

Residents considering lawsuit

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DEKALB -- A group of about three dozen residents likely will file a lawsuit in appeal of the county board's decision to grant a permit to an energy company to build a wind farm in the county, an attorney representing the group said Thursday.

"I view it as highly likely we will be appealing," Rick Porter, an attorney for the anti-wind farm group Citizens for Open Government, said early Thursday afternoon.

The county board approved the special-use permit Wednesday. Porter said his clients have 90 days to appeal the county board's decision, adding he "would not be surprised to see an appeal much before the 90 days."

Mel Hass, chairman of Citizens for Open Government, said a group of county residents opposed to the wind farm planned to meet Thursday evening to assess their options. He anticipated the group, comprised of 35-40 residents, would make a decision in the next couple of days. As of 9:15 p.m. the group was still meeting, and Hass said they were still discussing options.

"We've got to test the waters to see if our group and others who might want to jump on board are willing to put together the time, energy and resources into it," Hass said.

Financing is one concern, Hass said, but the group also feels they have a strong case based on the county's zoning regulations.

The group met the day after the DeKalb County Board voted 16-4 to grant permission to NextEra Energy Resources to build and operate 119 turbines in Afton, Clinton, Milan and Shabbona townships. The vote came after two public hearings in which more than 26 hours of testimony was taken.

NextEra, a subsidiary of Florida Power & Light, has proposed a total of 151 turbines for the project that straddles two counties. Of those, 119 are in unincorporated DeKalb County. Other turbines are proposed for Lee County and the village of Shabbona, both of which have approved them, and for the village of Lee, which is scheduled to act on the proposal in July.

The Citizens for Open Government have a number of objections, Porter said. They say a wind turbine plant is not one of the approved special uses in the county's zoning ordinance for agricultural land. Among the listed uses are animal shelters, churches, gun clubs and landscaping businesses, according to the ordinance.

But DeKalb County Planner Paul Miller said NextEra contended – and the county board agreed – that the project fell under a listed special use for essential service structures.

Listed as letter “M” under “Special Land Uses and Developments” in the zoning ordinance, it defines essential service structures as including but not limited to “any new rights-of-way across farm land, telephone exchange or repeater buildings and towers, electrical station and substation buildings, gas regulator stations and regulator buildings as well as other structures and buildings related to essential or public services.”

Another objection, Porter said, is that the project is too widespread. The wind farm could have been confined to a smaller acreage of land in the county. Instead, “this particular proposal spans out into the community much like the spokes of a misshapen wheel,” he said.

NextEra hopes to start the project before the end of the month, NextEra Project Manager Anthony Pedroni said after Wednesday’s meeting. Asked whether litigation may delay the project, he said that with 145 turbines now permitted, the company plans to keep on schedule.

It’s not like the turbines will be up in a few days, Miller said. Each turbine will require a building permit, he said. NextEra still has to get site development permits for grading, drainage and storm water management, Miller said.

The company has to meet the 36 conditions tied to the approved permit, Miller said, and also has to finalize agreements about maintenance of roads with county and township officials.

“There are a lot of details to work out in terms of the permitting process, the construction process,” Miller said. “This is a big project.”