

Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

October 3, 2023

CHERRY COUNTY COURTHOUSE MEETING ROOM

The meeting was called to order at 4:30 PM CT by Chairman Duane Kime in the advertised location of the Cherry County Courthouse Meeting Room.

Roll call was taken. The following members were present: Dave Rogers, Marla Shelbourn, Wade Andrews, Michael McLeod, Duane Kime, Sherri Bacon, Gary Swanson, John Lee, and Albert Ericksen. Absent was none. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

The Open Meetings Act was noted as was the public notice in the Valentine Midland News pertaining to this meeting.

Approval of Minutes

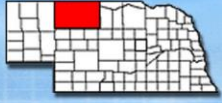
Sherri B. made a motion to approve the minutes from the August 15, 2023 meeting. Wade A. seconded the motion. Roll call vote was taken. Dave R.-Yes, Marla S.-Abstain, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Sherri B.-Yes, Gary S.-Yes, John L.-Yes, and Albert E.-Yes. Motion carried 8-1 with abstention.

Communications:

Zoning Administrator Coyle asked if any members would like to attend the NPZA Fall ZOOM Conference. Sherri B. and Marla S. both wanted to be registered.

Public Hearing

Chairman Kime opened public hearing on CUP#004/23 Bow & Arrow Ranch LLC to establish a Conservation Easement to preserve the natural and agricultural values of the ranch at 4:37 PM CT. Chairman Kime asked Preston Smith of Wildwood to speak on behalf of the application explaining the reasoning for the easement. Preston stated that the reason for the easement is to help the Nebraska Department of Transportation (NDOT) with projects where there's the American Burying Beetle. Chairman Kime then opened it up to the public to comment. Mark Kovar spoke as a representative of NDOT and stated that if there's no conservation bank then they would have to take land to complete projects, plus turned in written testimony. Carolyn Semin spoke with questions about perpetuity, NE Land Trust Agreement, consequences of property selling, and grantee must be on the insurance. Tanya Storer spoke on the conflict it has with Cherry County Land Use Plan, conservation purpose takes precedence over other uses, it would create a single use, and can reduce assessed values affecting the economic base in Cherry County. Preston Smith was then asked to address the concerns of the public. Duane K. asked the applicant what the difference in this application to previous and why the fact of it helping NDOT is not in the application. Gary S. asked who can purchase the credits created by the easement with Preston stating anyone can purchase. Albert E. asked who the purchasers are and NDOT is the only one as of now. Sherri B. asked why the Conservation Bank Agreement wasn't included with the application and applicant is going to provide to Zoning Administrator. Sherri B. asked why the goals in the documents conflict and what takes



Cherry County Planning and Zoning Minutes



precedence. Marla S. stated she'd like to see the Conservation Bank Agreement as well and that she thinks the land as managed now is the benchmark. Wade A. asked who the primary holder was and it's Nebraska Land Trust. There was further discussion amongst the board about the American Burying Beetle, projects involved, and IRS deductions, and if applicant was willing to participate. Chairman Kime closed the public hearing at 4:25 pm.

Chairman Kime asked if the public hearing were properly advertised, and Zoning Administrator replied yes.

Chairman Kime asked Zoning Administrator if CUP#004/23 Bow & Arrow Ranch LLC to establish a Conservation Easement to preserve the natural and agricultural values of the ranch application is complete. The Zoning administrator stated yes, the application was complete but there's no regulations for Administrator to review against.

Chairman Kime asked for disclosure of any conflicts of interest on CUP#004/23 Bow & Arrow Ranch LLC to establish a Conservation Easement to preserve the natural and agricultural values of the ranch from the board. No board members disclosed any conflicts.

Chairman Kime asked for any disclosure of ex-parte communications by any member on CUP#004/23 Bow & Arrow Ranch LLC to establish a Conservation Easement to preserve the natural and agricultural values of the ranch. No members had any communications.

Discuss/Act on CUP#004/23 Bow & Arrow Ranch LLC to establish a Conservation Easement to preserve the natural and agricultural values of the ranch

Marla said she'd like to see the Conservation Bank Agreement before deciding.

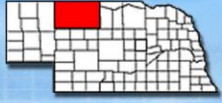
Albert E. made a motion to table a decision of CUP#004/23 Bow & Arrow Ranch LLC to establish a Conservation Easement to preserve the natural and agricultural values of the ranch. Marla S. seconded the motion. Roll call vote was taken. Marla S.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Sherri B.-Yes, Gary S.-Yes, John L.-Yes, Albert E.-Yes, and Dave R.-No. Motion carried 8-1.

During public comment various members of the public spoke and items from Carolyn Semin and Anne Warren were turned in.

New Business:

Discuss Open Houses and Comprehensive Plan Update

Duane K. stated he attended 3 of the open houses and felt they were good with the biggest concern in wind energy. Sherri B. attended 3 as well. Discussion amongst the board members with the concerns brought up during the open houses.



Cherry County Planning and Zoning Minutes



Set Meeting Date and Time

The board set a date of November 7 at 4:30 PM CT for the next meeting in the Cherry County Courthouse Meeting Room.

Old Business:

None

Reports and Recommendations

None

Excused Absence:

None

Chairman Kime adjourned the meeting at 6:02 PM CT.

Jessica Coyle

Zoning Administrator

Amended to add a written statement provided by Marla S. approved on November 7, 2023 with an 8-0 vote.

Addition to October 3, 2023 Planning Commission Meeting Minutes

Marla S. reviewed the documents the zoning administrator attached to the Bow and Arrow Ranch LLC CUP application #004/23, which included the April 13, 2021 Cherry County Commissioners minutes, the 30X30 Resolution #04-13-2021-01 dated April 13, 2021, and the Cherry County Natural Resource and Management Plan for Federal and State Managed Lands-2004. Marla felt the majority of the findings of fact recorded in the attached April 13, 2021 Cherry County Commissioners meeting minutes were not valid and gave specific reasons for each of her concerns. She also outlined why she felt the CUP application met the requirements of the 30X30 Resolution, and explained why the Cherry County Natural Resource and Management Plan for Federal and State Managed Lands does not apply to privately owned land.