

MINUTES-PLANNING COMMISSION/BOARD OF ADJUSTMENTS MEETING

Tuesday, June 8, 2021– 7:00 P.M. COMMISSIONERS ROOM, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MN. Due to the COVID 19 Virus, the meeting offered a call in option for board members and participants.

MEMBERS PRESENT: Louwagie, DeBaere, VanOverbeke, Meulebroeck, Olson

OTHERS PRESENT: Biren, Springstead, Graupmann, Crowley, and other members of the public

Chair Louwagie opened the meeting at 7:00 p.m.

All present recited the Pledge of Allegiance

Identified any conflicts of interest: None

AMEND/APPROVE AGENDA: Meulebroeck moved, seconded by VanOverbeke to approve the agenda as presented. All in favor, motion carried

Minutes for the May 11, 2021 meeting reviewed, Olson moved, second by Meulebroeck to approve the minutes as presented. All in favor motion carries.

**BOARD OF ADJUSTMENTS:** None

**PLANNING COMMISSION:** East River Electric Power Cooperative Conditional Use Permit – Major Essential Service

Chair Louwagie asked Biren to read the public notice,

A REQUEST HAS BEEN MADE to the Lyon County Planning and Zoning Administrator by East River Electric Power Cooperative for a Conditional Use Permit – Major Essential Service Request to install a 69KV Transmission line (T-line) in the road right-of-way. The area affected is zoned agricultural. The transmission line is proposed to be constructed through Section 7 of Nordland Township and Section 8 of Nordland Township in the road right of way along County Road 8.A Public Hearing to consider the Conditional Use Permit – Major Essential Service request will be held by the Lyon County Planning and Zoning Board in the Commissioner’s Room of the Lyon County Government Center, 607 W Main Street, Marshall, Minnesota, on Tuesday, June 8, 2021, at 7:00 p.m.

Biren explained the request as it related to the ordinance, discussed maps and location, and showed an illustration of the structures and the location within the road right of way. Biren then introduced Paul Letsche representative of East River Electric.

Letsche explained the rebuild project from Ivanhoe, Marble Substation to Ghent Substation, part of a larger project. Improve reliability and provide reliable power, read a short narrative. Explained the power line is aged and current reliability and safety are issues, looked at alternative routes.

Biren explained East River has been upgrading lines and substations throughout Lyon County. On this, project landowners found out about the project when right of way work was being performed, better if landowners are brought in from the beginning. Commissioner Crowley and Biren met with landowner and East River Staff back in October.

Louwagie, right now on these two miles there is nothing?

Letsche, there is a three phase overhead on the south side and substation of the road.

Biren showed locations on map.

Letsche, currently line is approximately mile and a half south on rough terrain.

Biren showed location on map.

Olson, Is there one building site in Lyon County this will be in front of?

Biren, Yes but to be clear there are other building on the south side.

Louwagie, how far from the house will it be

Letsche, 240 feet

VanOverbeke, how far from the center of the road?

Letsche, 48 feet, or two feet into the right of way.

Louwagie, will it be put back to original condition?

Letsche, up graded conductor, better insulator, better clearance.

Louwagie, I mean the land.

Letsche, yes it is one of the conditions of the permit.

Olson, any tile lines identified?

Letsche, landowner letters, there was a question asking if there were any tile lines

Biren, I will follow up.

(Josephson), one located ½ mile east of building site

Olson, equipment used to install poles and string wire will be in right of way?

Letsche, correct.

Louwagie, we will open for public comment.

Dr. Scott Josephson, I own the building site we are going to discuss in Section 7 Nordland Township, my family owns fifty percent of land in Lyon County, and also we own land along another route. I am sure

you have not looked at the site first hand so we will show a video of the routes because their preferred route does not mean it is the best for the community. Impacts farmland into Lincoln County as well.

With respect to zoning board, hope it is not a formality. If we offer an alternative route, we want it

considered. (Continued explanation of proposed line) Appeared decisions were made before

landowner input. At times, feel like I have been patronized. Discussed alternative route located a mile

south of proposed line. Continued discussing an alternative route Requested if granted that additions to poles are not allowed. Showed video of alternative route. (Josephson narrated video).

Louwagie, on your proposed route part of it already has a line on one side.

Josephson, right it would have to cross over once a stay on that side.

Meulebroeck, Is that road open in the winter?

Josephson, it is a minimum maintained road, road would clean whatever snow \$30-\$50 per time.

Meulebroeck, what I see is yes it could be cleaned out but time is a big issue.

Meulebroeck, County Road 8 is cleaned first

Josephson, not talking about the whole length of the road just a small section. We live there devalues property permanently.

Olson, did not take the time to measure but Xcel has a line right in front of our property, and our home is much closer, much bigger line can hear it snap and crackle, we had no say, so I understand the frustration

but I also see the concerns of the power company. I have empathy; we know your frustration I know

what you deal with. Wind towers and solar farms are bigger issue than what we deal with here, we need reliable power, my concern on alternative route, curves and repair and maintenance is concerning as

well. East River should have been ahead of this instead of being so reactionary; arguments give us good things to think about. It could be much worse.

Josephson, it will be much worse for me than it is now, it is going across my front lawn, arrogance of power company is an issue, your job is to represent the people that live there not the power company.

I have told you what I will do...what else do I need to do?

Olson, straighten the road?

Josephson, maybe we can straighten it, the ability to add another line to the poles that is arrogance of the power company.

Olson, the addition on the poles is that for balance or what?

Letsche, that is a condition we did not ask for.

Josephson, it is condition number 5.

Biren, we put together a set of conditions for the board to use as a starting point, it is not written in stone.

Josephson, advice I received, is not to allow any additional things to the pole, if they are allowed to do it, they will do it.

Louwagie, if they moved to the township road what is the setback?

Biren, 33 feet or less than from the center of the road.

Josephson, I think my proposed route is workable, (reiterates former points makes)

Meulebroeck, nobody likes power lines we all like electricity

Josephson, is this just a formality did I just waste time?

Meulebroeck, at lot of this is legislatures...

Josephson, you can deny the conditional use permit, until there is more investigation. The power company does not have to control every piece of real estate they have access to.

Louwagie, Paul what is your reason you do not want to use the alternative route.

Letsche We did review this route, operations staff operate the line, they fix things that break, they drove the route, and their comments are what was stated in my opening comments.

Josephson, Just because it is the preferred route and easiest route does not mean it is the best for the community and that is who your represent... Sure, I would like to work off a paved road but I cannot always do that, that route is not what is best for the landowners, the tax payers or the community. I don't like looking at red lights, I don't like looking at poles, I don't like looking at solar panels, so it is up to you if we have an opportunity to make some less obtrusive let's take that opportunity. We all want power there are ways to do it friendly to the community.

Josephson, where does this process go from here?

Biren, this board will make a recommendation and the recommendation will be taken to the county board for action. We have state statute regarding a 60-day rule. Action needs to be taken with that time.

Josephson, I told my siblings I may be wasting my time, it is disgusting and disturbing....Let us take it back to the community to develop a different plan, nobody is being denied electricity. This is a permanent change.

DeBaere, this is what happened in front of my house, the people that denied it got the lines on one side of the pole the people that approved it got lines on both sides of the pole.

Josephson, are you telling me this guy is in charge and there is nothing you can do?

Meulebroeck, I am not saying he is in charge, you can drive around the whole county and there is power lines everywhere, there is a solar farm out by us that no one really wanted.

Josephson, let them put it in a less intrusive place, do not punish me.

Olson, a less intrusive place would have messed up farming, and we would have to farm around the poles, and every time maintenance is done it would mess up the farmland. There is good and bad on every choice we are looking at the ordinances and looking does everything fit in with the ordinance, we take what you are saying we are using our guiding documents so it is not emotion based, we don't want to put one property owner against another, we are not ignoring what you are saying. We are guided by an ordinance, the process you hate, maybe is time you start working on the county to update ordinances.

Josephson, so you are going to grant the permit and we just wasted a bunch of time, its disappointing, I am disappointed in the process, and the power company doing what they want. I do not think just because you do not like it and you do not like it it is not a good reason... really disappointing.

Louwagie, any other public comment

Paula Sterzinger, no body wants to standup for us, who cares about our health, everything is shoved wherever, we own our land we pay the taxes we keep the weeds down who stands up for us?

Tom Sterzinger, it is not 48 feet from the right of way I have a piece of paper that tells different so that is not true either. Is Tony Engbarth your boss? That where we got the paper showing how far it was going into our property.

Letchse, No that is not my boss, he is a land agent. Are you in Lincoln County? (yes) Lincoln County allows us to place an easement on private property.

Josephson, I heard that if this is denied, it becomes punitive, and future projects will be avoided, if I was setting on this board and I had that feeling I would be furious.

Olson, where did that source come from?

Josephson, I am not going to reveal my source.

Olson, I have never heard that.

Meulebroeck, You need to go to your legislators and senators.

Josephson, than this is all a formality.

Olson, the public utilities commission has jurisdiction over certain amount and that is the line that went past our place.

Josephson, I had conversation with senators.

Olson, He (Meulebroeck) said you need to go to your commissioners, if you want change you got to start the change. You start with grass roots, start with county commissioners.

Josephson, I am not saying change the ordinance. I am saying tap the brakes on this one. I am saying you folks have not even been out there and that is why I brought the video.

DeBaere, I drove it yesterday.

Meulebroeck, I drive by your place three or four times a week. I also drive by in the winter time and look at that little minimum maintenance road thinking I am sure glad I don't have to drive on that. When the power is off and the wind is blowing I like the power to come back on.

VanOverbeke, it regrettable but you realize that it genuinely can affect people's lives. It is also like you say we are an advisory board. Gary is here he is going to get to deal with this with his comrades. We can put stipulations in that it gets a full airing prior to going before the county board. I do not like all these hog barns, I vote no, may be seen as a socialist. It goes with people working with state legislators and government what they really want, this is maybe a case where the economic interests get the trump card. There are a lot of people that wish they had property to have a power line in front of them. I have two nephew in 1997 are alive today because the power company risked their lives. I agree we do not want to complicate everything however, we could use a larger discussion, has to be a broader base discussion. People aren't interested until it's in their backyard.

Josephson, we got to remember we are not denying power to anybody, the power is already there we are just relocating. What I am asking is to look at this other route. The power company wants the easiest route. The easiest for the power company is not necessarily the best for the community.

(Repeated many points already made.)

Graupmann, I am missing some of the early context, where is the original located.

Josephson, they want it along the road to make is accessible.

Graupmann, up on 320<sup>th</sup> street are there other properties impacted?

Josephson, there is a power line there already.

Biren, When a company like East River is involved, they supply power to the local coop. In the past it has been done that one of the lines is buried or one corridor is used instead of two. It is less poles and often is considered a compromise. Lyon Lincoln made a decision that they did not want to change their current line. Included letter from Lyon Lincoln in the board packet.

Josephson, what is the cost of the project?

Letchse, I am not sure what that number would be today?

Josephson, \$100,000.00 per mile, 1 million, 2 million?

Letchse, we currently are over \$250,000 in construction costs and materials per mile.

Josephson, approx. one million extra for my way so it would be somewhat reasonable?

Letchse, to put it on the south side of the road and impact your other neighbors? Looked at the options. Have taken all your concerns back to staff, these are the responses I have gotten. Unfortunately, we have to impact someone, but we try to minimize.

Josephson, so the less impact the better?

Letchse, Operational concerns on your suggestions as well. Operations staff have reason, we access the line 10 time a year for breaker operation. Every time line breaks, we need to run the entire line every time it happens.

Josephson, how do you access the current one?

Letchse, on foot or four wheelers.

Josephson, I do not ever remember them coming through our property.

Louwagie, What does the township board say?

Biren, I did not get a township board response. I did get a few comments from other folks. Already read Lyon Lincoln Electric's response. Read written comments from Aaron VanMoer Lyon County Highway Engineer. Read letter from Kevin Josephson, Deanna Graham, Jyl Josephson.

Louwagie, anyone else have any comments

Crowley, Not sure where this is going but want to make it known to East River in the future, when you do these plans you should get the landowners involved before the plans are made. They feel like they are bullied, sending a letter for \$500.00 per easement per half mile for overhang may be insult. If someone does not give you an easement, there will not be lines on the field side?

Letchse correct

Crowley in the future better idea to get the landowners involved to discuss alternatives before you make the initial offer.

Josephson, one of the arguments the power company used was all the engineering and work was done before hand. That should not have a bearing on the decision that is their mistakes.

Louwagie close public comment move to findings of fact;

Development of Findings of Fact, utilized checklist provided.

1. Location of poles 48 feet from centerline, 69 Kv line upgrade existing line.
2. Construction situation proper retention devise, wood poles or metal poles single pole structures.
3. Constructed will be the road right of way, within right of way, and working with highway department

4. Normal business hours of operation, potential on weekends during daylight hours, dust limited, noise only during construction. Construction to take 4 -5 months. Section in Lyon County much less. Won't block the road will have traffic control.
5. Primary service feed to Lyon Lincoln, line will be built to current standards. Poles will be taller, increased capacity voltage will remain the same 69 Kv Line
6. Delivering a major essential service. Maintain a forty-foot clearance.

Josephson, placement of lines along ravine relative to road?

Discussion on powerline height per relationship to the road.

Louwagie, John do you want to read the motion.

Biren, lets read through and discuss the proposed stipulations for. Read the stipulations, eliminated #5.

Josephson, a high tensile fence was installed along the field what will the poles do.

Letchse, poles will be in the right of way, is your fence in the right of way?

Josephson, I don't know my question is will the poles damage my fence?

Letchse we can identify that

Josephson what if my fence is right on the right of way?

Letchse, we can adjust the poles on the inside of the right of way to accommodate.

Josephson, it impacts Paula too.

Josephson, can we attach electric fence to the poles.

Letchse, our policy say no, it does happen though.

Josephson, what if it is a metal post

Letchse, if it is a metal post you would not be able to it would defeat the purpose. Our official stance is we can attach anything to our poles.

Biren, showed map, fence appears to be 57 to 59 feet from right of way.

Josephson, do we have any choice to where the poles go?

Letchse, we can work with you on placement we do have to stick with a 300 feet placement.

Josephson, thanks, I hope it doesn't come to that

Paula Sterzinger, can you bury it in front of his yard?

Letchse, no we cannot bury it.

Tom Sterzinger, you can bury it, they did in Rochester that was a higher voltage line.

Letchse, not presented to me as an option due to cost.

Josephson, but it would be an option?

Tom Sterzinger, how would it be different from Lyon Lincoln burying their line?

Letchse, that wasn't presented as an option to me.

Meulebroeck moved, seconded by VanOverbeke to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit – Major Essential Service to East River Electric Power Cooperative for a Conditional Use Permit – Major Essential Service Request to install a 69KV Transmission line (T-line) in the road right-of-way. The area affected is zoned agricultural. The Transmission line is proposed to be constructed through Section 7 of Nordland Township and Section 8 of Nordland Township in the road right of way along County Road 8.

With the following stipulations:

1. Site to be inspected as needed.
2. Must submit a map indicating location, alignment of transmission lines prior to installation.

3. Any changes to the project shall be submitted to the Zoning Administrator prior to start of the project.
4. Transmission line to be installed in the right-of-way or 90 feet from the center of the road.
5. Must apply for and obtain permits from state and other appropriate agencies.
6. All drainage facilities and patterns shall be repaired to pre-construction condition as soon as possible after construction.
7. Rocks and construction debris shall be removed from each individual section of land where construction takes place within (90) working days of the commencement of major essential service construction on that individual section of land. For purposes of this subsection, working days are defined as: all days except days between November 15 and April 15 (winter), or any day when more than ½ inch of precipitation has fallen. For purposes of this subsection, section of land is defined as a numbered section as defined by the Government Land Survey, or a portion thereof.
8. Shelterbelts, windbreaks, fences and vegetation shall be restored to pre-construction condition with the following exceptions:
  - a) Shelterbelt and windbreak replacement shall be to pre-construction density and may allow for operation maintenance of essential service lines OR
  - b) Agreements between East River Electric Cooperative and Landowners regarding tree removal and/or replacement shall supersede Option a.
9. If preliminary engineering, surveys or other documentation is provided, modifications to accommodate future drainage or roadway construction activities may be required.
10. Major essential service construction activities shall be conducted in such a manner as to minimize impacts on livestock movements and access to agricultural fields.
11. Adopt Findings of Fact as part of Motion.
12. A copy of the County Board's Motion shall be filed with the County along with the route of the project.

VOTING FOR: Meulebroeck, Olson, VanOverbeke, DeBaere

OPPOSED: Louwagie

OBSTAINED: None

ABSENT: None

DATED: 6-8-2021

Josephson, passed motion without knowing elevation?

Biren, I will work with Aaron VanMoer Highway Engineer before county board meeting.

Motion to adjourn Olson, Second DeBaere all voted in favor.

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Board of Adjustments/Planning Commission  
Chair

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John Biren, Lyon County P&Z Administrator