

County Commissioners' passage of new ordinance may affect biomass plant plans

Written by Marty Randall

Wednesday, 01 September 2010 00:00 - Last Updated Tuesday, 14 September 2010 10:48

A new ordinance passed by Scott County Commissioners Bob Tobias, Larry Blevins and Mark Hays at their meeting on Tuesday evening, September 7, requires plants involved in "...biomass combustion..." to obtain a license.

The document explains in detail what would be required in the application for such a license, leaving the final decision in the hands of the Commissioners.

Since the ordinance states that it goes into effect immediately upon passage, the new county law became effective September 7, thus affecting the firm behind the push to build and operate a biomass plant in Scottsburg.

The document describes those industries needing the new license as "...any person, partnership, company, association, corporation, limited liability company, limited liability partnership or any other entity that takes action anywhere in the County that causes, creates, results or is reasonably expected to result in (i) the generation, use or discharge of more than 100,000 gallons of water or wastewater in any 24-hour period (such action shall hereinafter be referred to as "Large Volume Water Use"); or (ii) the combustion of wood, wood products, vegetative matter, carbon-based material, agricultural crops or wastes, municipal wastes or biomass to generate electricity (such action shall hereinafter be referred to as "Biomass Combustion")..."

The newly-established license must be obtained from the County prior to the company "...engaging in any Large Volume Water Use or Biomass Combustion..." the ordinance relates. The license is required for "...integrated operations of more than one Person that has the cumulative or aggregate impact of resulting in Large Volume Water Use."

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The ordinance also advises what a firm must do to obtain the license.

First, the company must submit all required and applicable land use approvals and permits. That requirement could prove to be a stumbling block for Liberty Green Renewables Indiana L.L.C., the company wanting to build a biomass plant within Scottsburg's southernmost city limits. Currently, Liberty Green is suing the Scott County Area Plan Commission (APC) because the APC refused to approve a new or altered Development Plan in July. According to the new county ordinance, if Liberty Green cannot provide all documents regarding its proposed site necessary to obtain the new license, the license may not be issued.

Additionally, the applicant must submit the name of each owner of at least five percent (of the entity applying for the license); the principle address of each; contact information for each owner; a detailed description of "...the action, conduct and operations that will result in a Large Volume Water Use or Biomass Combustion...; a detailed description of how the conduct associated with Large Volume Water Use or Biomass Combustion will benefit residents of the County and why it is in the best interests of the County to grant a License"; legal description of all property involved; and a copy of all required and applicable state and federal permits.

The application fee for the license is set at \$5,000. It must be accompanied by "...an agreement (i) indemnifying and holding the County Commissioners harmless for any actions taken by the Board of Commissioners or any other County official with regards to the application, License or any other matter related thereto; and (ii) acknowledging that the decision of the Board of Commissioners as to the application is final and waiving any right to challenge the decision."

Another section of the new ordinance requires the company applying for such a license to file a total of five studies, each "...performed by an independent third party expert acceptable to the Board of Commissioners..." One study must demonstrate "...the environmental impacts of the business operations to be conducted....including but not limited to impacts on air and groundwater in the County..." One of the studies would estimate the impact on public byways (highways and roads).

Another study would cover the "...impact of the business operations to be conducted..." and those operations' effect on the county's natural resources and ecosystem, including indigenous plants and animals.

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A fourth would address effects of the plant on the county's recreation and tourism; the fifth required would address the impact on business.

A licensed, professional engineer must prepare a detailed drainage plan, including an analysis of impact on floodplains and special flood hazard areas, fish and wildlife in receiving streams and rivers, flora and fauna along said waterways and any impact to downstream property owners.

The document also requires applicants to submit any additional information requested by the Board of Commissioners determined "...necessary to evaluate impacts on resources or the safety and welfare of residents of the County."

After submission of all studies and documents requested, Commissioners may appoint a committee to evaluate the application and all of the information received. That committee will have up to 120 days to review the material and make its recommendation on the license. However, the Board of County Commissioners may, at their discretion, consider the application without submitting it to such a committee.

If Commissioners or their appointed committee determine an application is not complete, the applicant is allowed 60 additional days to submit what information or documentation deemed necessary or respond with requested additional information. Failure to respond within the 60-day period provided would allow the appointed committee to complete its review and make a recommendation or Commissioners to proceed with a hearing.

Once the recommendation of the committee is received, Commissioners will set a public hearing, publishing a legal notice advertising the hearing 30 days prior to the hearing's date.

At that public hearing, Commissioners will take comments from "...all interested persons affected by the proposed business operations..." At the conclusion of the hearing, Commissioners can approve or reject the application. If the application is rejected, the applicant will be able to file another application after a year has passed.

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The ordinance does contain a clause that states it may be amended at any time.

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