



CITY OF NORMAN, OK
FLOODPLAIN PERMIT COMMITTEE MEETING
Development Center, Conference Room B, 225 N. Webster Avenue,
Norman, OK 73069
Monday, July 17, 2023 at 3:30 PM

MINUTES

ROLL CALL

The meeting was called to order by Mr. Shawn O'Leary at 3:30 p.m. Roll was called and 6 members were present, one was absent. Mr. Scott Sturtz was absent. Others in attendance included, Jason Murphy, Stormwater Program Manager; Todd McLellan, Development Engineer; Amy Shepard, Staff; Kim Freeman, Staff; Kim Austin, NextEra Energy Transmission Southwest, LLC (NEET Southwest); Megan C., BMed; Mark Banner, Hall Estill; Gunner Joyce, Rieger Law Group; Libby Smith, Rieger Law Group; Nick Fuhr, NextEra Energy Transmission Southwest, LLC (NEET Southwest); Chris Lira, Resident; Leo Calvert, Resident; Paul Snow, Resident; Don Wilkerson, Resident; Lynn Wilkerson, Resident; Shyla Slay, Resident; Charla Bird, Resident; Inger Giuffrida, Resident; Bob Crumrine, Resident; G. Ben, Resident.

MINUTES

1. Approval of minutes from the June 20, 2023 meeting

Mr. O'Leary called for a motion to approve the minutes from the meeting of June 20, 2023. Ms. Stansel asked for a correction to page 1 specifying the location as 60th Ave NW. The motion was made by Ken Danner and seconded by Bill Scanlon. The minutes were approved 6-0.

ACTION ITEMS

2. Floodplain Permit No. 675

Mr. O'Leary said this Application is for the proposed installation of an electric transmission line across Norman through the Canadian River, Ten-Mile Flat Creek, and Little River Floodplains. Mr. O'Leary asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant is NextEra Energy Transmission Southwest and the Engineer is Burns and McDonnell Engineering Company. Mr. Murphy said the application is for proposed construction of an overhead electric transmission line. The proposed alignment will begin at the west boundary of the City limit (approx. 0.45 miles south of W. Robinson St.) and extend to the north boundary of the City limit (approx. 0.15 miles east of 48th Ave. NE). A total of 35 overhead electric transmission line pole structures are proposed to be constructed in the Special Flood Hazard Areas (SFHA) of Norman. Structure foundations for the transmission poles are engineered based on the size of the structure and soil conditions encountered. In addition to the pole structure installation, tree clearing within the 150-foot right-of-way along with temporary access road construction consisting of drives and crushed rock access roads or installation of crane mats will be performed. Sediment controls will be installed as needed.

Mr. Murphy said typical poles will be spun concrete or steel monopoles approximately four feet in diameter at ground level. Two of the poles will be in the regulatory floodway of the Canadian River and the other 33 poles will be in the floodplains of Ten-Mile Flat Creek and the Little

River and its Tributaries. Hydraulic analyses using HEC-RAS modeling was submitted by the Applicant for each of the locations. For the 2 poles in the Canadian River floodway report from February 28, 2023, it was determined that no rise in the BFE would occur. The hydraulic analysis report for the remaining 33 poles was submitted in the HEC-RAS model floodplain analysis report dated April 21, 2023. Of these, 17 are in the Ten-Mile Flat Creek floodplain and will cause no rise in the BFE. The remaining 16 are in the Little River floodplain or its tributaries. 2 of the poles in the Little River floodplain will cause a rise of 0.01 feet in the BFE according to the applicant's report, the rest will cause no rise.

Mr. Murphy said the Applicant included in their application a chart indicating a minimum volume of material to be removed from each pole location in the various floodplains in order to meet the compensatory storage requirement of the Flood Hazard Ordinance. Spoils from excavation and compensatory storage creation will be removed from the floodplain and spread in upland areas outside of the floodplain. Some of the installation locations in this application are themselves outside of the regulatory floodplain, but the access and tree clearing to reach the site require crossing the floodplain.

Mr. Murphy said the Applicant has indicated that tree clearing will take place prior to construction to create temporary access roads. Where conditions allow, overland travel will be utilized with no grading or road construction. If temporary construction of access roads or improvements to existing roads are needed within floodplains, crane mats will be temporarily placed on the access roads. Air-bridges will be constructed where underground pipelines are crossed by access roads. The Applicant has also indicated that sediment controls will be installed during construction. Any temporary crane mats that are utilized will be removed following construction. Access roads will be removed and reclaimed, if necessary, to original contours. The Applicant has also indicated that revegetation will occur where appropriate.

Mr. Murphy reviewed plans and aerial maps of the project locations provided to members in their packets.

Mr. Murphy confirmed all ordinance requirements have been met and said staff recommends Floodplain Permit Application No. 675 be approved.

Mr. O'Leary asked for comments or additions from the Applicant. Hearing none, Mr. O'Leary asked for any comments from the public. Mr. Crumrine, resident, has 2 properties close to the line and asked for clarification on the location of the line on the Little River. Mr. Crumrine also asked for a copy of the packet presented by Mr. Murphy. Mr. Murphy offered his business card with his contact information.

Ms. Giuffrida, resident, expressed concern about homeowners being unaware of how they are affected and adequate notification. Ms. Giuffrida asked for a pause on the application for the public to be duly informed. Ms. Giuffrida also expressed concern regarding the runoff and environmental impact to Lake Thunderbird. Additionally, Ms. Giuffrida expressed concern for the impact to migratory birds.

Mr. Lira, resident, is currently in litigation with NextEra and asked for the committee to consider postponing the application to prevent NextEra from entering his property prior to the merits of his case being heard.

Mr. Wilkerson, resident, expressed concern with changing the elevation and how that will affect the drainage. Mr. Wilkerson also expressed concern if the Little River floods and if the poles were to fall, having live wires in the water. Additionally, Mr. Wilkerson expressed concern

about the integrity of NextEra due to a subpoena for eminent domain and requesting underground mineral rights.

Mr. Snow, resident, expressed concern with erosion of the river due to tree clearing. Mr. Snow also expressed concern with lack of notification. Additionally, Mr. Snow expressed concern with the negative impact on the agriculture, animals and his children.

Ms. Wilkerson, resident, asked why the utility easement isn't being utilized. Ms. Wilkerson, expressed concern with receiving a one-time payment for the easement purchase.

Ms. Giuffrida, expressed concern again about the timeline of the notification to the property owners. Ms. Giuffrida asked if the Applicant has consulted any Eagle Aviaries or tribal nations regarding eagle impacts. Ms. Austin, with NextEra Energy Transmission Southwest, LLC (NEET Southwest), responded that a number of studies have been done on the project and they have a tribal relations team who engages with the tribes and she is unable to respond to tribal relations questions but offered to follow up with team members. Ms. Austin spoke about the environmental studies completed to satisfy the need for federal, state and local permits. Ms. Giuffrida encouraged Ms. Austin to consult with the Eagle Aviaries. Mr. Crumrine, indicated he had 2 eagles and babies in eyesight of his acreage. Mr. Snow also indicated they have eagles, falcons, hawks, owls and cranes that live in the trees that would be impacted.

Mr. Wilkerson said he hopes the City will start looking out for the citizens as he stands to lose almost everything between this and the turnpike. Mr. Snow asked why the applicant isn't using an existing easement and if the power lines already in the area could be utilized.

Mr. O'Leary brought the discussion back to the committee. Mr. O'Leary reminded the committee of their role pertaining to the floodplain ordinance. Mr. Wilkerson expressed concern with building a road, even temporary, would impact his property. Ms. Hoggatt asked about the use of the easements acquired from property owners and Mr. O'Leary directed the question to the Applicant and the impact to the land within the floodplain. Ms. Austin responded that all of the impacts associated with this project are temporary impacts except for the poles. Ms. Austin also responded the poles have gone through a number of floodplain studies and engineers have looked at the area and completed the analysis to satisfy floodplain regulations for stabilizing and revegetating the land.

Ms. Stansel inquired if the homeowners would have another meeting prior to approval. Mr. O'Leary responded there have been multiple meetings with City Council regarding easements and access. Mr. O'Leary asked the NextEra representatives who regulates this project from an energy standpoint. Mr. Banner, Hall Estill, responded there have been several meetings and items under consideration with City Council. Mr. Banner said this project is a result of analysis for energy needs in the area from the Southwest Power Pool and could result in lower energy costs for residents. Mr. Banner said the project was advertised by the Southwest Power Pool and NextEra bid on that project. Ms. Stansel expressed her concern for the residents affected by this project and their route to express their concerns. Mr. O'Leary said he believes the Oklahoma Corporation Commission would be the regulatory agency at the state level.

Mr. O'Leary said the majority of the overhead power lines would be located on private property, which is why NextEra is requesting easements from property owners. Mr. O'Leary said as far as he is aware the city or state do not have any regulatory authority over land acquisition or easement agreements on private property. The process is a negotiation between the company and the landowner. Ms. Stansel expressed concern for the residents in attendance who said they are already in lawsuits with the applicant.

Mr. Scanlon said the application answers the technical requirements and inquired about other considerations in the floodplain ordinance. Mr. Scanlon said the committee is allowed to weigh other considerations and he hears lots of unanswered questions that fall into the scope of the other considerations. Mr. Scanlon said he is not prepared to support the application and would like answers to the questions that came up during the meeting. Ms. Stansel inquired who would be responsible if there is flooding in these areas and Mr. O'Leary confirmed it's the landowner's responsibility. Ms. Austin said within a NextEra easement, they are responsible for the operation and maintenance of the easement. Ms. Austin said it is NextEra's intent to disturb the minimum area possible.

Ms. Stansel asked if any City bridges are impacted by the project. Mr. O'Leary responded that a thorough evaluation has already been done for any road or bridge impacted by the project as part of the Road Use Agreement already authorized by the City Council to protect the integrity of our road system.

Mr. Scanlon asked for a start date and period of performance for the project. Mr. Fuhr, NextEra Energy Transmission Southwest, LLC (NEET Southwest), responded the construction date is set for November 15, 2023 through July of 2024. Mr. Danner inquired if the dates are subject to easement negotiations and Mr. Fuhr confirmed. Ms. Scanlon asked the dates are for Norman construction only and Mr. Fuhr responded the dates are for the entirety of the project.

Mr. Danner inquired about the width of the easement. Mr. Fuhr responded the easement is 150 ft. Mr. Danner also inquired about the area parallel with and north of Franklin Rd and near 48th Ave. if any of the easement acquired is in the statutory right of way or future City right of way. Mr. Fuhr responded they would need to review in detail and get back to Mr. Danner. Mr. Danner said he is inquiring related to a proposed future development in the area.

Ms. Hoggatt inquired about how a change in elevation would impact the lake and the effect on possible flooding. Mr. Murphy referred to the packet and the data submitted. Mr. Murphy said after careful review the application meets the requirements and the hydraulic analysis appear to be sound. Mr. O'Leary confirmed with Mr. Murphy that our review of the application is more on the permanent structures. Mr. Murphy said the permit includes locations for the disruption of the floodplain for temporary access for installation of the poles. Mr. Murphy said the Canadian River has a wide floodplain and the impact on the BFE is very minimal.

Ms. Hudson asked about the concerns related to the access road for the project. Mr. Wilkerson confirmed a road is being proposed gate to gate and the area would need to be raised because the ground is too soft to drive on between 36th and 48th. Ms. Austin responded in cases where the ground is soft, temporary mats would be used and they pay attention to the weather and know their responsibilities while they are out there during construction. Mr. Wilkerson expressed concern about drainage in the area during and after construction due to the fragility of the area. Ms. Hoggatt asked for the applicant's definition of a temporary road. Ms. Austin responded once the poles are in the ground, they will restore everything to the same condition including removing temporary access. Ms. Hudson inquired if temporary access is needed in the future, would a new permit be required. Mr. Murphy responded that a permit is good for 2 years and anything outside of that would require a new Floodplain permit.

Ms. Hoggatt asked if Stormwater permits had been issued for the project. Mr. Murphy confirmed the packet includes Earth Change Permits from the City of Norman and Department of Environmental Quality. Mr. Murphy said the Stormwater Pollution Prevention Plan was reviewed and accepted. Mr. O'Leary confirmed Stormwater Quality division administered the

permit. Ms. Hoggatt inquired if there are issues could Stormwater Quality be contacted and Mr. Murphy confirmed.

Ms. Stansel asked if Mr. Danner's questions had been satisfied. Mr. Danner said his questions are related to a proposed development in the area not regarding the floodplain permit. Ms. Stansel inquired if this permit would be sent to the Planning Commission and Mr. O'Leary responded it would not because there are no other City actions pending.

Mr. Danner inquired if there are any proposed underground utility burials and Mr. Fuhr confirmed it is only above ground poles. Mr. Scanlon inquired about utility lines and pipelines and how that will be mitigated. Mr. Fuhr responded they have conducted multiple utility surveys throughout the project to identify pipelines and overhead and underground utilities and currently finalizing crossing agreements with different entities and working with the owners to make sure they are mitigating per their requirements.

Mr. O'Leary called for a motion or further questions. Mr. Danner motioned to approve Floodplain Application No. 675 on the condition the Applicant acquires all easements according to the route contained in the application. Ms. Hudson seconded the motion. Ms. Hoggatt inquired about the length of the permit, Mr. O'Leary confirmed it's for 2 years. Mr. Murphy confirmed the Applicant must provide proof of all easements acquired prior to the permit being issued. Ms. Stansel inquired about the notification of the Floodplain Permit Committee Meeting to the property owners. Mr. Murphy responded the Floodplain notices were mailed more than a month prior to the meeting. Ms. Stansel asked how many requests for the packet and information about this application were received. Mr. Murphy responded he did not receive any requests for the meeting packet prior to the meeting.

Ms. Stansel said she still had concerns about the application due to the comments from homeowners. The committee discussed the section of the Floodplain Ordinance where other considerations can be cited for health and safety concerns. Mr. O'Leary encouraged the committee to make sure when applying other considerations that they are specifically related to the floodplain. Mr. O'Leary clarified this vote requires supermajority 5 out of 7. Mr. Danner inquired if the permit is not approved, and the Applicant wants to pursue an appeal, where it would go. Ms. Hudson confirmed any appeals from the Floodplain Committee decision by any person can be taken to the Board of Adjustment. Ms. Stansel said at least two members of the Board of Adjustment must be trained on floodplain regulations to hear the appeal and asked if that was available. Ms. Hudson said she believed there are two members trained but would verify. The committee voted to approve the application 4-2; however the motion failed because a super majority of the votes were not received. Mr. O'Leary advised the Applicant of the appeal process if they choose to appeal. Ms. Hudson said the process for Board of Adjustment will include notification of all property owners within 300 feet of the proposed location.

ADJOURNMENT

Mr. O'Leary called for a motion to adjourn. Mr. Danner motioned to adjourn and was seconded by Ms. Hoggatt. The motion was approved 6-0. The meeting adjourned at 4:31 p.m.

Passed and approved this _____ day of _____, 2023

City of Norman Floodplain Administrator, Shawn O'Leary