

REGULAR MEETING OF THE LEXINGTON CITY COUNCIL**January 22, 2018****Following the Public Meeting**

The regular meeting of the Lexington City Council was called to order following the Public Meeting by Mayor Spencer Johansen in the Lexington Gymnasium.

Roll call was taken to find the following physically present: Mayor Spencer Johansen, Alderman Schreiber, Alderman Stover, Alderman Colclasure, Alderwoman Wilson, Alderman Fosen and Alderman Richard. Members of the staff present were: David Belvery, Sue Noland, Tom Shields, and Ashley Hacker. Also present were around 175 members of the public.

It was moved by Alderman Colclasure and seconded by Alderwoman Wilson to approve the minutes of the January 8, 2018 regular City Council meeting. Motion carried unanimously.

It was moved by Alderman Fosen and seconded by Alderman Stover to approve the Treasurer's Report and pay bills in the amount of \$22,724.04. Motion carried unanimously.

Public Input: None

Old Business: **Discussion of Contract with Bright Stalk that was approved in 2010:**

Mayor Johansen started the discussion stating that in October of 2010 the Lexington City Council approved an agreement with Bright Stalk that put turbines within the 1.5 mile setback of Lexington. We have a signed copy of the contract by the mayor and the Bright Stalk Company and we have been reviewing that and discussing if that is still legal. At that time, in 2010 the council did not have a public hearing and we believe that the contract is null and void.

City Attorney Tom Shields stated that he believes that the contract is null and void on one or more jurisdictions recently licensed, making this agreement that was approved by Mayor Mohr and the City Council and agree to waive the setback limitation and back in 2010 the statute that requires a public hearing with notice to the public was effective January 1, 2010. My legal position, to the contractual provision which was to allow an unlimited number of turbines within that 1.5 mile setback, that provision would be invalid. I am in discussions with EDP to see current ownership of Bright Stalk project and I take notice of the publication that occurred in Saturday's paper did not include any properties within the 1.5 mile setback. They were all well outside of that. My existing concern with the contract is that both the 1.5 mile setback isn't valid and will pretty well take a court decision to determine that. I think they will have a very difficult time trying to enforce any of that contract. That is my position.

Alderman Fosen asked do you feel that there a provision or anything in the EDP contract that is exclusive agreement between EDP contract and the City of Lexington to exclude us working with any other turbine contracts?

Attorney Shields replied to his question: I do not believe that this agreement sets out any exclusive agreement between the City of Lexington and the EDP Bright Stalk project. There is nothing in this contract that will prohibit us from approving any other turbine contracts currently with another turbines company other than Bright Stalk within the 1.5 mile setback. The enforceability of this contract will rely on enforcing the future facts, such as construction of a project, and I believe that Bright Stalk went before the McLean County Board with the application back in 2010 and that was not specifically approved. This is a secondary contract and does not come under this contract.

Alderman Fosen asked if anyone from the McLean County project for the record would state that they had seen a copy of the 2010 Bright Stalk contract.

Kevin Parzack with Invenergy stated that he has a copy of the old contract with Bright Stalk.

Mayor Johansen stated he is bothered by this contract, signed and agreed to by the council in 2010. I have provided a copy for everyone to look at and I am disappointed that this contract went thru basically giving them the green light for however many turbines they wanted to put in the 1.5 mile setback. We have been dealing with that as well as the new contract.

Consideration/vote on Proposal from Invenergy requesting permission to place **up to eighteen** wind turbines within the mile and a half setback of corporate city limits:

Mayor Johansen stated that he wanted to clarify the reason we are saying 18 turbines is that that is the number in the original contract and the number that we put on the Notice Of Public Information Meeting. Since then there has been some discussions about the growth of Lexington. We have considered those discussions, we have looked at the West side and the South side, we have looked at those 18 turbines and that is where the different numbers are coming from.

Alderman Fosen started the discussion by repeating what he said at the last council meeting on January 8, 2018, when he was acting Mayor Pro Tem. There was an informal study where several Aldermen and Alderwoman looked at the proposed 18 sited on the map within the 1.5 mile setback from city limits on the map. The purpose was to assess which ones we thought were more problematic effect relative to future ability of the city to grow or have a present livability of the residents. That was the informal study. The mayor and the city engineer participated in that study, as well. For discussion, 18 or 9, what does that mean? The 9 was sort of the genesis for approximately there were 9 farther outlying to the North to Northwest as compared to several of the other 9 that are closer to the city limits, that are closer to residences and certainly closer to growth path, which have been mentioned tonight, to the East and in terms of residential and to the West looking at that commercial zone along P J Keller Highway. That is just to explain the difference between 18 and 9.

I believe the application is still for 18, therefore if we are to satisfy our responsibility that State of Illinois has placed on us that is essentially to decide within our 1.5 mile extended border we still need to deal with 1 thru 18.

Mayor Johansen stated that we were approached by Invenergy and we are obligated by state law to respond this proposal. Illinois State Law regulates that we consider the proposal and that is the reason for this Public Hearing, and we are following the law. We cannot just say no. I know this council, they have done their homework, they have done their research to be prepared to sit up here tonight.

Alderwoman Wilson asked Superintendent Stricklin how much was owed on the school bonds.

Superintendent Stricklin answered \$5.5M

Alderwoman Wilson wanted be sure everyone was aware of the entire debt the school does carry currently. Does the State of Illinois still owe money to the school?

Superintendent Stricklin answered anything past due was forgiven and they are making current payments and moving forward.

Alderwoman Wilson wanted to make sure everyone was aware just how much the school is in debt. They have lost the Home Ec. Program, they are losing a science teacher, they are not going to have four years of competitive science for our kids to go to college.

This is my opinion, I have done a lot of homework on this. I have gone to my constituents, they aren't coming to me, I am going to them, I'm reaching out to them, asking "what are your thoughts" I may be a little different because I'm on the edge of town, where the projected growth is going to be, if you look at these, you know we would never agree to anything out in my area. Over 90% of the people I'm asking are saying "if it is for the school, I'm for the wind farms". That is what I'm hearing from my constituents.

This is how I'm gathering, making my decisions, when my oldest son was in Jr high we were told, "we can guarantee you five years of school after that, we can't". He would have been a senior. If it wasn't for the fire in Lexington at the school he would not have made it thru Lexington all four years. The school goes up and down, I know it rebounds back and forth, I hate to see us in a hole that we can't get out of. I was driving to Forrest, as soon as I got to Chenoa, all I could think of was, these children in Chenoa, for years these children 6,7,& 8th grades are riding a bus to Forrest on Route 24 45 minutes each way every day to go to school. Is that how we want our Lexington children to know what school is? I take this job very seriously and I have reached out to my constituents and I will use their opinions and my opinions to make my vote.

Alderman Fosen talked about his background very briefly. I was in a high school when it failed. I am not going to compare my high school to this school district, they are totally different. My main point is, I lived first hand and I understand what it is like and the ramifications of what the

situation of what Lexington went thru a few years ago but worse when a second referendum failed, the community had reached its breaking point and the school did fail and we consolidated. I would not say that that situation of consolidation was a disadvantage to the students, but the town is a stagnant home town and part of that because there is no high school. I only make these comments in regard to my own predisposition to consider when alternate funding sources and opportunities are considered in a rural school district, that's all. I have experiences and background that shapes my look at things. We talk a lot as to whether the school is hurting or not hurting, what the future looks like, there are many variables there, but I just have to tell everybody that in my situation there is experience there where someone is attempting to do a project, no matter what it is, and there is a significant amount of money that isn't borne on the backs of every property tax owner, I'm going to listen, I may not act on it, but I am going to listen.

Alderman Colclasure has a stack and more at home of people opposed to this project, who want me to vote no. I am going to make a motion to the council to deny any wind turbines within the 1.5 mile setback.

Alderman Colclasure made a motion to deny Invenergy any and all requests for turbines within the 1.5 mile setback within the City of Lexington. Motion was seconded by Alderman Schreiber. Motion did not carry with 2 voting yes 3 voting no and 1 abstaining.

Mayor Johansen asked Attorney Shields to explain the results of the voting

Attorney Shields stated as we do not have an ordinance that signifies what the abstention is, Robert's Rules of Order states an abstentions vote is neither counted as a yes or no vote. In order for a motion to carry, it would take four votes. We do not have a tie vote since it is 2-3 and 1 not counted. I will take the position that the vote does not carry.

Alderman Fosen asked for point of clarity what vote carries.

Attorney Shields stated 4 votes would pass a motion, abstentions do not affect the voting results.

Alderman Fosen made the motion to approve the siting of certain wind turbines within 1.5 miles of the City of Lexington Incorporated City Limits. Motion was seconded by Alderman Richard. Vote ended 3 yes 1 no and 2 abstaining calling for Mayor Johansen to cast the deciding vote making 4 yes votes. Motion carried.

Attorney Shields states 3 yes, 1 no vote and 2 abstentions in order for the motion to pass in accordance with Roberts Rules of Order and also with regards to 65-ILCS-5/5-3-5 which deals with the mayor voting, part two is when more than two aldermen vote in favor of the motion even if there is no tie, and that is the circumstance here, with a 3 against 1 with 2 abstentions.

New Business: None

Committee Reports:

Mayor's Report: The union contract for the part time police officers is up and we need to start negotiations.

Police: None

Building/Insurance: None

Finance/TIF: Wildwood Brewery has delayed their opening. The Mayor and I had a meeting with them back in November and we were expecting that he would be able to start commercial operations by January 15, 2018. We have not been able to verify that yet. We have asked the City attorney to make communication and to try to determine if he is in breach of contract of the TIF agreement of 2016. We are evaluating that to see what the situation is. He has made no contact with us at all

Water/Sewer/Sanitation: None

Street/Alley: None

There being no further business motion was made by Alderwoman Wilson to adjourn at 9:08 P.M. Motion carried by unanimous voice vote.

Respectfully submitted,

Pati Pease

City Clerk

Approved: February 12,2018

