

BUCHANAN COUNTY PLANNING AND ZONING  
St. Joseph, Missouri

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James Whitson, Chairman  
Steve Reardon, Vice - Chairman  
Johnaphine Fenton, Secretary

March 4, 2020

Buchanan County Commissioners,

On February 19, 2020 the Planning and Zoning Commission convened to have a work session to discuss the Wind Energy Commercial Systems ordinance.

A motion was made by Steve Reardon, Marion Township Board Member with a second made by Rosan Bowers, Washington Township Board Member to completely ban Commercial Wind Energy Systems in Buchanan County.

Roll was called to vote on this proposal. With a vote of eight (8) yes and four (4) no, the decision to ban Commercial Energy Commercial Systems carried.

Sincerely,

DENISE K. EMBREY  
DIRECTOR OF PLANNING & ZONING

<b>P &amp; Z ROLL CALL</b>	<b>FEBRUARY 19, 2020</b>	<b>7:00 p.m. to 7:36 p.m.</b>
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Pat McLear	P	Y	Y	Y		N	N
Alfred Purcell	P	Y	Y	Y		Y	N
Steve Reardon	P	Y	Y	N		N	Y
Johnaphine Fenton	P	Y	Y	Y		N	N
Rosan Bowers	P	Y	Y	Y		Y	Y
Wayne D. Barnett	P	Y	Y	Y		Y	Y
Fred Corkins	P	Y	Y	Y		N	Y
Scotty P. Sharp	P	Y	Y	Y		N	Y
Glen Frakes	P	Y	Y	Y		N	Y
Shirley Day	P	Y	Y	Y		N	Y
Rodney Fry	P	Y	Y	Y		N	Y
Jim Whitson	P	Y	Y	Y		N	N
<b>TOTAL VOTES</b>	<b>12</b>	<b>12 YES</b>	<b>12 YES</b>	<b>11 Y/ 1 N</b>		<b>3Y/9N</b>	<b>8Y/4N</b>
Chad Gaddie	P						
Lee Sawyer	P						
Ron Hook	P						
Scott Burnham	P						
Ryan Pummell							
	ROLL CALL	ITEM # 1 URBAN / BERGONZONI CUP/SFD	ITEM # 2 GRIENER / KOVAC CUP/SFD	CONDITION ON ITEM # 2 NO MORE HOMES ALLOWED	ITEM # 3 WECS ORDINANCE	ITEM # 3 WECS TABLE SETBACKS	ITEM # 3 WECS COMMERCIAL BAN

Roll Call	P= Present
	A= Absent
Votes	Y=Yes
	N= No
	R=Recuse

**P\*=LATE**

## ***Wind Energy Systems***

- 1. Small Wind Energy Conversion Systems.** The use of small wind energy conversion systems as defined in this subsection is a **permitted** use within all zoning districts. A small wind energy conversion system may consist of a wind turbine, a tower, and associated control or conversion electronics which has a rated capacity of not more than 100 kilowatts, which is not more than 120 feet in height, and which is intended solely to reduce onsite consumption of purchased utility power.
  
- 2. Commercial Wind Energy Conversion Systems.** The use, installation and maintenance of Commercial Wind Energy Conversion Systems is a **prohibited** use within all zoning districts. A Commercial Wind Energy Conversion System is an electrical generating facility of greater than 100 kilowatts in total nameplate generating capacity, comprised of one or more wind turbines and accessory facilities, including, but not limited to, power lines, transformers, substations and meteorological towers, which operate by converting the kinetic energy of wind into electrical energy.

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BUCHANAN COUNTY PLANNING AND ZONING

PUBLIC HEARING

WEDNESDAY, FEBRUARY 19, 2020

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Location:

Buchanan County Courthouse  
Tom Mann Room  
411 Jules Street  
St. Joseph, MO 64501

REPORTED BY: Pamela K. Koch, CCR  
Official Court Reporter, Division 1  
5th Judicial Circuit

1 PROCEEDINGS

2 PUBLIC HEARING - WEDNESDAY, FEBRUARY 19, 2020

3 MR. WHITSON: I've got 7 o'clock, so I'm going to  
4 call the meeting to order. Call for roll.

5 MS. EMBREY: Pat McLear.

6 MR. McLEAR: (Came in following roll call.)

7 MS. EMBREY: Alfred Purcell.

8 MR. PURCELL: (Came in following roll call.)

9 MS. EMBREY: Steve Reardon.

10 MR. REARDON: Here.

11 MS. EMBREY: Johnaphine Fenton.

12 MS. FENTON: Here.

13 MS. EMBREY: Rosan Bowers.

14 MS. BOWERS: Here.

15 MS. EMBREY: Wayne Dale Barnett.

16 MR. BARNETT: Here.

17 MS. EMBREY: Fred Corkins.

18 MR. CORKINS: Here.

19 MS. EMBREY: Scotty Paul Sharp.

20 MR. SHARP: Here.

21 MS. EMBREY: Glen Frakes.

22 MR. FRAKES: Here.

23 MS. EMBREY: Shirley Day.

24 MS. DAY: Here.

25 MS. EMBREY: Rodney Fry.

1 address for the record, and tell us what your plans are.

2 MR. BERGONZONI: Anson Bergonzoni. My address

3 right now is 38615 Woolston Road, Rushville, Missouri.

4 My plan is to build, like, a 60 by 30, 60 by 40 metal

5 building house.

6 MR. WHITSON: It's going to be a metal building

7 that's a house?

8 MR. BERGONZONI: Yeah. It will look like a house.

9 MR. WHITSON: Okay. Is it going to have its own

10 existing driveway and everything?

11 MR. BERGONZONI: Yes.

12 MR. WHITSON: Okay. Any other questions from the

13 Commission?

14 MR. BARNETT: Whereabouts is your house going to be

15 located on there? Can you show us?

16 (Inaudible informal

17 conversation with

18 members of the Board.)

19 MR. WHITSON: It's going to kind of be located in

20 the southwest corner of the property. Is that what I

21 understand?

22 MR. BERGONZONI: No. Southeast.

23 MR. WHITSON: Southeast, okay. Okay.

24 MR. BARNETT: Make a drive through these trees.

25 MS. EMBREY: It's up in this area.

1 MS. EMBREY: Wayne Dale Barnett.  
2 MR. BARNETT: Yes, best use.  
3 MS. EMBREY: Fred Corkins.  
4 MR. CORKINS: Yes, best use.  
5 MS. EMBREY: Scotty Paul Sharp.  
6 MR. SHARP: Yes, best use.  
7 MS. EMBREY: Glen Frakes.  
8 MR. FRAKES: Yes, best use.  
9 MS. EMBREY: Shirley Day.  
10 MS. DAY: Yes, best use.  
11 MS. EMBREY: Rodney Fry.  
12 MR. FRY: Yes, best use.  
13 MS. EMBREY: Jim Whitson.  
14 MR. WHITSON: Yes, best use. Okay, that did pass.  
15 Denise will get a hold of you and tell you what you need  
16 to do next.  
17 MR. BERGONZONI: Thank you.  
18 MR. WHITSON: Thank you.  
19 MS. DAY: Have a good evening.

20 **ITEM #2**

21 **CONDITIONAL USE PERMIT REQUEST BY JESSE & ANNA GRIENER**  
22 **FOR APPLICANTS MICHAEL AND ANBUR KOVAC**

23 MR. WHITSON: The second item on the agenda is a  
24 request by Jesse and Anna Griener, landowners, at 12351  
25 Southeast State Route CC in Faucett, Missouri for a

1 MR. KOVAC: Yes, ma'am.

2 MS. DAY: Okay, okay, sorry. I didn't know who you  
3 were.

4 MR. WHITSON: Any other questions?

5 MR. BARNETT What road are you coming off of?

6 MR. KOVAC: We're going to try to come off of  
7 Connett Road. That's the little service road between CC  
8 and 371.

9 MR. BARNETT: I know.

10 MR. KOVAC: That's the least invasive.

11 MS. DAY: Whereabouts are you going to build the  
12 house? Where are you going to put the house?

13 MR. KOVAC: It will be towards the north of the  
14 property.

15 MS. DAY: North?

16 MR. KOVAC: Up around above the seven on the 10.35.

17 MR. BARNETT: Kind of on top of the hill there?

18 MR. KOVAC: Yeah. Yeah, right on top of that hill.

19 MS. DAY: So they're keeping --

20 MR. KOVAC: They're keeping two-and-a-half right  
21 here.

22 MS. DAY: And you're buying the remainder?

23 MR. KOVAC: Yes.

24 MR. BARNETT: They're keeping Mary Jane's old place  
25 then.



1           one house?

2           MR. WHITSON:  If you want to put the condition it  
3           can't be subdivided any more, you're certainly welcome  
4           to make that motion.

5           MR. FRAKES:  That motion is made.

6           MS. BOWERS:  Second it.

7           MR. WHITSON:  We have a motion and a second that  
8           this property cannot be split any more.  Do you guys  
9           understand?

10          MR. GRIENER:  There's actually a deed restriction  
11          that already states that.

12          MR. WHITSON:  Okay.  But this being the zoning --  
13          okay.  Can we do that by common consent?

14          MS. EMBREY:  We have to vote.

15          MR. WHITSON:  Huh?

16          MS. EMBREY:  We have to vote.

17          MR. WHITSON:  Okay, we'll vote on the amendment to  
18          make it where it cannot be subdivided any more.

19          MS. EMBREY:  Pat McLear.

20          MR. McLEAR:  Yes.

21          MS. EMBREY:  Alfred Purcell.

22          MR. PURCELL:  Yes.

23          MS. EMBREY:  Steve Reardon.

24          MR. REARDON:  No.

25          MS. EMBREY:  Johnaphine Fenton.

1 MS. EMBREY: Alfred Purcell.  
2 MR. PURCELL: Yes, best use.  
3 MS. EMBREY: Steve Reardon.  
4 MR. REARDON: Yes, best use.  
5 MS. EMBREY: Johnaphine Fenton.  
6 MS. FENTON: Yes, best use.  
7 MS. EMBREY: Rosan Bowers.  
8 MS. BOWERS: Yes, best use.  
9 MS. EMBREY: Wayne Dale Barnett.  
10 MR. BARNETT: Yes, appropriate.  
11 MS. EMBREY: Fred Corkins.  
12 MR. CORKINS: Yes, best use.  
13 MS. EMBREY: Scotty Paul Sharp.  
14 MR. SHARP: Yes, best use.  
15 MS. EMBREY: Glen Frakes.  
16 MR. FRAKES: Yes, best use.  
17 MS. EMBREY: Shirley Day.  
18 MS. DAY: Yes, best use.  
19 MS. EMBREY: Rodney Fry.  
20 MR. FRY: Yes, best use.  
21 MS. EMBREY: Jim Whitson.  
22 MR. WHITSON: Yes, best use. Okay, that did pass.  
23 Denise will be in touch with you all in what you need to  
24 do next.  
25 MR. KOVAC: Thank you.

1 right at the top, line 1, "Wind Energy Conversion  
2 Systems (WECS) may be permitted in the agricultural  
3 zoning." Do you want to leave that in? I mean, is that  
4 the only zoning you wanted in, I presume, is the  
5 agriculture? Is that why you had that highlighted? The  
6 agriculture, that's all?

7 MS. EMBREY: Yes.

8 MR. WHITSON: Then on page 5 on (j) up at the top  
9 of the page, about the third line down where it talks  
10 about bridges and roads and stuff. It says -- instead  
11 of "may -- assurance documents may be required," it  
12 should say "will" instead of "may".

13 MS. EMBREY: Are we going to talk about that?

14 MR. WHITSON: What page are you on?

15 MS. EMBREY: Page 5, (h). I don't know what we  
16 should do about that.

17 MR. WHITSON: I guess we need to discuss a little,  
18 "be administered by the Planning and Zoning  
19 Inspector/Code Enforcement officer." Do we have an  
20 inspector? Are we going to hire outside inspectors?  
21 What's --

22 MS. DAY: Where does it say that?

23 MR. WHITSON: On page 5 at the very top, (h).  
24 "This ordinance shall be administered by the County  
25 Planning and Zoning Inspector/Code Enforcement officer."

1           MR. WHITSON: I don't know that we've ever heard of  
2 a maximum, Al.

3           MR. PURCELL: Well, I think it's very appropriate  
4 to understand there are literally hundreds of wind farms  
5 that have been built across the nation. I would be  
6 interested to understand what's the minimum and what's  
7 the maximum. And are there any indications whether it's  
8 a half a mile or one mile in terms of setback? I think  
9 we should understand that.

10          MR. WHITSON: What I took from Black & Veatch was  
11 that 1,320 was pretty much the minimum. But it was also  
12 pretty much the standard for setbacks.

13          MR. PURCELL: I personally would like to hear what  
14 they have to say. I mean, that's all a matter of public  
15 record. So I'd certainly like to understand that. And  
16 if so, why?

17          MR. WHITSON: Anybody else wish to address?

18          MR. McLEAR: Jim, I'd like to offer a motion. The  
19 motion is -- I write this out like I always do, but that  
20 the minimum setback be 2,640 feet from the property line  
21 with no exceptions for any hardship. So the very bottom  
22 line is 2,640.

23          MR. WHITSON: So it's basically half a mile.

24          MR. McLEAR: Right. But there's no --

25          MR. WHITSON: No exceptions?

1 mile or 2,650 feet, or whatever it is?

2 MR. PURCELL: Mr. Chairman, I'm asking that we  
3 table the motion until we hear from Black & Veatch of  
4 what all wind farms are, because if there aren't any,  
5 then that tells us something. But if there are, then  
6 fine, I think that we should proceed ahead.

7 MR. WHITSON: Well, we don't really have a motion  
8 if we don't have a second. And that's what I'm seeing.  
9 If we don't have a second, then it's moot. No second?

10 MR. FRAKES: Second it.

11 MR. PURCELL: Well, Robert's Rules says that I can  
12 ask for it to be tabled.

13 MR. McLEAR: Jim, can we vote on his offer?

14 MR. WHITSON: Do you have a second for your motion  
15 to table?

16 MS. BOWERS: I second.

17 MR. WHITSON: Okay, we have a second. We'll vote  
18 on the motion to table the setback discussion until we  
19 can get the facts from Black & Veatch. We'll have a  
20 roll call vote.

21 MS. EMBREY: Pat McLearn.

22 MR. McLEAR: No.

23 MR. PURCELL: Well, the fact -- I mean, there can  
24 be discussion here. And just to go on record, I'm not  
25 against increasing the setback. I think we ought to

1 MS. EMBREY: Rosan Bowers.  
2 MS. BOWERS: Yes.  
3 MS. EMBREY: Wayne Dale Barnett.  
4 MR. BARNETT: Yes.  
5 MS. EMBREY: Fred Corkins.  
6 MR. CORKINS: No.  
7 MS. EMBREY: Scotty Paul Sharp.  
8 MR. SHARP: No.  
9 MS. EMBREY: Glen Frakes.  
10 MR. FRAKES: No.  
11 MS. EMBREY: Shirley Day.  
12 MS. DAY: No.  
13 MS. EMBREY: Rodney Fry.  
14 MR. FRY: No.  
15 MS. EMBREY: Jim Whitson.  
16 MR. WHITSON: No.  
17 MS. EMBREY: Okay. That did not pass.  
18 MR. WHITSON: Okay. So now we're back to Pat's  
19 motion.  
20 MS. DAY: And I don't think that's far enough. I  
21 think it should be set back -- the setback should be  
22 further. As a matter of fact, I think we should talk  
23 about whether or not our community wants this at all.  
24 MR. REARDON: It would be a good place to start  
25 before we wade into the weeds on this.

1 weigh in on what our role is.

2 MR. GADDIE: Yeah. Basically -- probably the best  
3 thing that I can do is start from the beginning and  
4 explain maybe how you have gotten to this point and what  
5 your options are from here. Because I think that the  
6 point that you made regarding banning, I know that was  
7 discussed a lot at the public hearings, so that's  
8 probably something that we should discuss too. I'll lay  
9 out some different opportunities for you.

10 As you know now, there are no wind regulations  
11 regarding commercial wind energy in Buchanan County.  
12 And given the interest in potential projects, the  
13 Commission thought that it was important that we set up  
14 some type of framework so that in the event that there  
15 was any type of concrete interest down the road, we have  
16 some guidelines to go by. So that is when Black &  
17 Veatch was hired, and Black & Veatch provided us the  
18 original proposed drafted guidelines. And that is just  
19 basically how other communities have dealt with the  
20 matter and how other communities have put together their  
21 own regulations when they have decided to address the  
22 issue.

23 That was presented by Black & Veatch to this  
24 committee two different times. They came up with  
25 different revisions. And then after that we had the

1 challenged in court, they are more difficult to defend  
2 than reasonable restrictions. So if you come in and you  
3 just say we're not doing it at all, that will be a  
4 tougher argument for us to uphold as being a reasonable  
5 restriction than if you come in and you say, hey, we  
6 will do it under these conditions and there is a mile  
7 setback. Okay? That's easier to defend in court.

8 So your role today is to take this document and to  
9 determine what is a reasonable set of regulations for  
10 Buchanan County. So you can debate it tonight. You can  
11 seek questions like Mr. Landis (sic.) talked about with  
12 Black & Veatch, get clarification on issues and come  
13 back and continue to debate it down the road. But  
14 ultimately what I think the goal is, is for you to  
15 approve some type of regulation that can go to the  
16 Commission so we can have this matter set in stone.

17 MR. REARDON: I would suggest to Al that if you  
18 look at Platte County, they have a total ban on mobile  
19 homes. If you can do something like that, I would say  
20 you could do something like ban wind turbines if that's  
21 the goal.

22 MR. PURCELL: Well, I'm certainly not -- Steve, I'm  
23 not the expert. I may be for wind farms. I may be  
24 against wind farms. But I'm specifically asking about  
25 what our role is. And I think legal counsel is the one



1 a motion. If not, we'll start line by line if that's  
2 what the Commission wants to do.

3 MR. REARDON: I make a motion that we accept the  
4 proposal I put on the table as a complete ban of wind  
5 turbines, and it does allow for the commercial -- I mean  
6 residential turbines. We do this as a test vote to see  
7 what we feel. If this is something -- rather than wade  
8 in the weeds, because I really need to go line by line  
9 on this if we're going to do it, if we're going to go  
10 through the regulations.

11 MR. WHITSON: Do I have a second for his motion?

12 MS. BOWERS: Second.

13 MR. PURCELL: What are we discussing right now?

14 MR. REARDON: The proposal I laid in front of you.

15 MR. PURCELL: Well, this is the first time I've  
16 seen this. I certainly would like to have an  
17 opportunity to study it. I for one don't want to vote  
18 on something if I haven't had a chance to discuss it and  
19 look at it.

20 MR. REARDON: It's a very simple prohibition of  
21 wind turbines in Item 2. Item 1, it allows it for  
22 residential use up to 120 feet tall. Item 2 is a  
23 complete prohibition of commercial wind energy systems  
24 in our county.

25 MR. WHITSON: Any other discussion on the motion?

1           MR. PURCELL: Again, I'd ask counsel, we're talking  
2 about a resolution. And my understanding of resolution,  
3 it may not be binding. It's a resolution.

4           MR. REARDON: No. That would be a regulation.

5           MR. WHITSON: This would be an ordinance. If it  
6 passed, this would become an ordinance.

7           MR. PURCELL: Well, so I'm asking counsel again, is  
8 that our legal authority as a Planning and Zoning Board  
9 to do this?

10          MR. GADDIE: If you wanted to approve this instead  
11 of the Black & Veatch proposal, you certainly have that  
12 ability to do so. You have the ability to amend this to  
13 change it in any way. And if in changing it you decide  
14 to adopt Mr. Reardon's proposal, that's up to you.  
15 That's your decision.

16          MS. DAY: Well, we're just having a discussion  
17 right now. Is that correct?

18          MR. WHITSON: Yes.

19          MS. DAY: Okay. Well, if we're just having a  
20 discussion, then I listened -- I was here for all of our  
21 open hearings open to the public speaking. And at that  
22 point in time, anybody who was for or against or had an  
23 opinion about wind turbines in our county had an  
24 opportunity to speak. And every one of the individuals  
25 that I heard out of all of them that we heard, I heard

1 this with the recommendation.

2 MR. FRAKES: We can make a bunch of changes in this  
3 and then the County Commissioners can still overrule it  
4 on this.

5 MR. WHITSON: That's right.

6 MR. FRAKES: They have the final say.

7 MR. BARNETT: So if the County Commissioners accept  
8 this or don't -- let's say they don't accept it, the  
9 County Commissioners do not accept this if we pass this  
10 of Steve Reardon's, then do the County Commissioners --

11 MR. WHITSON: It comes back to us.

12 MR. BARNETT: It comes back to us to rewrite?

13 MR. WHITSON: At that point it would come back to  
14 us to redo.

15 MR. BARNETT: Okay.

16 MR. WHITSON: If the County Commissioners would  
17 reject it, then it would be back to us to redo.

18 MR. BARNETT: To redo.

19 MS. EMBREY: Yes, it's right there, Jim.

20 MR. WHITSON: Any other comment on the motion, on  
21 Steve Reardon's motion?

22 MR. BARNETT: Is this what Clinton did -- Clinton  
23 County?

24 MR. REARDON: No.

25 MR. WHITSON: No.

1 MR. WHITSON: It's been done.  
2 MR. REARDON: There's 200-some-plus counties across  
3 the country that have banned wind turbines completely.  
4 MR. WHITSON: Any other comment? If not, I'll call  
5 for roll on Steve's motion for the ordinance to be an  
6 all-out ban.  
7 MS. EMBREY: Pat McLear.  
8 MR. McLEAR: No.  
9 MS. EMBREY: Alfred Purcell.  
10 MR. PURCELL: No.  
11 MS. EMBREY: Steve Reardon.  
12 MR. REARDON: Yes.  
13 MS. EMBREY: Johnaphine Fenton.  
14 MS. FENTON: I'm going to say no. But I  
15 hopefully -- I would say yes if I was sure the  
16 Commission would say forget it. So no.  
17 MS. EMBREY: Rosan Bowers.  
18 MS. BOWERS: Yes.  
19 MS. EMBREY: Wayne Dale Barnett.  
20 MR. BARNETT: Yes.  
21 MS. EMBREY: Fred Corkins.  
22 MR. CORKINS: Yes.  
23 MS. EMBREY: Scotty Paul Sharp.  
24 MR. SHARP: Yes.  
25 MS. EMBREY: Glen Frakes.

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MR. WHITSON: Okay. This is what will be sent down to the County Commission. Any other business? Do you have anything for next month or do you know yet?

MS. EMBREY: We do, March 11th.

MR. WHITSON: We'll have a meeting on March 11th then.

MS. DAY: Do we have a meeting tomorrow?

MR. WHITSON: No meeting tomorrow. Do I have a motion to adjourn?

(Motion to adjourn with second.)

MR. WHITSON: I would say until we hear from the Commission, do not get rid of your original drafts.

(Hearing is adjourned.)