

TAMA COUNTY ZONING BOARD OF ADJUSTMENT MINUTES

Tuesday June 17, 2025

MINUTES:

Board members present: Nancy Yuska, Mike Seda, Nancy Smith, John Wagner, Berleen Wobeter

Members of the public: 45 members of the public were present in the room and hallway, with 19 members of public present online via Teams.

Newspaper staff: Ruby McAllister

Attorneys and Legal Team Members present: Sarah Franklin (Dentons), Spencer Willems (Dentons), Michael Reck (Belin McCormick), Haley Hermanson (Belin McCormick), Angie Brenizer (Belin McCormick), Thomas Henderson (Whitfield Law).

Meeting was called to order at 6:00 PM by Chairman Nancy Yuska, in the Supervisor's Meeting room. Pledge of Allegiance followed.

Statement by Sheriff Casey Schmidt, requesting all who are present to remain civil during the evening's meeting.

Motion to approve agenda by Wobeter, second by Wagner. All Ayes. Motion carried.

Motion to approve November 12, 2024 Minutes by Seda, second by Smith. All Ayes. Motion carried.

Motion to approve January 6, 2025 Minutes by Wagner, second by Wobeter. All Ayes. Motion carried.

Motion to approve May 6, 2025 Minutes by Seda, second by Wagner. All Ayes. Motion carried.

Opening statement was given by Chairman Nancy Yuska, explaining the order the meeting will follow.

Attorney Reck gave his argument for allowing Tama County Supervisors to intervene in the appeal originally filed by Bev Espenscheid, opposing the building permit extensions that were granted by former Tama County Zoning Administrator Bob Vokoun. His primary argument was "the intervenor has an interest relating to the property or transaction that is the subject of the action and the outcome of the action may, as a practical matter, impair or impede the intervenor's ability to protect that interest (unless the interest is adequately represented by existing parties)", and the Tama County had a legitimate interest in this issue. He also quoted from court rulings that "Courts considering whether intervenors can continue an action or appeal once the original party withdraws 'have consistently concluded that intervenors should be allowed to proceed'" and that the Board "'should not dismiss an appeal simply because the original party appealing is unable or unwilling to proceed with the case'".

Attorney Willems gave his argument against allowing Tama County Supervisors to intervene in the appeal (representing Salt Creek Wind LLC). His primary argument was that Bev Espenscheid had already dismissed her appeal, and claimed that the Board of Adjustment lacked jurisdiction after Espenscheid had officially dropped her appeal. He claimed that the Board of Supervisors had no legal mechanism or legal means to join the appeal. He stated that the Tama County ordinances did not include a rule that allowed for intervention or joinder, and there was no precedence in Iowa cases. He stated that "the Board of Supervisors missed their window".

Chairman Yuska asked for a motion regarding the intervention and joinder request.

Motion by Wobeter “to deny the Tama County Board of Supervisor’s motion for intervention and joinder in the appeal filed by Beverly Espenscheid, for the reasons cited by Salt Creek’s legal counsel”, second by Seda. Wobeter stated “This has nothing to do with whether I approve of wind energy or disprove. It is all down to the legal question if the Board of Supervisors could have [...] filed an appeal. This is 6 months later [...] I’m a little confused by why the Board of Supervisors has come into this so late in the process.” Roll Call Votes: Seda, yes. Smith, no. Wagner, no. Wobeter, aye. Yuska, no. Board vote was 2-3, motion failed.

Motion by Wagner “to grant the Tama County Board of Supervisor’s motion for intervention and joinder in the appeal that was previously filed by Beverly Espenscheid, for all the reasons cited by the Board of Supervisor’s legal counsel”, second by Smith. No comments were voiced for discussion. Roll Call Votes: Seda, no. Smith, yes. Wagner, yes. Wobeter, no. Yuska, yes. Board vote was 3-2, motion carried.

Attorney Reck gave his opening statement in favor of revoking the Building Permit extensions that were granted to Salt Creek Wind LLC. Arguments included that deadlines matter, including the one for Salt Creek to start their project with a substantial beginning. He asks the Board how far is it reasonable for the extensions to go, as Salt Creek had previously asked for over 26 months of extensions with their previous building permits before surrendering those permits in August 2024. Sixteen days after surrendering building permits in August 2024 they applied for new building permits, and in December 2024 requested extensions through 2026. Attorney Reck also noted that the newly approved building permits differed from the approved Conditional Use Permit, although Vokoun had testified to a previous Board of Adjustment that he had referred to legal counsel for review. Attorney Reck provided a communication document that indicated that Vokoun had misrepresented facts to the Board of Adjustment at the previous meeting.

Former Tama County Zoning Administrator Bob Vokoun presented to the Board of Adjustment an explanation of his decision to grant extensions through the end of 2026. Vokoun’s demeanor appeared angry. He stated, “What I did was I followed the Code, and it’s in the letter that I presented, and that’s self-explanatory, of all the money that was involved, all the money that was invested, all the work that was done. I followed the Code.” He also noted later in his statement that “There were millions of dollars involved and I could not turn them down.” He went on in an aggressive manner with his opinions on the wind project subject, but the comments were not specifically relating to the extensions in question.

Both sides were allowed to question Vokoun after he completed his statement. Attorney Reck went first, and started by asking if Vokoun felt strongly, and if he could look at the situation impartially. He asked which lawyers Vokoun discussed with, and Vokoun could not state specific lawyer names. Attorney Reck asked about the surrendering of permits and extended history of the project prior to Vokoun issuing the replacement building permits. Attorney Reck began a line of questioning around Vokoun’s testimony at the November 12, 2024 Board of Adjustment meeting surrounding the compliance of the building permits with the original Conditional Use Permit.

Attorney Franklin interjected to bring focus back to extensions, and away from the granting of the building permits that were issued in September 2024. After discussion from both sides before the Chairman, Attorney Reck continued with video testimony of Vokoun responding to questions about his review of the Conditional Use Permits in relation to the current building permits. Attorney Reck concluded by asking Vokoun if he had gone back to the Board of Adjustment after the email communication with his attorney that the models from the Conditional Use Permit should be reviewed, to which he replied that he did not.

Attorney Franklin began her questioning of the Former Zoning Administrator by asking if he was a liar. He responded ‘no’. She asked if he was an advocate for wind projects, and he responded ‘no, not at all’. Vokoun responded “I try to be neutral on it and follow the code.” “It doesn’t matter if I don’t like something, if it’s permissible and its allowed by law, I have to approve it.” Attorney Franklin asks him to review a letter from December 6, 2024, regarding the extension

request and project schedule. She asked for his process; he says he read the letter, confirmed with the county attorney Brent Heeren, “followed procedure and went through; there were discussions between myself and Salt Creek, of course.” She asked why he granted the extension, and Vokoun referred to his letter that included “numerous reasons”, mostly including large sums of money that had been spent by Salt Creek Wind LLC. Questioning of the former Tama County Zoning Administrator concluded.

Attorney Franklin made her presentation of why the extensions were valid and should remain. She stated that the ordinances currently allow for both commercial wind development and for granting extensions. The ordinances do not include any timelines for extensions that are granted. The project timeline was submitted to the Zoning Administrator, mapping why the extensions were requested for the project.

Written comments specific to the “Building Permit Extensions” topic were read by Zoning Administrator Laura Wilson. Letter from Lori Johnson, requesting the extensions not be allowed. Letter from David Podhajsky, wishing that the extensions for Salt Creek to be extended and continue to complete the project. Letter from Chris Behrens, “There should be no extensions granted for the zoning certificates related to the erection of these turbines. The original Conditional Use Permit was issued in 2020 and is based on data and studies that are now outdated. Granting an extension to a project that has seen substantial amendments and is no longer supported by current information would undermine the intent and integrity of our zoning ordinances.”

Public Comment was allowed for 3 minutes per person. 14 members of the public stood up to comment. Richard Arp requested to revoke extensions. Jim Smith requested to revoke extension, with concerns about the lack of work so far and the state of the decommissioning contract. Kurt Boerm requested dismissal of the appeal and allowing the extensions, he claimed a conflict of interest and that many people are silent but supportive. Jim Sandquist said he thought Vokoun went through proper channels. Kimberly Dickey (Project Director of Salt Creek Wind LLC) believes the Salt Creek Wind attorneys have made all the relevant statements, and the corrected continuous-decommissioning bond has been submitted to Tama County. Denny Berger hopes the Board of Adjustment is prepared to pay Tama County taxpayers’ money and thinks they should grant the extension. Jon Winkelpack thinks they have had “more-than-ample” time for the project, extensions should be revoked, and Tama County should not be used “as a doormat” by large wind energy companies. Carolyn Adolphs agreed with Winkelpack, asked that the Board revoke the extension, and talked about Vokoun being wrong that a lot of things had changed but he still granted the extension. Janet Wilson questioned if due diligence had been done for the granting of extensions, that spending money is not the same as visibly starting to build, and requested the extensions be revoked. Keith Sash stated that landowners have the right to have the wind tower, they will be built on time. Karen Murty mentions decommissioning status and is against the extensions. Brent Wellik member of a NextEra windfarm location with turbines for 22 years, stated that allowing the extension would help the amount of income in the county. Blake Warren says the meeting was not about extensions but neighbors telling neighbors what they can do with their property and was supporting the turbine project. Barb Jordon stated her support for Bob. No comments were submitted by anyone online. Public comment closed. Total 9 comments for granting extensions or support for the project, and 8 comments for revoking extensions.

Former Tama County Zoning Administrator Bob Vokoun was allowed time for rebuttal. Claimed the Board of Adjustment had a lot of conflict of interest, and they need to be careful with their decisions.

Attorneys for Salt Creek Wind were allowed rebuttal. She asked the Board to follow the Tama County Ordinances, and she had not heard any evidence or testimony that Vokoun had made an error in granting the extensions. She asked that the Board affirm the decision that Vokoun made in granting the extensions.

Attorneys for Tama County Supervisors were allowed rebuttal. He mentioned the automatic stay that was enacted when there had been an appeal submitted to the Board of Adjustment, which he states should have halted work, followed by

the statement from Salt Creek Wind LLC that they have been doing so much work that the extensions should be granted from. He reiterated that the lawyer from the previous hearing in November stated that Vokoun should have looked at the issues and shouldn't "rubber stamp" approvals. He agrees there is nothing that says they can't grant extensions forever, "except common sense".

Motion by Seda to affirm the extensions, second by Wobeter. Seda commented that the Tama County ordinance doesn't have limits for extensions. Wobeter commented to counter Attorney Reck's argument, saying it was not compelling. Roll Call Votes: Seda, aye. Smith, no. Wagner, no. Wobeter, yes. Yuska, no. Board vote was 2-3, motion failed.

Motion by Wagner to reverse the decision of the Zoning Administrator as he exceeded his authority by granting excessive extensions of the zoning certificates. No comments were voiced for discussion. Roll Call Votes: Seda, no. Smith, yes. Wagner, yes. Wobeter, no. Yuska, yes. Board vote was 3-2, motion carried.

Per the vote of the Board of Adjustment, "the zoning administrator's decision to grant extensions in December of '24 has been reversed."

Seda moved to Adjourn, Smith second. Motion carried. Meeting adjourned at 8:03 PM.

*****PLEASE NOTE THAT VIDEO RECORDING OF THE TAMA COUNTY ZONING BOARD MEETING HELD JUNE 17, 2025 IS ALSO AVAILABLE ON THE TAMA COUNTY YOUTUBE CHANNEL*****

The official audio file is also available through the Zoning Administrator's office by request.

Respectfully Submitted,

Laura Wilson