly free to reject the offer. Mr. Laughlin reiterated that the intent of the condition is not to mitigate an environmental impact. He stated that the permit would still be valid if the condition were deleted.

Commissioner McAndrew stated that she would recommend deleting Condition No. 73.

Commissioner McAndrew referred to Amendment II to the FEIR, page 9, which refers to sulfur hexafluoride which are contained in the canisters, and wanted to know if they are monitored. Patty Murphy stated that this would be something that PG&E would need to answer.

Commissioner McAndrew stated that at the top of page 9 where it speaks to Fuel Economy Mileage and Fuel Use, the last column with the total fuel use does not seem to follow with the water truck emissions and the off road equipment, since the total mileage and total fuel use are the same. Ms. Murphy stated that this greenhouse gas emissions analysis is a very general evaluation. She indicated that she could not answer this specific assumption, but would have to go back and review the information. Commissioner McAndrew stated that she just wanted someone to check the calculations and make the corrections. Ms. Murphy stated that they would take a look at it and correct any errors.

With regard to Condition No. 73, Commissioner Moore stated that he just wanted to make it clear that in his opinion this has nothing to do with land use issues and does not belong in this document.

Chairperson Barton opened the public hearing.

The following individuals spoke on behalf of enXco: Dennis Scullion, Southwest Regional Director, who provided a brief overview of the proposal; Annie Mudge, attorney, who reviewed the permitting highlights as they relate to the radar issue; and Geoff Blackman, who spoke to the radar analysis.

Alice Harron, Manager, PG&E, Renewable Resource Development Section 245 Market Street, San Francisco, stated that as provider of electricity and natural gas for approximately 40% of Californians, PG&E recognizes that the way they produce and deliver energy and serve their customers has a direct impact on the environment. She said a healthy environment is necessary for the well being and vitality of their customers, their employees, and the communities they serve. Ms. Harron stated that PG&E has a power purchase agreement to purchase wind generation from the Shiloh II project. She stated that this project helps California reach its goal of 20% renewable generation by 2010.

Skip Thomson, 549 Topeka Lane, Vacaville, praised the Airport Land Use Commission as having done a credible job reviewing the information and hearing testimony for the Shiloh II project, and advising that the project would normally be considered an inconsistent activity due to the impact in aviation safety because radar interference that causes any safety issues for aircraft should not be permitted. He stated that the ALUC agreed unanimously that an exception should be made for this project due to exceptional circumstances. He agreed with the ALUC's judgement in this case, because the process that was used followed the existing Solano County guidelines to the letter. He stated that the integrity of the Travis Land Use (Compatibility) Plan and companion review procedure documents are intact and are affirmed. He further stated that wind turbines that produce radar interference that affects aircraft safety are not permitted by the Travis Plan because they are an inconsistent activity. Because this concept was validated and upheld with this project, he suggested that all should agree that the Travis Land Use Plan continues to be an important and credible guidance document. He stated that just as important, the exception that was made is thoroughly described in the partner document to the Travis Land Use Plan, which is the Solano County Airport Land Use Compatibility Review procedures document. However, his more important reason for supporting the ALUC is the proceedings, which generated a wake-up call for all.

Mr. Thomson further stated that it now seems crystal clear that whether or not there is a significant increase in safety risk by adding 75 more wind turbines, this is less important than the stark reality shown by the proceedings at the ALUC and the fact that the existing 700+ turbines do affect aviation safety. He stated the importance of remembering that the Air Force, in its letters, is not retracting their concerns about the impact on aviation safety from the existing turbines. He also reiterated that while the safety concerns might not be increased, they are not being retracted nor lessened, and are real and caused by radar interference from the current crop of wind turbines. He expressed his hope that the Commission was asking of themselves "how did this happen," but more importantly, "how do we fix it." Since the Air Force, back in March of '07, asked for a moratorium on any new projects until after the new ASR-11 is installed and tested, he suggested that the Commission should be supporting Travis and applying safety now. He called for the Commission to make a recommendation to the Board for a moratorium on any new projects until the results are in from the proposed radar fixes that have been promised.

Since there were no further speakers either for or against this project, Chairperson Barton closed the public hearing.

Commissioner Barnes stated that he still has reservations about this project, and hopes that the Commission is doing the right thing by approving it.

Chairperson Barton stated that being a neighbor of Travis AFB, often times there are things that they might need the County to do to help protect what they have, need, or do, and she viewed keeping the 1 million dollar donation as a condition as supporting this kind of effort.

Commissioner McAndrew stated that she was in agreement with Commissioner Moore's statement that this gift is not a land use issue, and she did not believe that it is the county's business to get involved in such a private matter. Ms. McAndrew commented that she was glad that enXco made the offer and she felt it is incumbent upon the Air Force to agree whether or not to except it.

Commissioner Barnes stated that the county's business is land use, and if this condition is contained in the permit he felt that it would imply that the air force is being bought off. Mr. Barnes commented that if the air force does accept the gift he would hope that it stays at Travis AFB and not end up in Washington DC or Scott Air Force Base.

A motion was made by Commissioner McAndrew and seconded by Commissioner Barnes to Adopt the proposed Resolution Certifying the Final Environmental Impact Report as amended (Amendment II) based on the recommended Findings, and Adopt the proposed Resolution Approving Use Permit Application No. U-05-25 based on the recommended Findings and subject to the recommended Conditions of Approval with the deletion of Condition No. 73; and Adopt a Statement of Overriding Considerations, and Adopt the proposed Mitigation Monitoring and Reporting Program (MMRP). The motion passed 4-0 with Commissioner Mahoney recused. (Resolution No. 4492)

2. **PUBLIC HEARING** to consider Use Permit Application No. U-07-11, Lot Line Adjustment Application No. LLA-07-04 and Architectural Review Application No. AR-07-01 of **Tower Energy Group** to merge two parcels zoned Neighborhood Commercial and to demolish the existing market and gas station and build a new 6,000 square foot market and gas station on property located at the southwest corner of Suisun Valley and Rockville Roads, Suisun, APN's: 0027-141-380 and 040. The Planning Commission will also be considering adoption of a Negative Declaration of Environmental Impact as recommended by the Solano County Department of Resource Management. (Project Planner: Michael Profant) **Staff Recommendation:** Approval

Mr. Yankovich indicated that the applicant has requested a continuance of this item in order to conduct additional field work.

A motion was made by Commissioner Moore and seconded by Commissioner Barnes to continue this item to the regular meeting of April 17, 2008. The motion passed unanimously.

3. **PUBLIC HEARING** to consider Minor Revision No. 1 to Use Permit No. U-06-04, Mutual Agreement #27 and Marsh Development Permit No. MD-06-02 of **Kirby Hills Natural Gas Storage Facility – Phase II** for the expansion of an existing natural gas storage facility. The project is located south of Highway 12, west of Shiloh Road and east of Birds Landing Road in an “M-P” Marsh Preservation, “A-160” Exclusive Agricultural, and “AL-160” Limited Agricultural Zoning District, approximately 6 miles west of the City of Rio Vista, APN’s: 0048-070-010, -020, -070; 0048-040-120; 0048-050-300, and others. Consideration by the Planning Commission will be based on a Subsequent Mitigated Negative Declaration that was previously certified for the Phase II project by the California Public Utilities Commission as Lead Agency, pursuant to the provisions of the California Environmental Quality Act. (Project Planner: Ken Solomon)

Ken Solomon briefly reviewed the written staff report. He stated that the Phase II expansion will utilize the deepest of the three existing underground natural gas reservoirs at Kirby Hill for additional temporary storage of natural gas. The expansion project will include the installation of new gas wells, pipeline, compressors, and other infrastructure, and will utilize the existing facilities built in 2006 under the Phase I project, the bulk of which will remain unchanged. He indicated that the project includes a minor expansion beyond the parcel boundaries of the existing phase I project, which will increase the project area by just under 300 acres to a combined phase I and II project area on portions of parcels totaling approximately 2,900 acres.

Mr. Solomon explained that the purpose of the expansion project is to provide added storage capacity and a stable supply of natural gas for LGS customers. The proposed expansion would increase the maximum storage capacity from 7 to approximately 25 billion cubic feet of natural gas. In terms of residential equivalencies, 12 billion cubic feet would supply approximately 240,000 homes for one year, or approximately all of the homes in Fairfield for about 8 years. Mr. Solomon reviewed the primary components of the Phase II project. He noted that Condition No. 15 was amended to include additional language at the end of the paragraph to read: ...unless permittee obtains prior approval from the Suisun Resource Conservation District (SRC) and from the owner of the adjacent (duck hunting) property to the north; APN 0048-070-010 and 0048-040-120.

Commissioner McAndrew referred to a letter from Norma Walsh voicing her concerns about the company’s safety record and other related issues. She wanted to know if Ms.

Walsh's concerns have already been addressed, or if it is an issue the commission needs to discuss. Mr. Solomon stated that Ms. Walsh's letter was forwarded to the Public Utilities Commission and they incorporated it and provided a response in their subsequent Mitigated Negative Declaration.

Commissioner McAndrew noted for the commission that she took a tour of the facility.

Scott Wilson, speaking on behalf of the project applicant, stated that he felt staff has presented a very thorough project description. He noted that the project is bringing a three-fold increase in much needed gas storage capacity in California with very little incremental impacts on the existing assets that were built in 2006 as part of Phase I. Mr. Wilson stated that he agreed with the conditions of approval and the modification to Condition No.15.

Chairperson Barton opened the public hearing. Since there were no questions either for or against this matter, the public hearing was closed.

A motion was made by Commissioner Moore and seconded by Commissioner McAndrew to adopt a Resolution approving amendment to Use Permit No. U-06-04, Mutual Agreement No. 27, and Marsh Development Permit No. MD-06-02, based on the mandatory and supplemental findings and subject to the recommended conditions of approval, including the additional language to Condition No. 15. The motion passed 5-0. (Resolution No. 4493)

4. **ANNOUNCEMENTS and REPORTS**

5. Since there was no further business, the meeting was **adjourned**.