

Village of Roberts
Special Plan Commission Meeting
Wednesday, September 7, 2022

The Village of Roberts Plan Commission meeting was called to order at 6:04 pm by Moeri.

Proper notification was placed in the designated locations.

Present: Steve Melby (phone), Katy Kapaun, Willard Moeri, Helen Kusilek, Cheryl Johnson, Patty Johnson

Absent: Jerry Weiss,

Guest: see sign in sheet

Review Public Hearing questions/answers regarding Nature Energy.

Nick Vivian discussed the public hearing meeting and they did their best to answer every question that was asked. They updated the Environmental Study and digestate summary after the public hearing. Vivian brought subject matter experts to help answer questions and provide as much information as they can so that you can hear it directly from the source and experts. The Conditional Use Permit and height approvals are only the start of the approval process. There are 24 or 25 conditions that we have been working on as well as more permits and requirements that we will need to work thru.

Moeri asked the Plan Commission if they had any questions. Kapaun started the questions with significant concerns about being in the wellhead protection area. How did we get this far with our ordinance actually prohibiting this? Kapaun said we talked about a lot of assurances and this is great but once we know there is a problem it is there and we have to deal with it. Kapaun is hearing so many people express positive comments about the project but maybe this is not the right location for it. Vivian appreciates this comment and this is the number one priority. The Village has a wellhead protection ordinance that provides for permitted uses in the wellhead area. May request additional land uses and this right to request this in the wellhead protection area. There are 22 prohibited uses but doesn't know if these fit the project perfectly. Overall project is that there is not a prohibited use that perfectly fits what they are doing with the way you are constructing this plant. This means they get to have the conversation and the Village Board gets to decide if they operate in the wellhead protection area. The Industrial Park in this area sits almost entirely in the wellhead protection area. The ordinance gives the opportunity for the conversation. Kapaun asked if there has been specific conversation in a wellhead protection area. Mark contacted the DNR regarding this to find out current data and age data on wells. Wells have nitrates in them now and are coming from ag areas. Wellheads are oversimplified. If there was a spill in this area it probably wouldn't impact our wells but impact wells down further. Goodwin said there are two parts to this. One is the legal piece of it and is modeled after the DNR ordinance. Was the DNR asked if this facility was one of the prohibited items. Goodwin also stated that she has had someone at Ayres review this and that he does not feel that the facility poses a significant risk because of the leak

containment, monitoring systems proposed, treating it, etc. Goodwin asked how much risk is there and are you comfortable with accepting this risk. Vivian said they would not ask the DNR this question because it is a Village ordinance. This is left to the Village consultants to go thru this. Mahler added that clearly the protection of the groundwater is part of our function. The ordinance does allow some flexibility to permit this and it is an ask. The commission and board need to be comfortable that the way the facility is built and how the conditions are written that the village and residents are protected. Moeri said that we want to do something that is right and do good by the community. Everyone gives up their time to make a decision on the projects that are put in front of them. Nature Energy is a good company with good credentials. There will be growth that will be coming and eventually we need to accept this. It won't stop at Hudson and we are next.

Patty Johnson asked about how this looks visually. She cannot visually imagine the 85-foot silos that will be there. Could there be better pictures in 3D that could be done? Looking at truck traffic and reading that there was a 1% increase is hard to understand what this means because we don't know what the number is now. Have to rely on the professionals because we don't know all this information. How much more is 90 trucks compared to what is there. What are we doing to our view. Katelyn responded to the renderings and the two updated images. Patty asked where is it compared to the tree tops. As far as traffic, attachment 7 this was done by Swing. Patty does not understand the numbers in the packets. Figure 5 – look at 2009, 2015 & 2018 and applied a 1% increase to these numbers. These are the anticipated traffic counts that will naturally happen. Figure 7 includes traffic counts if the project is done and the impact on the various roadways. Cheryl Johnson asked if there is a closure plan in the developer's agreement if one is needed? Developer's agreement will include the improvements that need to be made, monitoring security, and closure. There is a section specifically to closure in the environmental summary. State of WI has statutes for how this happens. Expect that this is not going to happen but will address in section 1.10 in environmental summary page 11. Moeri said that the developer's agreement is the most important document with the company and land owners. This will spell everything out for what we want to happen. C. Johnson also asked that you provided the maximum amount of material the system could handle but what is the minimum amount to be operatable? Jesper said this is a difficult question to answer because of what is coming in. Suspect the number to be 60% of the number but it is somewhere in this range. Difficult number at this point because Dean Doornick is working to secure farmers and acreage to this facility. On the other hand, what are the percentages of inputs there is a threshold. There must be some idea based on what happens in Denmark. Jesper said they have not had issues filling the locations in Denmark. The price to transport (cost) and other figures come into this. What they see in Denmark the farmers get out and contact them to get into our company and have a waiting list. The heights are a typical question that they are seeing with the views. Typical that there is a concern about this.

Patty Johnson asked about the comment about CO2 maybe being captured or not being captured. Jesper said when producing green gas one of the byproducts is CO2 it would make sense to capture it. They are looking to capture this and sell it to one of the main feed stock suppliers and they will put it back to their plant to use for rendering the birds, etc. if not, available they will release it but they are not adding CO2 because it is already there.

Cheryl Johnson asked about the PILOT on where we are at or what this will encompass to the Village of Roberts? Vivian said a payment in lieu of taxes will pay property taxes on the land but the facility is tax exempt on buildings and equipment. Nature Energy has proposed a voluntary payment to the Village. Real estate tax is split between the other entities and 100% of this payment will go to the Village. They are working on the appropriate number and expect it to be significant or more than a recently valued business. They understand that we have infrastructure needs and this will be negotiated with the Village Board. This property is located in a TID district. A developer might come in and ask for support for public improvement. Nature energy is not asking for any money from the Village. Improvements will need to be made to 130th Street and they will be responsible for making these improvements. There is no subsidy being asked for and they are willing to pay tax and want to pay tax based on an agreement. Patty Johnson is bothered by the schools not getting money as part of this project. Vivian said any company coming in proposing to install an energy system would not be paying tax on building and equipment so the school would not see these. Nature Energy has a long history of working with the schools in terms of programing, etc. From a financial aspect, they are not losing money from this project or change the structure. Nature Energy also has plans with working with the schools on local scholarships in the future. Internships to partner with the local schools. Also are very pro-education at Nature Energy.

It would be easier if we had a facility across the road or down the road that we could look at but we don't have it here. How do they overcome the questions that everyone has about these facilities? Don't want to lose out on something that could be good for the community but at the same time don't want to condemn it.

If there is a leak and chemicals go down the well who is responsible for the cleanup. Vivian said that this would be part of the Nature Energy and the conditions that we impose on the project. Mahler added that the idea is to construct so there is not a problem but the ordinance specially requires that there is financial security maintained long-term for the village to fall back on to correct the problem.

Patty Johnson has a question on how the process works with the boards. The Plan Board makes a recommendation to the Village Board and they make a decision. Paul said one of the key parts is the development agreement because we need the input from this body and conditions for the conditional use permit. One of the conditions is the developer's agreement and this will be finalized once the input from the board comes along.

Melby commented that he agrees with Katy and maybe this is not the right spot for it. The public hearing was clear that residents did not want it and for it are the farmers.

Mahler said that we are at the point now that if the commission is comfortable making a decision or ask for more information but the process needs to be moved along. Cheryl Johnson asked what this means. Mahler said recommending to the board to approve with conditions or if you don't think that is possible then you recommend denial based on it being in the well head protection area. Conditions do not need to be decided tonight this is just a recommendation. This is one of the requirements that needs to be met for the project to continue.

Discussion/recommendation for Wellhead Protection for Nature Energy.

Motion to deny Nature Energy's application due to its location in our Wellhead Protection area by Kapaun, seconded by Kusilek. Roll call: Kusilek -yes, Kapaun – yes, C. Johnson – no, P. Johnson – no, Melby – yes, Moeri – no. Vote ends in a tie.

Typically, what will happen is if the Commission cannot make a decision it should go to the board with no recommendation

Motion to pass this to the full Village Board for action by Kapaun, seconded by Kusilek. Roll call: Melby – yes, Kusilek – yes, Kapaun – yes, Moeri – yes, C. Johnson – yes, P. Johnson – yes. Motion carried.

Discussion/recommendation for height exception needed for Nature Energy.

Height exception and the way the zoning code for this district states that this building can be 35 feet high but higher could be higher with board approval. Goodwin said that the ordinance was increased from 35 to 60 feet last year with an ordinance change and Nature Energy is asking for 85 feet for the structures and 197 feet for the smoke stack. This is also a discretionary ask with decision by the Village Board.

Goodwin went thru her memo with the Plan Commission. Development is consistent with other properties in Industrial Park. The Comprehensive Plan and the future land use plans have the property to the South designated as medium density residential and is the compatible with what is planned. Goodwin had a question regarding the facilities in Denmark and the location to housing. In the google map that was sent over and reviewed it looks like none of these are in a municipal area or municipal residential area. There were two that came up in municipalities but it looks like they were office buildings. Do you have facilities that are directly in a municipality and directly by a residential area? Vivian said no but there are a handful within a mile or so. Two comments on the look and feel questions. The Comp Plan only land in the village right now is the industrial park. The land being discussed in the town and that is what the plan guides you for. This is being reviewed now and pointed out the comp plan is important and should look at the timeline to be there. This property is in the industrial park. Understand that this is a little different with look and fee. Bill Derrick to develop the rest of this property in the future.

Kapaun asked for discussion. Is anyone feeling any different with the agenda items? If we are moving one on, should they all be moved forward without recommendation? It is going to come down to the Village Board approval anyway, why not let them decide? Motion that the Plan Commission not make a recommendation and pass to the Village Board by Kapaun, seconded by C. Johnson. Motion carried. Roll call: Melby – no, Kusilek – no, Kapaun – yes, Moeri – yes, C. Johnson – yes, P. Johnson – yes. Motion carried.

Discussion/review of vision triangle for the railroad and Nature Energy.

Vision triangle for the rail road refer to trees and vegetation. If you look at the current intersection that is there this has not been enforced. Does not state that a building cannot be in the vision triangle. Vivian added that they understand the statute and by state law they will keep the vision triangle clean and comply with the statute with the best of their ability.

Discussion/recommendation of water system impact for Nature Energy.

Goodwin discussed her memo. Nature Energy is a high-water user but low discharge user. Correction to calculation on residential units not 70 gallons per person per day but 40 gallons per person per day. These figures are adjusted. There previous was xx per year and this is a pretty significant water use expected to be 12,000,000 per year or 33,000 per day or the equivalent of 306 residential units coming on board and pretty high impact on water supply. Well capacity can serve 740 residential units. There have been a number of other projects approved totaling 185 residential units and getting down to around 200 residential units that you could still serve before you need that third well to keep up with the needs. There should be a looped water main to serve this site so that there is available water for fire protection. This has been built, approved and budgeted maybe in all three TID districts. This has been planned and this needs to be considered and significant dollars that need to be put in and coordinated with the opening. Water tower provides for fire protection and we should have a second tower at 3,500 gpm for two hours. The usage for Nature Energy has big water impacts to the Village. When we implemented a growth management plan and was adopted the eye was more towards sewer capacity and this definitely expedites the need to our water system. The expenses for this could come from impact fees, loans with the TID paying it back or the PILOT money if that is enough. Melby asked if we move this, we are also recommending a new water tower or can we legally get by without fire protection? We are already below standard for insurance rating. By having a lower rating, we are paying more for insurance. Moeri added that any substantial growth of any type is going to require some type of water tower addition. We have made it work but not a long-range plan that we haven't looked at. Kapaun asked if we can in good conscious approve this without that other tower because of the risk of this type of facility? Goodwin's recommendation would be to construct the looped water main and water tower concurrent with Nature Energy. This would also include securing the site for a third well. Where would the third well be located? No sighting has been done on this yet. Targeting to be a second 600 per minute well. The water towers would need some separation between them and has been discussed to have a site South of TT.

Motion to move on to the Village Board without recommendation by C. Johnson, seconded by Kapaun. Roll call: Melby – no, Kusilek – no, Kapaun – yes, Moeri – yes, C. Johnson – yes, P. Johnson – yes. Motion carried.

Discussion/review of the Conditional Use Permit conditions for Nature Energy.

Mahler discussed the final item being the conditional use conditions. If you are comfortable doing this tonight, we can review to add to the conditions. They have to relate to the project,

mitigate potential negative impacts to the project, defined and measured not just ambiguous thoughts. Kapaun would like time to review this. This is an important document and would guide the project. Vivian pointed out that if the board recommends a list of conditions and Nature Energy agrees to abide by those then the conditional use permit would be granted and the project would move forward. If the Village Board is going to deny based on the items moving forward then we could not get to the conditional use conditions. This could be tabled so that the Plan Commission has time to review conditions in it

Motion to table the Conditional Use Permit conditions for Nature Energy until it is decided they are needed by Kapaun, seconded by C. Johnson. Roll call: Melby – yes, Kusilek – yes, Kapaun – yes, Moeri – yes, C. Johnson – yes, P. Johnson – yes. Motion carried.

Motion to adjourn at 7:48 PM by C. Johnson, seconded by P. Johnson. Roll call: Melby – yes, Kusilek – yes, Kapaun – yes, Moeri – yes, C. Johnson – yes, P. Johnson – yes. Motion carried

Megan Dull
Village Clerk