# Marshall County Zoning Commission Meeting 10/30/2026 Minutes

**Meeting type:** Conditional Use Permit request and Renewable Energy Ordinance work session
**Date:** Friday, October 30, 2026
**Location:** Meeting Room 1, Marshall County Courthouse, also streamed online
**Prepared from:** Video transcript of meeting

## Attendees

- Bill Hobson, Zoning Commission Chair
- Pat VonAhnen, Zoning Commission
- William Wears, Zoning Commission
- Tyler Kelley, Zoning Administrator
- Bill Delo, applicant representative (appeared online on behalf of Lumen, referred to as "L3" in the recording)
- Emily Herring, Conservation Director (joined partway through the work session)
- A Board of Supervisors member (addressed as "Christian")
- Roger Lutes, Local Farmer
- Neighboring property owners and other members of the public

**Note on attribution:** The transcript does not label speakers. Statements are attributed by name only where the speaker identified themselves or the role is clear (Mr. Kelley as Zoning Administrator, Mr. Delo as applicant, Ms. Herring as Conservation Director). All other remarks are recorded as commission or public discussion.

## 1. Call to Order

The Chair called the meeting to order at 9:00 am. The Chair read the standard public notice on public comment procedure.

## 2. Approval of Agenda

- **Motion:** Approve the agenda. Moved and seconded.
- **Vote:** Voice vote, all in favor. Motion carried.

## 3. Approval of Minutes

- **Motion:** Approve the October 20, 2026 meeting minutes as written. Moved and seconded.
- **Vote:** Voice vote, all in favor. Motion carried.

## 4. Conditional Use Permit Request 2026-CUP-6039

**Applicant:** Bill Delo, on behalf of the legal owners of the property **Parcel:** 8318-16-200-004 (A1 Agricultural, accessed from Iowa Avenue) **Request:** Conditional use permit in an A1 zone for an unmanned telecommunications facility of six modular fiber huts with backup generators.

## Staff Report (Zoning Administrator)

- The item was tabled from the October 20, 2026 meeting. Since then, the applicant submitted a revised site plan and comments, which were forwarded to the commission.
- The use is a special permitted use in an A1 zone, similar to an electric utility. It would not be allowed in R1 or R2 zones.

## Applicant Presentation (revised site plan)

- A tree screen would be planted along the western property line, between the site and the adjacent residence, for visual and noise screening. No tree removal is proposed.
- Both huts previously proposed for the northwest corner were moved to the east side of the site. The southeast huts were reorganized so the generators sit in the far southeast corner, as far from residences to the west as possible.
- Fencing would enclose the huts and generators, covering about 60% of the width of the parcel. The remaining area inside the fence would be gravel. The land outside the fence would likely be put in prairie grass.
- Site selection: Lumen and its property consultant reviewed more than 20 properties. This site was chosen for its proximity to the fiber line along Iowa Avenue and a willing owner able to carve out a suitably sized parcel (typically 2 to 3 acres).
- Noise: with all six generators running, about 59 dB at roughly 200 ft (about the western property line), comparable to normal conversation. The air conditioning units are about 43 dB at the western property line.
- Generator testing: about 10 to 15 minutes per month during weekday business hours, plus about 10 to 15 minutes annually for additional maintenance. The estimated total is 135 to 195 minutes (about 2 to 3 hours) per year.
- All improvements would be within the 2.12-acre parcel, served by one driveway off Iowa Avenue. The huts are prefabricated modular units set on concrete pads.
- A finished-grade or grading plan is not available at this stage. Lumen typically produces one at the construction drawing stage.
- Purpose: the facility maintains data and internet signal speed along the fiber cable.

## Commission and Public Discussion

- **Notification:** Some neighbors said they received a letter late or not at all. Staff explained that letters go to owners within 1,000 ft of the project property line, and that two letters were sent (for the October 20 and October 30 meetings). After comparing locations on a map, staff indicated the notice radius explained why some had not received letters.
- **Topography and drainage:** Commissioners and neighbors noted the site slopes substantially from west to east, with a waterway or ravine near the proposed southeast generators. They expected considerable dirt work and asked for a finished-grade plan. A downstream neighbor to the north raised concerns about erosion and runoff through a culvert and said he would involve the Iowa DNR.
- **Staff response on grading:** The county ordinance does not require a grading plan for ZC recommendation for a utility site as this project is described. Erosion and soil loss are regulated through Iowa DNR including permits and complaints, and through NRCS if the land is in a conservation program. Road culverts fall under the county engineer.

- **Future expansion:** Any new parcel split would need to meet the 25-acre minimum or obtain a variance. The existing parcel appears to be an established parcel from before 1997. Once the applicant owns the parcel, additional units within it would be at the owner's discretion.
- **Alternative location:** A commissioner and a neighbor suggested moving the site farther east, onto a flatter commercial area near US 30. The applicant was not familiar with that property.
- **Public concerns:** The facility provides little economic benefit or employment, and the trees would take 15 or more years to provide effective sound screening. Speakers asked that the applicant locate elsewhere.
- **Commissioner views:** One member felt the applicant had addressed last month's questions. Another still had concerns about the dirt work and waterway. The Chair noted that a unanimous vote sends a message, but the commission chose to express its concerns in the motion.

### Action

- **Motion:** Recommend approval to the Board of Adjustment, with reservations about the dirt work. Moved and seconded.
- **Vote:** Voice vote, 2 in favor, Hobson and VonAhnen, 1 opposed Wears. Motion carried.
- **Next steps:** The item goes to the Board of Adjustment and then the Board of Supervisors, each with a public comment opportunity. No Board of Adjustment date is set yet. Owners within 1,000 ft will be notified by mail, and agendas will be posted on the county website (Agenda Center) and in the Times Republican. A zoning commission member also asked for confirmation that the new tree planting would be placed outside the existing trees.

## 5. Renewable Energy Ordinance Work Session

The Chair stated no public comment would be sought during this session, and that listening sessions would be held at later meetings. The commission and Zoning Administrator reviewed the draft ordinance page by page against comments received.

### Discussion and Outcomes

**1. Setbacks from non-participating landowners and other properties (page 12)**

- The draft proposes 2.2 times total turbine height for non-participating landowners, public parks and public buildings. The county attorney suggested identifying an acceptable range (1.1 to 2.2). Mr. Kelley noted other counties generally use 1.5 or above. Members were comfortable with 2.2.
- Measurement point (property line versus inhabitable structure) was discussed. Members leaned toward property lines as cleaner, with concerns about large landowners.
- Outcome: Mr. Kelley will create a setback table covering setbacks from the property lines of non-participating landowners, public parks and city limit lines. The two-mile river setback will be separated from the 2.2-times-height language.

**2. Setbacks from county conservation areas and the scoring matrix**

- The two-mile setback figure has not been decided. The Conservation Director is developing a matrix to score the county's 38 conservation areas (endangered species, recreational value, income, investment) so waivers can be justified consistently. Her board must review it, and no

timeline was given. She has contacted about 20 other directors and is working with an engineering firm. Story County's similar effort took two years.

- Several members said two miles from parks is too far and raised property rights concerns. One member suggested one mile. A map showing 2-mile buffers around conservation areas, towns and the floodplain showed a large share of the county affected.
- Outcome: No decision. The matrix is needed before the setback can be set. Conservation's role will be a recommendation, not an approval (see item 4).

**3. Setbacks from cities**

- One mile from incorporated areas was described as standard. Members did not support reducing it. The county attorney was unsure whether the county could reduce a city's setback by agreement with a municipality.
- Outcome: Keep one mile. Mr. Kelley will ask the county attorney whether a variance or agreement with a city is possible.

**4. Conservation Board role**

- Only the Board of Adjustment and Board of Supervisors have approval authority under Iowa code. The Conservation Board's role will be changed to recommendation.
- Outcome: Revise wording to “recommendation.”

**5. Floodplain, river corridor and eagles**

- The draft combines a floodplain exclusion and a separate two-mile setback from the Iowa River bottom, intended to protect eagle nests. Iowa DNR previously published guidance of two to five miles from active eagle nests but has removed it. Current practice relies on federal minimums.
- GIS staff said “Iowa River bottom” cannot be mapped. The FEMA Special Flood Hazard Area can.
- Outcome: Define floodplain using the FEMA Special Flood Hazard Area and keep eagle protection separate, tied to required wildlife studies.

**6. Wildlife and bat issues (page 22)**

- Kelley will spell out U.S. Fish and Wildlife Service requirements and Iowa DNR recommendations. Baseline avian and bat studies within the project boundary and a two-mile perimeter will remain. Post-construction monitoring of three years was seen across ordinances.
- Ms. Herring reported that mitigation properties must be held 30 years. Marshall County has two (an approximately 480-acre conservation easement and an approximately 200-acre privately held site), and mitigation space is running low. Conservation completed acoustic bat surveys in about six parks, with calls being certified by a biologist and a public presentation planned for January.
- Bat deterrence technology and curtailment were discussed, with reported mortality reductions around 60%. A member wants it required. Others raised cost concerns. Ms. Herring will share information from Iowa State and an industry council.

**7. Grading plan (page 12)**

- The county has no standard form. Mr. Kelley will draft a standard grading plan form using common developer requirements, with a preconstruction and post construction comparison.

**8. Signal interference (13J)**

- Keep a complaint process without detailing FCC or FAA rules. The developer must work with the FCC or FAA to resolve interference and report the repair to the Zoning Administrator.

**9. Aircraft detection lighting**

- The county cannot require what the FAA must approve. Outcome: "required if applicable," with prior FAA approval. Members noted it is cheaper to install at initial construction than to retrofit.

**10. Road use agreement (page 14)**

- Prepare a standard form agreement with the County Engineer. The 130% cost assumption is outdated. A third-party engineer will estimate costs, paid for by the developer, and costs will be tied to a cost-of-living index. Temporary corner extensions may be kept as county improvements if the county engineer agrees.

**11. Decommissioning and financial security (pages 17-18)**

- Cost estimates by an independent third party, re-estimated every 10 years with an annual index adjustment (draft had 5 years).
- "Timely manner" for funding is replaced with specific dates. Consensus: 25% before ground disturbance and 100% by the five-year mark. Security remains in place if the project is sold.
- Transfer of ownership: notify the county within 60 days after transfer.

**12. Debris, best practices and emergency response (pages 19-23)**

- Add "contamination" to the minimum soil disturbance practices. The emergency response plan will be developed with Marshall County Emergency Management and local first responders, and debris cleanup funds will follow the decommissioning security. Developers have been known to provide funds and training to volunteer fire departments to satisfy emergency response concerns.

**13. Agricultural impact and baseline soil survey (pages 19-21)**

- Invenergy objected to the soil survey as burdensome. Members and a farmer considered the draft protocol excessive.
- Outcome: Require submission of the most recent soil survey for the property (farmers commonly grid sample) at the time of the conditional use permit. The decommissioning survey would repeat the same data points through a certified soil lab.

**14. Met towers and utility-scale solar**

- Not reached. Scheduled for the next work session.

## Decisions and Consensus

- Keep 2.2 times turbine height for non-participating landowners and create a setback table.
- Keep a one-mile city setback; the conservation setback remains undecided.
- Define floodplain by the FEMA Special Flood Hazard Area and separate eagle protection.
- Change the Conservation Board and Zoning Commission role to recommendation.

- Require aircraft detection lighting if applicable.
- Use a standard road use agreement with third-party cost estimates tied to an index.
- Decommissioning: 10-year re-estimate with annual index adjustment, 25% security up front and 100% by year five, 60-day notice of transfer.
- Replace the detailed soil protocol with submission of the latest soil survey.

## Action Items

| Owner | Action |
|---|---|
| Tyler Kelley | Revise the draft for the items above (setback table, floodplain definition, recommendation language, lighting, road use, decommissioning, soil survey, emergency response, 60-day transfer notice) |
| Tyler Kelley | Spell out U.S. Fish and Wildlife requirements and Iowa DNR recommendations; draft standard grading plan and road use forms |
| Tyler Kelley | Ask the county attorney about waivers or agreements for city setbacks; follow up with the county engineer on road cost estimates |
| Tyler Kelley | Begin the Board of Adjustment scoring matrix; send updated draft pages to the commission before the next meeting |
| Emily Herring | Complete the Conservation matrix; share information on bat deterrence technology |
| Zoning Administrator | Schedule the Board of Adjustment hearing for 2026-CUP-6039 and mail notices to owners within 1,000 ft |
| Commission | Review updated draft pages before the next work session |

## Open Questions

- Whether and at what distance a buffer around conservation areas will be adopted, and when the matrix will be ready.
- Whether a county variance or agreement can reduce a city's setback.
- How project boundaries will be defined and where early submittals fit in the timeline.

## Next Meeting

A follow-up renewable energy work session is scheduled for Friday, November 13, 2026, at 10:00 a.m. (expected to run until about noon). Topics include meteorological towers and utility-scale solar, with an update from the Zoning Administrator. Per the 10/20 minutes, data center ordinance work session meeting is scheduled for November 30th, 2026 at 9:00 am.

## Adjournment

- **Motion:** Adjourn. Moved and seconded.
- **Vote:** Voice vote, all in favor. Meeting adjourned.

**Minutes submitted by:** Tyler Kelley 11/3/2026 **Approved:** _____