

Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

February 21, 2017

APPROVED

Cherry County Court House Meeting Room

The meeting was called to order at 4:05 P.M., CST, by Vice-Chairman Herb Pabst. Roll call was taken. The following members were in attendance: Rob lee, Gary Swanson, Herb Pabst, Lynell Stillwell, Todd Mathis, and Albert Erickson. Also present was Cherry County Zoning Administrator, Joel Mundorf, and several guests.

The Open Meetings law posted in the meeting room was noted. Minutes from the January 3, 2017 meeting were read. Gary moved to accept the minutes as read. Todd seconded the motion. All members voted to approve.

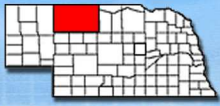
Communications: Gary announced that the NPZA Planning Conference will be held in Kearney on March 8-10. He recommended to members and guests that sessions would be informative and valuable for networking. Anyone can attend.

The previously scheduled Planning Commission meeting set for February 7th was not held due to conflicting ads in the newspaper. Also, the previously scheduled Public Hearing for the Verizon CUP application was rescheduled for March because the Verizon representative could not be present for this meeting.

In regard to the County Commissioners' request that we confer with area fire chiefs: Rob contacted Terry Engel, Todd Rothleutner, and Craig O'Keefe. They would be willing to answer questions at a future meeting. It was suggested that Rob also speak with Shane Keller of Purdum. The firemen's annual mutual aid meeting will be held later this spring, at which time all could be contacted. Planning Commission's questions will be concerning what requirements, if any, are needed in our regulations relating to WECS. This decision should be made by the area fire departments.

Old Business: Gary talked with Betty in the County Assessor's office about the effect of wind turbines on property valuation. The County will be doing a full-fledged assessment in O'Neill in March. He was assured that they would know something about valuation in that area in April. The assessor's office provided a study completed in 2013, prepared for the Office of Energy Efficiency and Renewable Energy Wind and Water Power Technologies Office, U.S. Department of Energy, by authors Hoen, Brown, Jackson, Wisner, Thayer, and Cappers of the Berkeley National laboratory, which revealed very little evidence of wind turbines affecting home sales.

Also, in the interest of the discussion, Gary referred to the Nebraskaland Magazine, of November 2016. An article featuring a UNL study conducted by Professor Powell and graduate students focused on the effects of wind turbines on prairie chickens. Sound was measured around the WECS to complete the study, and Gary thought this data should be of interest to us. Possibly Professor Powell and the students would answer some questions for us.



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Gary purchased a decimeter, a basic hands-on way to become familiar with the process of measuring sound.

A review of the Lancaster County Health Department Recommendations revealed that very little conclusive evidence exists on the potential health risks of wind turbine sound; however, their recommendations were to require a reduction of dBA (sound decibels) in their regulations. Sound decibels, setbacks, and attention to precise wording of existing regulations will be considered as we draw closer to our assigned work on this project.

New Business: Election of 2017 officers. Rob nominated Jim Buer as chairman. Gary seconded the nomination. Roll call vote showed all in favor.

Herb Pabst was nominated as Vice-Chairman by Gary Swanson. Rob seconded. Roll call vote: Rob, yes; Todd, yes; Albert, yes; Herb, no (with grin); Lynell, yes; Gary, yes.

Rob nominated Lynell as secretary, to substitute in taking minutes in the absence of an appointed recorder. Albert seconded the motion. Roll call vote showed all in favor.

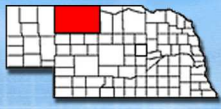
The next meeting was set for March 7, 2017 at 4:00 P.M., CST, with Public Hearing for Verizon CUP 01-17 to follow at 4:30 P.M.

Gary moved that the absences of Coby Billings, Jim Buer, and John Wheeler be excused. Rob seconded. All voted in favor.

The meeting was adjourned by vice-chairman, Herb Pabst, at 5:07 P.M., CST.

Lynell Stillwell, Secretary

Guests included: Merrial Rhoades, Twyla Witt, Ann Warren, Carolyn Semin, Bree DeNaeyer, Jim Herrmann, Gail Herrmann, and Gary Garvin.



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CHERRY COUNTY PLANNING COMMISSION MINUTES

MARCH 7, 2017

Cherry County Court House Meeting Room

The meeting was called to order at 4:01 PM CST, by Chairman Jim Buer. Roll call was taken. The following members were in attendance: Jim Buer, Gary Swanson, Herb Pabst, Albert Ericksen and Lynell Stillwell. Also present was Cherry County Zoning Administrator, Joel Mundorf, Ann Krueger, recorder of the minutes, and several guests.

Not present: Todd Mathis, Coby Billings, John Wheeler and Rob Lee.

The Open Meeting Law posted in the meeting room was noted. Minutes from the February 21, 2017 meeting were read. Herb Pabst moved to accept the minutes as read. Albert seconded the motion. All members voted to approve.

Communications: The planning commission review a letter from Verizon Wireless, proposing a new tower. Jeffrey Skinner, a representative for Verizon was in attendance. He addressed some comments and concerns from guests about why towers are set up a certain way. Mr. Skinner mentioned it is common in large cities for several carries to stack on the same pole, but in this instance, that is not a possibility due to network needs. He also mentioned transmitters must operate under a license spectrum.

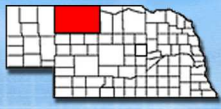
Old Business: Updates on wind research: Gary Swanson handed out packets of literatures, including a grouse study. First pages are a study by university, paid for by Game Fish and Wildlife. The study talks about setbacks of towers, the effects of sound and mentioned a 1 ¼ mile setback. The packet discusses safety. Mr. Swanson wrote down issues and possible resolutions for the Wind Turbine issue on a whiteboard to illustrate the major concerns of the wind turbine project that have been presented to the commission. There is space left for additions, should anyone wish to add more.

Issues and Possible Resolutions:

1. Viewscape - Possible resolution – a certain mile setback
2. Health Issues – noise and flicker. Possible resolution - 2 mile setback. Section 17 which is already in the code. (Commissioner request)
3. Fire threat - fire appraisal (Commissioner request)
4. Wildlife – Game and Parks, and US Fish and Wildlife appraisals
5. Property Valuation - mentioned Berkeley study (Commissioner request)
6. Powerline Trespass – Require voluntary easement
7. Property Rights – Certain # of mileage setback
8. Decommission – resolution to be determined.

This whiteboard will be left for the Commissioners to review at their meeting.

Guests commented with their thoughts. Jim Ducey mentioned adding a separate section specifically for habitat. Wildlife perhaps doesn't cover enough. Carolyn Semin mentioned that studies need to be commissioned privately and not by the Wind Energy committee, to avoid conflicts of interest and biased results. However, it needs to be paid for by the wind company and not by the taxpayers, and done by a private company.



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Jeffrey Skinner mentioned that as part of Verizon Wireless's requirements, they have to file with Fish and Wildlife and find any restrictions such as for species like whooping cranes, and that it is best to get those studies done to protect habitat.

Carolyn Semin mentioned a study that Fish and Wildlife has done for Cherry County and presented concerns about who is paying for this study. Robert Harms at Fish and Wildlife is the contact.

Mr. Ducey mentioned that zoning regulations should have to go through the Army Corp of Engineers for issues like watersheds.

Gary asked Albert his thoughts on the Berkeley Study – he said his thoughts were that it would be interesting to see over long term what the effects are. The study concludes that wind turbines do not greatly affect non-participating people's property, and Albert is not sure he is in agreement.

Herb didn't get all the way through the study but said there was a factor that could cause problems for landowners who may want to sell their land. He was concerned about secret agreements that may be in effect that no one knows about. Hidden clauses with developers would influence land values.

Due diligence done in a significant manner should avoid these issues, mentioned guest John Hansen. Having been involved in hundreds of acres of land, there is much due diligence that needs to be done. They have to put an encumbrance on the property that is the landowner's issue. It's not just buying a "pig in a poke".

Conclusion of Berkeley study was that there wasn't much impact in the end. But Gary mentioned that was just one study. Gary mentioned to look at the booklet, make notes and form opinions.

A guest mentioned that she would like email or physical addresses to all of the planning committee. Gary Swanson said he wasn't computer savvy and would prefer hard copy. Some updates were made to email addresses on file.

Regular meeting closed at 4:30 PM CT to open Public Hearing.

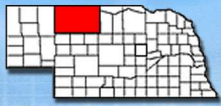
Public Hearings: Public Hearing for CUP 01-17 – Verizon Tower, Crookston Area was opened at 4:30 PM CT.

Jeffery Skinner, a representative for Verizon Wireless, was present. He's been working for Verizon in this current position for 15 years.

Guest John Hansen, adjacent landowner to the north of the tower, is a recent property owner and purchased his property after the tower sight was proposed. He mentioned he has no problem with a tower going in. It's a necessity for public safety, community, and for his business personally. His only proposal is a slight shift of the location due to viewscape from his home. Scott Jackson is another adjacent landowner that would be in agreement with him for the shift in the tower's location. He wants to reduce, not eliminate the visual clutter. A shift of the tower 500 - 600 yards to the west would be ideal to reduce the impact on the horizon.

Mr. Skinner mentioned that they did several studies to minimize interference and selected sight to meet county's code and the property owner's concern. After going through the initial process, they selected their location based on the landowner's use (buffalo). His concern was how far they went back into the property in case the buffalo interfered with any Verizon agent. Verizon filed their location with FAA, FCC, the state, historical society and several other agencies. They have already sought approval and had an independent 3rd party submit their studies. While a shift is feasible, it is very burdensome, costly and most likely wouldn't be considered at this time.

There would be a fence around the tower. Viaero microwaves their signal, and Verizon buries their own fiber network, which is on the county road. There is a stoop light inside the tower area, and it is gated at the road for additional security. A Radio Frequency (RF) engineer has provided Mr. Skinner with a tower height to tie into their existing network.



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up and down Highway 20. Anything under 195 feet doesn't need to be lit, but this tower would be above that. With lightning rod, the tower would be 298 feet, self-supported.

Jim Ducey asked if he could speak – he had a handout which he distributed to committee members and guests. Mr. Ducey went on to FAA website to see when applicant got approval. He had questions because the approval for locating a tower was given to Alltel Communications, NEO2 Crookston site. He wasn't clear if Verizon had necessary FAA approval. He also brought up that Cherry County Zoning Regulation 612-03 states that no proposed tower shall be located within 5 miles without approval of Cherry County Board of Commissioners. He asked why Verizon couldn't co-sight the antennae. He also mentioned the letter from the Verizon Wireless RF Engineer wasn't made public, was undated and didn't give many people time to review before the public hearing.

Mr. Skinner mentioned that large corporations have different operating names, so back when Alltel was purchased 12 years ago, it was purchased by Verizon. While the application was filed by Alltel, they operate under the name of Verizon, so it is all under the same umbrella company. Gary mentioned that the 5 mile rule can be taken into consideration by the Planning Commission, as the is a Planning Commission a recommending body. It does ultimately have to be approved by the Commissioners.

Mr. Skinner answered the questions as to why this tower is needed and cannot be co-sighted with Viaero's tower. Verizon has an 80% market share in Nebraska, so the data packet needs are higher, which are not met by the Viaero tower. The digital signal needs are greater than what is currently there.

Part of the Cherry County Zoning Ordinance requires adjacent property owners to be contacted within 10 days of the public hearing. The Zoning Commission contacted the owners within those regulations and within the necessary time.

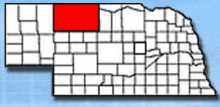
Carolyn Semin asked in the future if just one tower could be used instead of five separate for each carrier. Mr. Skinner mentioned in the metro markets that yes, that is definitely possible and has been done. At the time the carriers started putting up towers, there were no regulations set on where towers should be placed. At this point in the build out of the tower sites, carriers are now going back to fill in holes. Most of the holes that remain are the rural areas. Rural areas usually don't have enough cell reception to make it profitable to developers. The Telecomm Act of 1996 required carriers to go to a digital frequency block, which required more tower sites and allowed the signal to open up for data. Carriers need to have antenna roughly every .5 mile in metro areas in order for their signals to work, citing Lincoln and Omaha for instance. The Crookston tower would be manufactured to hold additional applicants to share the signal. Verizon has their own department that processes nothing by COLO applications. US Cellular and Verizon cooperate quite a bit.

John Hansen asked about the Viaero tower and piggybacking off their tower – Mr. Skinner mentioned that the antenna is the limiting factor and the 2-mile difference is too big of a gap to bridge. The data capabilities are not big enough with the Viaero site and it will not do what Verizon is wanting it to do. Mr. Skinner mentioned that there are more users that would be trying to access the data so there is a need for a larger tower than the one Viaero currently has set up. On a side note, Verizon is looking at co-locating with the US Cellular tower in Merriman in the future, which would reduce the need for another tower to be constructed.

Chairman Buer asked if there were any other comments. Carolyn Semin asked why there is a 5 mile restriction in the Cherry County Zoning Regulations. Mr. Skinner's guess is that at some point in time the county put that rule into the ordinance when it was suitable for the time, but has since become outdated.

Gary Swanson mentioned that as far as concerns go with the 5 mile regulations that the commissioners will ultimately have to decide whether to approve the application or not, and the planning commission will only recommend one way or the other.

The Public Hearing was closed at 5:07 PM CT and the regular meeting was reopened.



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New Business:

Lynell Stillwell made a motion to approve the application for CUP 01-17, pending the Commissioner's approval of proximity within the 5 mile distance of another tower, as stated in Section 612.03 of the regulations.

Herb Pabst seconded the motion.

Roll call vote was taken and vote showed all in favor.

The guests mentioned a tentative agenda that has been previously proposed allowing for a public comment period and asked if that be shown in public agenda. Herb said it is in the communications section, as you must submit what you'll be talking about prior to the meeting. The guests mentioned that apart from the public hearing, they would like to comment period in the regular zoning meeting, possible at the conclusion of the meeting. Herb said if it's an issue you want brought before the committee, it must be presented for the agenda, but Lynell mentioned that the comment portion can be flexible.

The guests were concerned with finding dates for changes to the Zoning Regulations. Herb and Joel Mundorf stated that every time a Zoning Regulation is changed, there is a public hearing. Jim Ducey suggested that updated regulations should be put on the web along with old regulations to compare, and guests agreed the minutes should be archived.

Reports and Recommendations: Chairman Buer recommended that during Communications, offer time for public comment, as well as offer time at end in case anything comes up.

A guest asked if anyone has gone to State Zoning and Planning Commission Meetings, as there is one that starts tomorrow in Kearney. Herb Pabst, Gary Swanson and Joel Mundorf have gone the State meetings, and Joel is attended this year's meeting.

Gary said homework for the group is to read the grouse study and Berkeley study, and make notes.

Herb Pabst made a motion to excuse Todd Mathis, Coby Billings, John Wheeler and Rob Lee. Gary Swanson seconded. Roll call vote taken with all in favor.

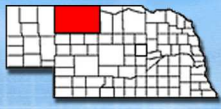
The next meeting was set for April 4, 2017, at 4:00 P.M. CT.

The meeting was adjourned by Chairman, Jim Buer, at 5:27 PM CT.

Ann Krueger, Recorder

Guests included: John Hansen, Joan Carver, Jeffrey Skinner, Jim Ducey, Twyla Witt, Carolyn Semin, Merrial Rhoades, Ann Warren and Charlene Reiser-McCormick.

(NOT APPROVED)



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

April 4, 2017

Cherry County Court House Meeting Room

The meeting was called to order at 4:00 P.M. CST, by. Roll call was taken. The following members were in attendance: Jim Buer, Gary Swanson, Coby Billings, Rob Lee, Albert Ericksen, John Wheeler, Herb Pabst, Lynell Stillwell and Todd Mathis. Also present was Cherry County Zoning Administrator, Joel Mundorf, Ann Krueger, recorder of the minutes, and several guests.

The Open Meeting Law posted in the meeting room was noted. Minutes from the March 7, 2017 meeting were read. Herb moved to accept the minutes as read. Albert seconded the motion. Roll call vote was taken. Herb – yes, Gary – yes, Rob – abstain, Todd – abstain, John – abstain, Albert – yes, Coby – abstain, Lynell – yes, Jim – yes. Motion carried.

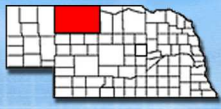
Public Comment: Guest Ann Warren asked to see the whiteboard chart that was created at the previous meeting. She handed out a letter regarding environmental impacts, specifically concerning the sellability of land once turbines are placed.

Guest Terry Engles, Valentine Fire Department Chief, was asked to speak to the group about his thoughts on one of the issues brought up regarding fire threat, and address concerns about what happens if a wind turbine catches on fire. The planning commission would like to have a contingency plan in case a fire were to happen, and wanted to know if there were any other requirements the fire department would need, such a road maps to the properties and to those adjacent.

Engles said it's not probable to expect to put the fire out on the turbine itself as they are too large to stop the flame on site. The fire department would first try to clear the area, at a minimum of a half mile back, depending on what the turbine is doing. Engles has read cases where, if the blades are moving, 4200 feet away could be affected (approximately .80 miles). A safe zone would be created, where they would surround it, overload it downwind, but primarily keep people out of the area. Protocol is to keep the grass fire controlled, go around it, stay about a half mile back at first to determine behavior of the fire. Knowing the surrounding neighbors and what's on their land is useful information to have, such as if there is any threat to cattle. The VFD cooperates with the sheriff's office to get property information. The bottom line was, if the turbines are on fire, you don't want to get too close to it due to potential hazard and threat to personal safety. The fire department would use standard operating procedures to combat the fire should one break out on a turbine. While the fire department would not try to put the fire out on the turbine itself, Engles said the Valentine and surrounding community's fire departments are readily equipped to fight the grass fires surrounding it. There are many variables regarding conditions and what the turbines are doing that would have to be examined if a fire happened.

A question of whether blades put off toxic fumes was brought up. Engles did not know the exact composition, but since they're primarily made of plastic and fiberglass, there is a possibility. The Material Safety Datasheets (MSDS) would be on file and the Fire Department would have access to them. The fireman carry a book of hazardous materials with them, and would review materials to see it becomes more of a hazmat issue and find out downwind projection if that's the case. Keeping spectators away is always a concern for any fire. The landowner or turbine owner would most likely be liable should the fire spread to adjacent land.

Communications: Joel Mundorf attended the Zoning Meeting in Kearney. The City Attorney from Hastings, Mr. Petak, impressed him, and Joel would like for him to come up and give a half day seminar. Herb has seen him and agrees that he knows what he's talking about and his visit would be beneficial to the planning commission. They have called Mr. Petak to conference in the past.



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Old Business: Report on studies that Gary gave out to group. Gary started with the whiteboard, as he's been trying to break the wind turbine issues down. There's two conflicting visions; those in favor and those who aren't. The public hearings brought up several key issues, and listed on the board are possible resolutions. They are: Viewscape – a resolution is a certain number of miles setback. Health Issues: Noise and Flicker – resolution could be 2 mile setback, along with Section 17 in the code. Fire Threat – Fire Chief Appraisal. Wild Life – Game and Parks Appraisal, Fish and Wildlife Appraisal. Property Valuation – Berkeley study says no effect but there are conflicting views within the study on that. It was noted that Cherry County is hiring an appraiser to determine property valuation and that report will be completed in approximately 6 to 10 weeks. Powerline Trespass – require voluntary easement. Property Rights – certain number mile setback. This is known for residences but is not clear on property lines. Decommissioning – this has been covered by the wind energy developers.

There is room for more on the whiteboard, but it was general consensus that these are the main issues. There is also a Yes view, which focuses on property rights. One thing to look at to find a compromise between the groups is to get a setback release from willing participants. Gary had a copy of a noise easement to look at as an example. Joel mentioned cattle country easements to examine as well.

Guest Carolyn Semin asked if noise easement would have to be from everyone within the 2 miles proposed radius? Gary said theoretically, yes. Wind turbines are not illegal, so if you can't do it in Cherry County, where can you do it? It should be up to free enterprise. Concerns from guests about NPPD using eminent domain was brought up, but not delved into.

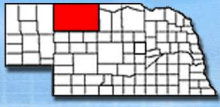
There aren't as many items listed under the Yes column simply because there are not as many issues with those in favor. They are trying to resolve land use issue, and are basically focusing on the problems.

The planning commission is primarily looking at Health, Fire, and Property issues, as per Commissioner request.

Gary passed around several handouts and gave more homework to the group to read the studies and handouts and start forming ideas for potential solutions to the issues outlined. The studies mentioned restrictions, such as setbacks, decibel levels, prairie chicken studies, noise effect and the low frequency generated by the turbines. Although cases are individualized and many factors are involved such as weather, tree belts, etc., the trends presented from the studies should be evaluated. All of this information leads back to the mileage setback of the turbines. A 2 mile setback is used in Oregon, where a state council handles windfarms. 50 decibels are a noise level in discussed in the Kirby Mountain study's code, which is described as "quiet urban daytime". Lincoln's noise restriction is 35 decibels. At some point the planning commission is going to have to decide what setback to recommend.

Other studies were discussed regarding property value, and whether turbines affect that value. Are the wind turbines causing property devaluation or is it the contract? The contract could be burdensome. It may come down to a willing buyer/seller problem. Are livestock bothered? Some studies say no. Noise issues were also discussed. Section 17 in the code can't regulate for every variability but should be written well enough and have enough information to let developers and land owners work out their issues. Zoning is necessary to have on paper.

The outline on the whiteboard will end up on paper and brief reasons will be given for how those conclusions were reached and presented to the commissioners. That's not to be done today, but to be given as more homework, so that a comprehensive plan can be made. A report will be given specifically on health issues, fire threat and property valuation. The other issues need to have brief commentary from what they've done and heard. If they go to certain mile setback, and if there's a public hearing, the hope is that the information would already be disseminated to the public and then at the hearing, people would know how and why the conclusion was reached. There will have to be subcommittee meetings to make sure the report gets finalized. The planning commission will cite several studies, and will include the work the appraiser has been doing on property valuation. Other ideas are welcome. After the public hearing, the commissioners will take over. Property valuation may be more of a political decision, along with viewscape. It will be an issue that the commissioners will have to look at. The report is planned to be finalized in June and given to the



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commissioners. It was discussed that there should be 3 members on the subcommittees, and they could also meet by phone.

Zoning districts for wind turbines is an issue that could be added to the whiteboard. There are sections of the county that don't want turbines, and could be potentially zoned accordingly. There are also some issues outside the scope of the planning commission. Taxes paid on nameplates from other wind farms in the area were also briefly discussed before opening new business.

New Business: The next meeting was set for May 2, 2017, at 4:00 P.M. CT.

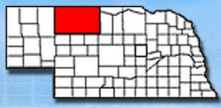
Reports and Recommendations: Chairman Buer recommended that the group to go through all the information the Gary presented as well as handed out, and start forming ideas for their report.

The meeting was adjourned by chairman, Jim Buer, at 5:24 P.M. CT.

Ann Krueger, Recorder

Guests included: Jim Ducey, A.J. Abbott, Ann Warren, Charlene Reiser-McCormick, Chris Abbott, and Carolyn Semin

APPROVED



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

May 2, 2017

Cherry County Court House Court Room

The meeting was called to order at 4:10 P.M. CST, by Vice-Chairman Herb Pabst. The meeting was moved to the Cherry County Court Room due to number of guests present. Roll call was taken. The following members were in attendance: Gary Swanson, Coby Billings, Rob Lee, John Wheeler, Herb Pabst, Lynell Stillwell and Todd Mathis. Also present was Cherry County Zoning Administrator, Joel Mundorf, Ann Krueger, recorder of the minutes, and several guests.

Not present: Chairman Jim Buer and Albert Ericksen

The Open Meeting Law posted in the room was noted. Minutes from the April 4, 2017 meeting were read. Lynell Stillwell moved to accept the minutes as read. Coby Billings seconded the motion. Roll call vote was taken. All members voted to approve and motion carried.

Public Comment: Matt Coble, Cherry County property owner, was present for public comment. He is a property owner and tax payer in favor of wind development. He expressed concerns as a landowner because the proposed two-mile setback from the planning commission would severely limit who could be involved in wind projects. Two miles is four times the existing setback. It would also act as an unpaid easement by Cherry County on private property. The number of mile setback needs to be based on scientific fact. He passed out a handout with a grid showing the limitations the 2-mile setback would place on property owners. Wind turbines will provide a diversified source of tax revenue to Cherry County and a diversified source of income to property owners directly involved in the project and the landowner members in Cherry County Wind LLC.

Ann Warren brought up concerns on zoning regulations. She made a request that setbacks be the same for the neighbors. She also stated that the zoning regulations need to have some criteria for the type of soil that needs to be put in and mentioned that the decommissioning process needs to have all the i's dotted and t's crossed to protect the Sandhills.

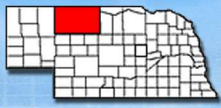
Dan Welch is an opponent of wind farms and shared his personal experience dealing with NPPD about easements on his land. He's not against entrepreneurs and people being successful but feels harassed and mislead about what's happening on his land and wanted to share his concerns with the public. He does not want to bring "big energy" into the Sandhills and stated that much more time is needed to make sure the issues are fully explored.

Jim Ducey discussed how the planning commission should rely on facts and not let opinions rule these decisions, and warned members to check details on wind studies. He mentioned deficiencies in some of the studies that the planning commission have read, namely the prairie chicken study. He found fault with sources cited, the duration of observations and mentioned several inadequacies in comparison to fully operational wind turbines.

Twyla Witt handed out a study on estimates of bird collision mortalities in the contiguous United States. She also mentioned a study in the spring issue of Range Magazine and expressed concerns about what happens when the turbines don't work as they should. She mentioned several other studies concerning impact on vegetation and wildlife.

Jim Ducey also brought up he that he toured the R-Project Corridor, a transmission line that is planning to be constructed by NPPD and questioned methods used by NPPD acquiring easements and leaving markers on land.

Merrial Rhodes handed out a transcript from the Natural Resources Commission in Lincoln and encouraged all members to read the entire transcript regarding the proposed 2-year moratorium on turbines.



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Barbara Welch brought up health concerns about the effect on power lines running through the property that are necessary for wind turbines, and what affect they could have on someone with a defibrillator, and how that would limit her husband's ability to work on his land.

Charlene Reiser-McCormick stated concerns about how no studies can accurately reflect what will happen in the Sandhills. Independent environmental studies need to be done because it is not known how much the turbines will affect the land. She mentioned that more time is needed to get the proper studies done.

Communications: The whiteboard outlining issues and potential resolutions was retrieved from the meeting room. The Cherry County Commissioners gave a mandate to the planning commission to specifically look at health issues, fire threat and property valuation with regards to wind turbines. The planning commission is still the process of developing possible resolutions and as of right now, what is written down are ideas, and are not written in stone. Gary then recapped the issues and possible solutions which have been discussed at length in previous meetings. Viewscape: resolution is a possible mile setback. There's not much to do if you just don't like the way they look. Health issues: two primary issues are noise and flicker. The planning commission obtained documents from the Lancaster County Health Department and went through their noise issues. Many other studies have also been looked at, some which say the noise issue is likened to sea-sickness, as some people have it and some don't. Section 17 of the code was mentioned; this section talks about how a person who experiences abnormal sound effects can petition the county for an expert to get measurements. If the sound is beyond what the zoning code calls for, the wind developers will have to solve the problem or shut down. Cherry County may be the only zoning regulations in the state that has something like Section 17. Noise is affected by size of turbines, what kind of house you have, how far from the wind turbine, and so on. Gary passed around a dosimeter, a type of sound meter, for the group and public to look at to get an idea of what every day noise level is like.

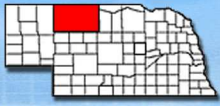
Continuing with the outlined concerns on the whiteboard, the planning commission discussed fire threat. Valentine Fire Chief Terry Engles spoke to the commission last month and was asked his opinion, which were detailed in the minutes from last meeting. The planning commission will be talking to other fire chiefs as well to prepare their statement for the County Commissioners. Property valuation – the county has hired an appraisal company to go across the state of NE and appraise the land before and after wind turbines were placed. That is in the works.

Other studies were also looked at in depth. Threat to wildlife, one of the problems identified from the public hearing, has a possible resolution of a Game and Parks and Fish and Wildlife appraisal, but to date, no Game and Parks representatives have been to planning commission meetings. The issue of power line trespass is already in the regulations regarding requiring voluntary easement. As far as property rights, the planning commission is exploring if there is a certain number of mile setback to help solve that issue. At some point, the planning commission will have a written statement for recommendations on how to resolve these problems. A quick and easy solution would be a proposed number of mile setback, and limit the number of decibels allowed. It is possible to find a one size fits all solution that is easy to understand? The planning commission is still exploring solutions. If neighbors give a sound easement, that would help to resolve any issue.

Questions were taken from the public regarding what possible effects wind turbines could have and if a lawyer is needed to analyze what the planning commission proposes. Keeping things simple may lead to loopholes and coming up with precise, thorough and accurate language is necessary. The planning commission addressed questions and mentioned that whatever the planning commission does will be reviewed by Eric Scott, the county attorney.

Old Business: Old business was discussed at length during communications and many of the studies the group has been reviewing were brought up.

New Business: The next meeting was set for June 6, 2017, at 4:00 P.M. CT.



Cherry County Planning and Zoning Minutes



Reports and Recommendations: The planning commission will continue to review all materials handed out and studies regarding effects of wind turbines. Limiting public comment time was mentioned so the planning commission can work on their report to the commissioners.

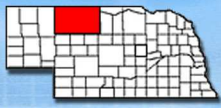
A motion to excuse the absences of Jim Buer and Albert Ericksen was made by Lynell. John seconded. A roll call vote was taken with all members in favor.

The meeting was adjourned by Vice-Chairman Herb Pabst, at 5:51 P.M. CT.

Ann Krueger, Recorder

Guests included: Merrial Rhodes, Twyla Witt, Carolyn Semin, Jim Ducey, Charlene Reiser-McCormick, Carolynn Henderson, Ann Warren, John Hansen, Mike Burge, Matt Coble, Randy Peterson, AJ Abbott, Bob Stetter, Judy Rath, Lyle Rath, Tyler Rath, Chase Rath, Dan Welch, Barb Welch, Twyla Gallino

APPROVED



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

June 6, 2017

Cherry County Court House Court Room

The meeting was called to order at 4:09 CT, by Jim Buer, Chairman. The meeting was moved to the Cherry County Courthouse Court Room due to number of guests present. Roll call was taken. The following members were in attendance: Jim Buer, Herb Pabst, Albert Ericksen, Todd Mathis, Rob Lee, and Gary Swanson.

Also present was Cherry County Zoning Administrator, Joel Mundorf, Ann Krueger, recorder of the minutes, and several guests.

Not present: Lynell Stillwell, Coby Billings and John Wheeler.

The Open Meeting Law posted in the meeting room was noted. Minutes from the May 2, 2017 meeting were read. A correction was made to a spelling of a guest's name. Rob Lee moved to accept the minutes as corrected. Gary seconded the motion. Roll call vote was taken. Rob Lee – yes, Todd Mathis – yes, Herb Pabst - yes, Gary Swanson- yes Albert Ericksen– abstain, Jim Buer – abstain. Motion carried.

Public Comment: Jim Ducey said he should be able to comment during the meeting at any time, not just during public comment. He questioned a handout and its availability before a meeting so the public can review. Jim wanted to know the authors and it was noted that Gary Swanson, Todd Mathis and Rob Lee wrote the handout in question, which was rough draft outline to give to the Cherry County Commissioners. It is a new document and had not yet been discussed by the entire planning commission and is still in rough draft form. Mr. Ducey mentioned the abbreviations in the handout need to be defined, and it was stated again that it is still a rough draft.

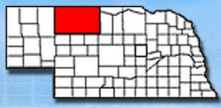
Craig Andresen commented on noise from wind turbines, which is usually measured in decibels and has been found to be the worst predictor of noise annoyance, because it does not measure low frequency noise, or infrasound. His website, thenationalpatriot.com, has videos that further explain infrasound and its effects.

Mike Burge said infrasound is also produced naturally, such as ocean waves, shifting pipes, etc. Craig agreed but said the steady, constant low frequency sound from the turbine is what affects people negatively.

Ann Warren said Thomas County has been working on their zoning regulations and thought there were some that could be put in Cherry County's zoning regs. The same setbacks for neighboring property lines as to dwellings should be considered. If somebody wants to sign off and put it next to their property line, they can. Criteria for type of soil should also be considered since we're in the Sandhills. Zoning should have that criteria. Another issue was having a certain distance from the bottom of the wind turbine to the water table. There should be no cost to the county on anything, now or in the future.

Matt Coble submitted a few third-party studies to the planning commission regarding infrasound and stated that one can compare the infrasound to saying the sunlight is damaging to the human body like a nuclear bomb going off. The study is measured in a "g" weighted decibel level. Wind turbines, within a very short proximity, out 200 yards, is 65 dBg. Ocean waves average around 75 dBg. Mr. Coble hopes that the Cherry County Planning Commission will protect his property rights and those of other property owners that want to participate in wind projects. He hopes that zoning is reasonable, rational and based on common sense. Changes that are made to setbacks could jeopardize landowners' ability to participate in wind projects and would give more authority to the county over private property than the landowners.

Sherri Bacon questioned the new handout which referred to Ron Elliot, who is completing the property value study. It was stated that the property value studies are not yet complete. She also noted that the Lancaster County Study is from



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2015, which she felt is outdated and not comparable to the Sandhills. She questioned why there are no other studies listed.

Bree DeNaeyer stated that the mission statement for planning and zoning is based on the Comprehensive Plan. The purpose is to help citizens and decision makers guide change into the framework of this vision, which included both a traditional respect for property rights and a strong sense of responsibility and stewardship. She said that private property rights are something we're all on board with, but we're on fragile territory. A private landowner can't drop a well without permit, you can't spray for grasshoppers or dredge your own meadows without a permit. If you do, you can be turned in to Army Corp of Engineers. There is a loss of sovereignty. The planning commission should remember stewardship and conservation, and seeing to the future through some hard times. Granting a two-mile setback for anything takes away two miles where a person can ranch and make decisions. If two miles are given for wind turbines, she questioned what's next. Private property rights need to be stressed. She stated that we are still primarily a private property state and should not have to answer to a board. Exorbitant amounts of property taxes are already paid and landowners have to be fiscally conservative, so having to answer to a board is an affront to personal property rights.

Another guest said that the two-mile setback would not bother anybody. He said there are good roads with a mail route to the transmission line that BHS Kilgore wants to connect to. Hundreds of turbines could go there and not affect anybody but themselves. The drawback was access to the power line.

Charlene Reiser-McCormick read the same study Mr. Andresen did, which compared infrasound to the high level of sound that dogs can hear. She mentioned an article from Oklahoma that mentioned no tax relief was gained after turbines went into place. She'll give the planning commission a copy of the article once received. She noted LB-504 isn't done doing studies. Larkin Powell, head of Nebraska School of Resources, wrote an article about how the wind turbine farms do affect ground nesting birds and dry the dew on the ground. She thinks more time is needed for more studies. Mr. Andresen mentioned that article Ms. Reiser-McCormick is referring to is on his website.

Mr. Coble had an article on Wind To the Rescue, showing that underfunded schools in Oklahoma benefited from wind projects. They have specifics on how the wind power has helped schools get through tough times. With regards to the different articles on the topic, he stated that it's human tendency that if you have a bias, you seek out information to confirm that bias.

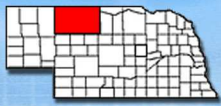
Chairman Buer said you can Google just about anything and find information on either side of any issues.

Randy Peterson questioned if we have regulations on the impact on county roads. Semi trucks could tear up the roads – would that burden of expense of repair fall to the taxpayers or would the developers pay? He said it shouldn't be for commercial wind farms specifically but should be for any future projects and asked if there is there anything in place? Gary Swanson said it is in the regulations and very comprehensive. Gary got a large packet out to show what it looks like.

A 10-day notice to landowners regarding conditional use permits is not an adequate amount time said guest Carolyn Semin. 30 days for any conditional use permit should be given due to length and complexity. She also mentioned that the US Fish and Wildlife Service doesn't need to give approval first. The developer can put the tower up and just hope they don't get sued. To prevent that, they do a wildlife study, but she felt that federal permit should be required. A federal permit requires a lengthy study and takes several years. She felt that to say that we don't need anything, to leave is up to government entities, isn't sufficient. She stressed that private studies need to be done, especially to protect wildlife such as the burying beetle, cranes and others.

Ann Warren said what she does on her land shouldn't affect the rights of private property owners tomorrow.

Bob Stetter stated we all have relatives and friends that come to the Sandhills for recreation, beauty and stillness. He's never heard anyone say that's a beautiful wind turbine – they only questions why it is there. As a longtime member of rotary, he mentioned the 4-way test: is it the truth, it is fair to all concerned, will it build goodwill and better friendships,



Cherry County Planning and Zoning Minutes



and will it be beneficial to all concerned. He said there's more to life than the almighty dollar. Charlene Riser-McCormick added the saying: when the last tree has been cut down, the last fish caught, the last river poisoned, only then will we realize that one cannot eat money.

Chairman Buer asked several times if there were other comments before moving on.

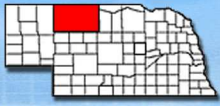
Communications: No communications were addressed.

Old Business: Chairman Buer gave the floor to Gary Swanson, who had a very rough draft of a first step of a report for the commissions, and asked for corrections and suggestions to the planning commission members. Something had to be put down on paper to get started. This will still need to be polished. The first page was accepted, however there are quite a few things still incomplete. Page one is concerning the effects of wind turbines on property values. The quickest way to explain was to show the emails between assessor Ron Elliott and Gary. Ron will be calling Gary to discuss the property valuation study. The next page is a brief synopsis of a scenario of a wind turbine fire. The commission should read through and make corrections and additions. MSDS stands for Material Safety Data Sheet, which shows the composition of the structures. More information will be added on definitions. Albert said that Fire Chief Terry Engles mentioned that there wouldn't be an attempt to put out the fire on the turbine, just on grass fires and questioned if that should be added. This information will be shown to Terry Engles to see if they have any additions. Rob Lee mentioned the mutual aid meeting is coming up, but Gary suggested they give their packet to them before that. Terry had mentioned to keep protocol general to account for different scenarios.

Page 3 discusses the Lancaster County Health Department review. Gary is looking for more planning commission members to add to this page. The Commissioners requested that the Planning Commission specifically study Lancaster County. The second paragraph is straight off the study and the third is straight out of the ordinance. The planning commission needs to read this section carefully. Albert suggested adding information about infrasound. Gary mentioned it's touched upon on the next page. Much more could be added, but this is just the basics. A copy of the Lancaster County study will be given out to the members again so they can review further.

Page 4 discusses issues listed by CCPC, defined as the Cherry County Planning Commission. WTF, defined as Wind Turbine Facility/ies have high frequency and low frequency noise, which is some of what Mr. Craig Andresen was talking about regarding infrasound. Rob asked Craig if the videos discussed soil types. He said the videos did not talk about soil types, but said that buildings such as water towers could amplify the infrasound. Mike Burge mentioned certain soils, like sand, does absorb sound. The planning commission worked down the statements. No discussions on statement one and two. Three brings back issues in Atkinson and how turbines were placed could have increased amplification. There was no discussion on issues four, five, six, seven and eight. Issue number nine was explained that 35 dB, should be dBa, or A-weighted decibels. Most studies are in that range. DBg is infrasound. Another item could be added to look at other ways of measuring sound, like dBc or dBg. Todd Mathis had a study that mentioned dBc is weighted to accentuate low frequency sounds and should be used. Ultimately Gary wanted to know if 35 dBa was sufficient. Does dBg and dBc need to be added? Does this have to be measured at a distance? Craig Andresen said the World Health Organization has some information on the differences on dBa and dBc. The planning commission agreed this issue will have to be addressed further.

The group moved to the conclusion, which is still to be modified. Accounting for the variabilities of WTF (Wind Turbine Facilities) may be impossible. Section 613.03.17 provides a homeowner with a means to address a noise grievance. If the WTF owner is found in violation, the WTF owner is required to take immediate action to bring WTF into compliance which may include ceasing operating. A time frame may be needed to be added. Right now, the regulations are 50 dBa. The next two paragraphs deal with setbacks and noise level. What needs to be added to the conclusion? Gary noted setbacks and noise levels for 6 other counties in Nebraska and whether they have a recourse for addressing the noise, and handed out these notes solely for comparison purposes. The setback limits are from the dwelling. Gary also noted a mile out for the wind turbines in the Kilgore project for decibels on a map and passed that out.



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Rob wondered if the planning commission should wait for the property appraisal until they talk about property line setback. Could a specific corridor be sanctioned scenic? Viewscapes could be addressed by sanctioning specific sections of land as scenic. Wildlife protection could be fleshed out by add something from NE State Statutes. No additions were made to powerline encroachment and decommissioning of WTF. The property rights issue is still incomplete at this time.

Reports and Recommendations: The committee needs to continue to work on this report, and the three absent planning commission members will need to review. Rob suggested 3 other members besides the ones who already started the rough draft continue to work on the draft. Jim will be the contact to arrange subcommittee meetings.

New Business: The next meeting was set for Thursday, July 6th at 4:00 pm at the Cherry County Commissioners Meeting Room, moved to Thursday due to the holiday.

A public hearing date was set for August 1st, 2017 at 4:30 CT for CUP - Conservation Easement – Trimble.

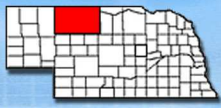
Herb Pabst made a motion to excuse the absences of John Wheeler, Lynell Stillwell, and Coby Billings. Albert Ericksen seconded. Roll call vote was taken with all in favor.

The meeting was adjourned by Chairman, Jim Buer, 6:36 P.M. CT.

Ann Krueger, Recorder

Guests included: Michael Burge, Willard Hollopeter, Bob Stetter, Jim Ducey, Bill DeNaeyer, Shaniya DeNaeyer, Chase Rath, Tyler Rath, Judith Rath, James Herrmann, Gail Hermann, Twyla Gallino, Claire Lancaster, Marjorie Manning, Charlene Reiser-McCormick, Sherri Bacon, Randy Peterson, LeRoy Semin, Carolyn Semin, Matt Coble, Ann Warren, Merrial Rhodes, Craig Andresen, Carolyn Semin.

CORRECTED & APPROVED



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

July 6, 2017

Cherry County Court House Court Room

The meeting was called to order at 4:01 pm CT, by Jim Buer, Chairman. The meeting was moved to the Cherry County Courthouse Court Room due to number of guests present. Roll call was taken. The following members were in attendance: Jim Buer, Herb Pabst, Albert Ericksen, Todd Mathis, Rob Lee, Gary Swanson, Lynell Stillwell, Coby Billings and John Wheeler.

Also present was Cherry County Zoning Administrator, Joel Mundorf, Ann Krueger, recorder of the minutes, and several guests.

The Open Meetings Acts posted in the court room was noted. Public notice for the meeting was published in the Valentine Midland News on June 21, 2017, and available on the Cherry County Planning and Zoning website. Minutes from the June 6, 2017 meeting were read.

The minutes were amended to add Carolyn Semin to the guest list. The date when previous minutes were read was corrected to May 2, 2017. Guest Jim Ducey stated that according the Open Meetings Act, Neb. Rev. Stat. Ann. § 84-1411, the minutes need to include where and when meeting notifications were posted.

Albert moved to accept the minutes as corrected. Herb seconded. Roll call vote was taken with Lynell, Coby, and John abstaining. Rob, Todd, Herb, Gary, Albert and Jim voted in favor. Motion carried.

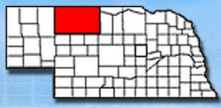
Public Comment: Brynn Welch from North Carolina addressed the group concerned about the research, or lack thereof, done on groundwater and the effects that wind turbines will have. She stated that concrete will be leaching into groundwater and would affect humans and animals. Freezing and thawing of the groundwater could create erosion on the base of the wind turbine towers.

Jim Ducey passed out a handout. He stated that, subject to Open Meetings Act, the public has a right to attend and speak at any time during a public meeting. He also voiced concerns that the wind turbine fire issue should have an immediate suppression of fire, and not be allowed to burn. The volunteer fire department should not have to spend hours or days monitoring a fire. The potential toxic fumes from a burning wind turbine would affect neighbors. He also stated that no details have been given to address the size and height of a turbine. Potential construction noise is not addressed in the planning commission's report and no construction hour limits are given, for example, only permissible from 8 am to 5 pm. If helicopters are used, that will also create noise. Scenic corridors are not addressed. He stated the report should be based on facts and not beliefs.

Craig Andresen stated that in the United States, wind energy accounts for a very small amount of energy used but is reliant on a large amount of tax subsidies. He gave statistics on renewable energy usage around the nation and globally, compared to coal and fossil fuel, with findings indicating that wind is more expensive. He mentioned that the power generated by the wind will not stay local, but questioned how long the areas receiving the wind energy will pay for it due to its expense.

Dan Welch discussed his problem with his land easements with NPPD, and his concerns about planes flying over his property taking pictures.

Sherri Bacon also spoke concerning property rights. Signing an easement gives the other party control of your property. Wind turbine facilities have become a significant portion of foreign owned land, because they have the easement. That then infringes on the tax payer.



Cherry County Planning and Zoning Minutes



Another guest said there needs to be a two-year moratorium, as other states have done, because the issue is no longer about progress but is becoming about greed.

The public comment period was suspended momentarily and the public hearing for conservation easement regarding Conditional Use Permit (CUP) Application 02-17 For Cleve Trimble was opened at 4:30 pm CT.

This permit is to add 50 acres to an existing conservation easement.

Cleve Trimble addressed the group. In looking to the future, his concerns are that someone could come in, take the 50 acres and break it in 10 acre parcels without having to go through a zoning process. His purpose of the easement is to see that doesn't happen. It does not omit the land from taxes. He's done similar easements with other portions of his land. This is to keep it out of development.

Public Comment on Easement Application: Jim Ducey wanted to go on record to commend Cleve for his efforts. The 5 smaller parcels he wants to include are adjacent to the area which is already protected. He felt it extends the protection of the Snake River.

Craig Andresen asked if the easement keeps it in the protection forever? Cleve mentioned that the way it's written to federal standards, it is in perpetuity. Doug Petersen asked if the permit would affect his property? Mr. Trimble stated it would not.

The public hearing was closed at 4:45 pm CT, and the regular meeting was re-opened.

Motion to approve CUP Application 02-17 Conservation Easement was made by Herb Pabst. Gary seconded. A roll call vote was taken and the motion carried unanimously.

The public comment period was reopened.

Larry Ridenour asked if there was a reason the comment is at the beginning? He felt it would be more beneficial to have it at the end instead of getting slammed with new information.

Barb Welch brought up the environmental impact statement regarding access roads. In their road easement with NPPD, NPPD has been using pesticides on 14 feet on either side of the access roads.

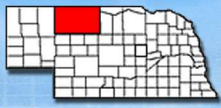
Carol Neiman Lewis stated her concerns for the wind turbine project and the loss of bird life and bats, which eat mosquitos. She questioned what the CDC has to say regarding those issues. The northern long-eared bat is in this area, which is an endangered, protected species, and she hasn't heard of any mention of that in any of the studies. She feels that much more investigation needs to be done.

Bob Stetter said that the reason Dr. Trimble wanted the conservation easement was because his land was too fragile for development. He questioned whether the land where the wind turbines are going to go are any less fragile.

Mr. Trimble gave his statement regarding the golf course in Mullen, where members marvel at the unfettered horizon. The conventional wind tower, at 400 feet tall, can be seen from 30 miles away in any direction, so roughly 3000 square miles are affected. The aesthetics and impacts to the local environment are enormous and must be taken into consideration.

Jerry Adamson mentioned a statement that he's heard regarding the new towers being computerized so that when planes are flying over, the tower will have lights come on, but otherwise the lights would be off. He also mentioned the number of towers will be reduced because the new towers can generate more power.

Brynn Welch mentioned studies she's read on whopping cranes and effects based on 8 documented crane strikes taken from 1998, which is most likely underreported and out of date, so additional research was also needed on effects on birds.



Cherry County Planning and Zoning Minutes



Tim Anderson wanted to comment on the discussion regarding blinking lights, which get the attention of avian waterfowl, so if the lights are off, the collision rate in theory would be higher. Blinking lights would be something that needs to be consulted with the US Fish and Wildlife Service and Game and Parks and how they affect the wildlife. A view-shed model needs to be done for the turbines, so landowners know what they'll be looking at from their properties.

Carol Neiman Lewis also said solar rooftop panels should be looked at.

Ann Warren asked if the commission has taken into consideration her request for additional zoning. The long-term effects of wind turbines are unknown.

Olen Olsen mentioned that he was interested in the wind turbines at first, but decided against it. 19 to 30 wind towers are the number of turbines the wind energy group is saying will be constructed. He had heard 480 towers was their original goal.

Larry Ridenour stated that the original figure was based on the original landowner line, but that is no longer the case.

Public comment time was closed at 5:14 CT after asking several times if there were further comments. Chairman Buer expressed thanks to the public and asked that the public respect the planning commission's time to get through their meeting.

Communications: No communications.

Old Business: The planning commission continued their review of the Cherry County Commissioner's request. The members are continuing to work on their report. On the cover page, a correction was needed for Coby's name, to omit the "l".

Page 1 - Effects of wind turbines on property value – the report is still not done, as five other counties are wanting the study done as well. The report is expected to be fairly substantial, but is hoped to be completed by the end of next week.

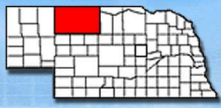
Page 2 – Wind turbine fire. Valentine Fire Chief Terry Engles reviewed this sheet and suggested to add a statement that wind turbine fires will not be extinguished by the Valentine Rural Fire Department. This item should be potentially moved to number one. Chief Engles is worried about spectators and keeping them away. There has not yet been a wind turbine fire in the state of Nebraska. Who would be creating the safe zone? It is presumed that the Sheriff's Department would help secure the area. The departments will work together and look at the situation, and have their plan should a fire arise. The departments want flexibility, so the fire plan is a generalization.

Page 3 - Lancaster County Health Review – this page is a summary of what the Lancaster County Health Department came up with. Clarification on 3 dBa above background noise was discussed.

Guest Ducey said that arrangements are needed to be make a reasonable effort for the public to hear the discussion. A complaint can be filed that this is an illegal meeting if not done. Gary Swanson invited the guests to move closer and offered to bring up more chairs.

The commission continued to discuss the noise impact regarding sound limits on exterior walls. The wording of the sentence needs to be worked on to make it clearer. The commission discussed saying "As determined by a pre-construction noise study."

Page 4 - The materials reviewed by the CCPC (Cherry County Planning Commission) seemed to coalesce around several themes, which are listed out in 9 statements. Coby asked if something about low frequency noise needs to be added. How would it be measured? Should setbacks address that? Change dB to dBa, and also change grammar of effect/affect. All abbreviations need to be defined.



Cherry County Planning and Zoning Minutes



Conclusion – this is meant to be a brief review of what the planning commission did to address the concerns.

Viewscape/landscape – the zoning regulations do not have any view corridors or scenic views on their zoning map. Lynell suggested adding the wording officially or formally identified to that statement. Cherry County has not “formally” identified any view corridors or scenic views. Wildlife protection, a contentious issue, is the next item. Power line encroachment requires voluntary easements. Wind energy conversion system (WECS), should be written out and used instead of using the abbreviation WTF, wind turbine facility, as noted in the regulations.

Decommissioning of WECS – the statement is brief. Add that licensed engineering will stamp be required on all applicants on the decommissioning portion of the application.

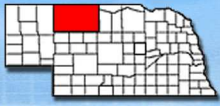
Property Rights – there is nothing yet written on this portion. Should the commission leave it blank or take it out? Property rights are a great argument and a tough issue. Property Rights have two sets: town and country. Junk cars needed to be moved in town, and in the country, that’s no so. Where does the line get drawn on property rights? The commission agreed that property rights are too large of an issue to be omitted from the report, but it is difficult to define. Todd mentioned the voluntary easements on power lines could be added under property rights. Lynell asked if the Commissioners could work on their interpretation of property rights and what “encroachment” means. Coby agreed there is a fine line.

Another item will be added to the report with other issues. New concerns such as LB 504, regarding a two-year moratorium on wind turbine facilities, could be added. Jim Ducey added Senator Hughes is the committee chair on two other resolutions currently being addressed that could potentially be added under other concerns. Lynell asked for definition and interpretation by the Commissioners on “property rights” as it applies to Cherry County. Todd asked about whether there is anything in Nebraska Statutes regarding wildlife protection? The commission added Nebraska Game and Parks under the wildlife section.

Gary handed out the section of the code that concerns the setbacks. The first page shows dwellings, and 1000 feet for participants, and half mile for non-participants. Participants or non-participants may waive the setback by any amount. The regulations say diameter plus applicable building setbacks, which could be clarified. Part 13 of the zoning regulation says that no commercial WECS should exceed 50 dBa, excluding bad weather. Part 17 is in regards to public enquiry complaints and basically says those with grievances will go to the zoning administrator and have the noise measured, and if it’s beyond what the regulations say, it needs to be fixed, up to and including the shutdown, of the WECS. The planning commission needs to determine what to do regarding decibel levels and setback. One recommendation from the Lincoln study says 40 dBa. Gary handed out maps that illustrates a one-mile setback, which shows that sound typically dissipates at a mile. Average, still countryside noise level is around 30 dBa. Distances and setbacks could be affected by the property valuation study. Concerns from the planning commission were brought up that setbacks should potentially not be set until the property valuation is complete. The commission, at this time, is not comfortable setting a limit without the property valuation study completed. The commission discussed further about definitions in the report. Guest Jim Ducey suggested changing the wording of “powerful avenue” to “legal means” regarding Section 613.03.17 providing a home owner a way to address grievances. Albert asked about including or differentiating non-participating property lines in addition to non-participating dwellings. Dwelling is defined in the zoning regulations. The commission discussed if there are definitions of property lines and how to work the setbacks from dwellings and participating/non-participating property lines.

Coby mentioned that the dwelling definition is in wind turbine regulations and also in the zoning regulations, but they differ slightly, so the commission should perhaps clearly define which one they’ll use.

The planning commission hit an impasse on participating and non-participating property lines. They have not found concise examples in any of the other county’s regulations. They discussed changing the wording to setback from non-participating property line because it states non-participating dwellings. Should setback amount be inserted after the valuation study? If so, another meeting should be held before report is submitted. Perhaps property lines should be left



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open as to the number of miles. They discussed changing the sentence about no wind turbine facility (WECS) should exceed a certain number of dBa at the nearest dwelling, rather than use the term structure occupied by humans. When this number is determined, it is going to be a suggestion. A public hearing will need to be held should any of the numbers differ from what is currently in the code. A special meeting was discussed to be held following the receipt of the property valuation so that the report that the planning commission was working on would be completed, with setbacks and dBa values filled in.

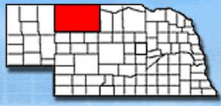
New Business: A special meeting was set for Friday, July 21st, 2017 at 9:00 am at the Cherry County Commissioners Meeting Room. A recommendation was made by Gary Swanson to hold no public comment period during that meeting in order to finalize their report. The next regular meeting date will be decided at that time.

The meeting was adjourned by Chairman, Jim Buer at 7:17 P.M. CT.

Ann Krueger, Recorder

Guests included: Chris Abbott, A.J. Abbott, Michael Burge, David Hamilton, John Ravenscroft, Jerry Adamson, Matt Coble, Carolynn Henderson, Larry Ridenour, Will Fischer, Peggy Marsh, Tim Anderson, Megan Anderson, Olen Olson, Julie Olsen, Jeffrey Moore, Bill Quigley, Pat Simonson, Aaron Simonsen, Susan Welker, Sam Miles, Bob Stetter, John Mundorf, Lana Peterson, Carol Nieman Lewis, Twyla Gallino, Gail Hermann, James Hermann, Sherri Bacon, LeRoy Semin, Janice Drinkwalter, Ann Warren, Charlene Reiser-McCormick, Barbara Welch, Brynn Welch, Dan Welch, Jim Ducey, Marion Rhodes, Thomas Witt, Twyla Witt, Carolyn Semin, Craig Andresen, Merrial Rhoades.

APPROVED AS AMENDED



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CHERRY COUNTY PLANNING COMMISSION MINUTES

July 21, 2017

Cherry County Court House Meeting Room

The meeting was called to order at 9:06 am CT, by Jim Buer, Chairman. Roll call was taken. The following members were in attendance: Jim Buer, Herb Pabst, Albert Ericksen, Todd Mathis, Rob Lee, Gary Swanson, Coby Billings and John Wheeler. Not present: Lynell Stillwell.

Also present was Cherry County Zoning Administrator, Joel Mundorf, and several guests.

The Open Meetings Acts posted in the court room was noted. Public notice for the meeting was published in the Valentine Midland News on July 12, 2017. Minutes from the June 6, 2017 meeting were reviewed by Commission and the first line of Cleve Trimble's statement was removed, with a motion made to remove by Rob Lee and seconded by Herb Pabst. The motion carried by roll call vote with all in favor. A motion to add the language engineering stamp was made by Rob Lee and seconded by Herb Pabst was carried by a roll call vote with all in favor. The minutes were approved as corrected by a roll call vote with all in favor.

Old Business: The appraiser report is not complete so there is no action at this time.

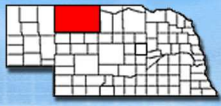
New Business: The next regular meeting was set for August 1, 2017 at 4 pm CT.

A motion to excuse the absence of Lynell Stillwell was made by Herb Pabst. The motion carried with a unanimous roll call vote.

Guest Jim Ducey announced his intent to sue the Planning Commission over violations of the Open Meetings Act.

The meeting was adjourned by Chairman Jim Buer at 9:24 am CT.

Joel Mundorf, Cherry County Zoning Administrator



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

August 1, 2017

Cherry County Court House Court Room

The meeting was called to order at 4:04 pm CT, by Jim Buer, Chairman. The meeting was moved to the Cherry County Court House Court Room due to number of guests present. Roll call was taken. The following members were in attendance: Jim Buer, Herb Pabst, Albert Ericksen, Todd Mathis, Rob Lee, Gary Swanson, Coby Billings and John Wheeler. Not present: Lynell Stillwell.

Also present were Cherry County Zoning Administrator, Joel Mundorf, Ann Krueger, recorder, and several guests.

The Open Meetings Act brought into the court room was noted. Copies of the Open Meeting Act were also made available to the public. Public notice for the meeting was published in the Valentine Midland News on July 26, 2017 and posted on the Cherry County Courthouse door. Minutes from the June 21, 2017 meeting were read. Albert Ericksen made a motion to approve minutes as read and Rob Lee seconded. Guest Jim Ducey wanted to clarify that he has no intent to sue the planning commission but wanted it noted that a civil lawsuit could be filed due to violations of the Open Meetings Act. The chair noted his comments but stated no correction to the minutes was necessary. Albert Ericksen again made a motion to approve the minutes as read and Rob Lee seconded. A roll call vote was taken and the motion carried unanimously.

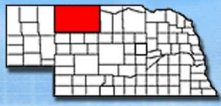
Public Comment: Chairman Buer asked the guests for a show of hands if they were intending to speak in order to allocate time properly. Two guests raised their hands. Carolyn Semin had a question concerning regulations. Voluntary easement from neighboring properties is required for WECS (Wind Energy Conversion Systems). If there is no voluntary easement for the R-Line, would the WECS be able to still submit a conditional use permit? Gary Swanson said, as far as he knows, the R-Line has nothing to do with county zoning. Therefore, the conditional use permit requiring voluntary easement is for private enterprise, and the R-Line is a public enterprise. The R-Line is considered a public service for the State of Nebraska, which circumvents private zoning regulations.

Carolyn Semin had sent an email asking about the regulations shown to guest Randy Peterson when he asked about roads. In that meeting, Gary Swanson had shown a large bundle of paper and she wanted clarification on what that was. Gary had the packet on hand, which is the Holt County Transportation Impact Analysis. There will be a post-construction survey conducted in cooperation with the proper jurisdictions to make sure the roads have been restored to pre-construction conditions. The regulations will generate paperwork similar to what the Holt County survey shows, which Gary used to demonstrate the size of supplemental documentation generated from zoning regulations. Knox County is similar, which Gary also had on hand and he showed that documentation to Carolyn. The clarification was made that the large packet that was shown in the June 6th meeting was the Holt County regulations and the documentation generated from those regulations, and were shown as an example of what the Cherry County regulations and supplemental documentation will look like.

Ann Warren wanted to know if there was assurance in the regulations that when the wind turbine facility is sold to the next buyer that the decommissioning is addressed at all times. Chairman Buer said the regulations are in place no matter the owner.

A guest asked what would happen about paying for the decommissioning and if there is enough money to cover it. The planning commission said that decommissioning is defined in the regulations. Joel Mundorf said there is a five-year review held and if the review determines the cost is anticipated to rise then the bond would have to be increased.

Another guest stated that the rules and regulations say, "financial assurance", not "bond" and asked if that is the same thing? Joel said that the two are intended to mean the same thing so that would be further clarified in the definition of financial assurance.



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Guest Craig Miles said he appreciated the planning commission letting public speak. He wanted to address the board to say if we are to err on putting turbines in the Sandhills, that we should err on the side of caution. They will be here for a long time, even though there is a decommissioning process. It breaks his heart to seeing Cherry County change from what we are now to what we could become and he reiterated his challenge the board to err on the side of caution.

Public comment was closed at 4:32 pm CT.

Communications: No communications were presented.

Old Business: The planning commission did not yet have the property valuation report but will get it soon.

Gary Swanson wanted to give the public the opportunity to sign up to receive the Property Valuation report as soon as it became available. A sign-up sheet was sent around so that those interested would be mailed a copy of the report.

John Wheeler talked to Craig O'kief, the Fire Chief at Wood Lake, who did not have any additions to the fire procedures. Todd Rothleutner was also in agreement with the procedures as written and wanted to add that he would like to have periodic training with facility personnel in emergency situations. John did not talk to the Cody Fire Chief but will still attempt to do so. Gary Swanson mentioned adding that the following procedures will be implemented by the Valentine Fire Department, Wood Lake, and Kilgore. John also noted potentially Cody would be added to that list.

Chairman Buer asked the committee if the report was received, should there be a meeting set sooner? The committee agreed that the more time to review would be better, and to set the next date for the regular time.

New Business: The next regular meeting was set for September 5, 2017 at 4 pm CT at the Cherry County Commissioners Meeting Room

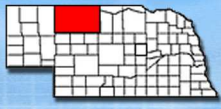
Reports and Recommendations: The commission is still waiting for the property valuation report.

A motion to excuse the absence of Lynell Stillwell was made by Herb Pabst and seconded by Coby Billings. The motion carried with a unanimous roll call vote.

The meeting was adjourned by Chairman Jim Buer at 4:40 pm CT.

Ann Krueger, Recorder

Guests included: Marion Rhoades, Ann Warren, Jim Ducey, Merrial Rhoades, Charlene Reiser-McCormick, Jerry Adamson, Bill DeNaeyer, Lyn Messersmith, Sam Miles, John Mundorf, Bob Stetter, Joe Mundorf, Peggy Marsh, Bob Marsh, A.J. Abbot, Dave Hamilton, Mike Burge, Carolyn Semin, Twyla Witt, Lana Peterson, Craig Miles.



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CHERRY COUNTY PLANNING COMMISSION MINUTES

September 5, 2017

Cherry County Court House Meeting Room

The meeting was called to order at 4:03 pm CT, by Herb Pabst, Vice-Chairman. Roll call was taken. The following members were in attendance: Gary Swanson, Rob Lee, Albert Ericksen, John Wheeler, Lynell Stillwell, Todd Mathis, and Herb Pabst. Not present: Jim Buer and Coby Billings.

Also present were Cherry County Zoning Administrator, Joel Mundorf, Ann Krueger, recorder, and several guests.

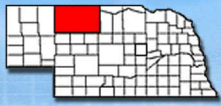
The Open Meetings Act was noted. Public notice for the meeting was published in the August 23, 2017 edition of Valentine Midland News. Minutes from the August 1, 2017 meeting were read. Motion to approve the minutes made by Todd, and Albert seconded. Roll call vote was taken with Lynell abstaining. Gary, Rob, Albert, John, Todd, and Herb voted in favor and the motion carried.

Public Comment: Merrial Rhoades questioned that the minutes were not on the website and the agenda available on the website was not the same as the one handed out in the meeting. The revised agenda included an additional item under 6. Communications, b. Notice of study in progress (solar farm). Joel was not sure why the minutes did not get posted correctly, as they were available shortly after the last meeting was held. He also stated that he cannot post the agenda on the website directly from his desk; it must be sent to a third party to post changes. The minutes and agenda were on the door at the Planning and Zoning office. A heated discussion ensued about the fact that the agenda must be posted and not altered 24 hours prior to the meeting. As this was a last-minute item added, no action will be taken on it at this meeting, and the agenda item will be moved to New Business.

Communications: Guest Mike Murphy, Middle Niobrara Natural Resources District (MNNRD) manager, was asked to speak before the group. Gary asked him to comment about water and water management, and to discuss who looks at water and water usage.

Mike mentioned that the MNNRD follows Nebraska Revised Statutes 46-701 to 46-754, the Nebraska Ground Water Management and Protection Act. This deals with the groundwater management plan and the rules of regulations thereof. The Natural Resource District (NRD) was built to conserve, sustain, and improve natural resources and the environment. The biggest concern is contamination of groundwater. There are 900 pivots across the district, 700 of which inject some sort of fertilizer. The MNNRD is continuously taking groundwater quality samples, and sampling for bacteria and e. coli. The samples are sent to certified labs, in Kearney and state university labs. Some in-house testing can be done, and they also take public samples. There is a complete process in place to follow the rules and regulations. His department continues to add monitoring wells and work with Environmental Protection Agency (EPA) and Department of Environmental Quality (DEQ) requirements. Nebraska has one of the most extensive sampling data collection in the nation. Most of the information, along with studies and reports, are available to the public on the state departments and DEQ's website. Game and Parks studies have also been done and would be located elsewhere. If any of the public has questions into specific reports and studies done, he mentioned to call the local agencies as many are kept on file, if they are not available online.

Gary asked Mike which entities consider water quality standards. Mike mentioned there are several agencies involved and concerned. The DEQ and state agencies focus on pollution, and Nebraska Game and Parks and US. Fish and Wildlife Service are also adamant about staying in compliance with regulations. The National Wildlife Refuge also works with Game and Parks and they do some duplicate studies but are doing extensive cleanup work as well. If a report were filed, it would go to NRD and DEQ. They would follow procedure to report and inspect violations, and would follow those set rules and regulations. A guest asked how long it takes to stop a potential violation. Mike said it could take longer if someone wants to contest it, and could get tied up in litigation, but agencies could step in. There are different penalties



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enforced, from \$1000 to \$5000 in fines per day. Therefore, it is imperative to understand state and county statutes. In a case of sediment dump that happened at Plum Creek, the Army Corps of Engineers stepped in to enter a cease and desist, and the EPA also stepped in, so that the violation was stopped in a timely manner. Each case is dealt with on an individual basis. The Natural Resources Conservation Service, another federal agency, could also be involved.

Gary asked if a zoning board need to worry about water issues with regards to adding more regulations. Mike stated that the state has plenty of statutory requirements in place to stay in compliance for both private and public individuals, and there are also federal regulations in place. The MNNRD has monthly meetings, which are open, and he encourages the public to attend and ask questions. The phone number to the MNNRD office is 402-376-3241 and the website is www.nrdnet.org.

Old Business:

a. Review of wind turbine property report.

Gary printed out his last month's email correspondence with appraiser Ron Elliott and passed copies around for the group and guests to see. In summation, Gary expected to receive a study similar to the Berkely Study, which is quite lengthy, but the Planning Commission did not receive an actual report. The correspondence indicated there is no influence or altering of land values either on or adjacent to the turbine wind farms in the study. Sale prices gave no clear indication of any influence, duress or adjustment in value. Gary expressed his disappointment with the lack of formal conclusion on the study, and still hopes to obtain more information. Ron Elliott's appraisal firm is going to be in Cherry County around the end of next week, as they are doing City of Valentine's residential reappraisal.

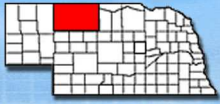
There has not yet been a bill submitted for the work that has been done in regard to the property valuation study. Originally, the Planning Commission was told the cost would be around \$1000 and other counties interested in the report, such as Holt County, would help pay for the rest. However, there is no report to date.

b. Review of Commissioners Report. There is an update to Page 3, which details the changes made to the wind turbine fire contingency plan to add periodic training and also include Wood Lake and Kilgore Rural Fire Departments, in addition to Valentine Rural Fire Department. A guest asked if all the Cherry County fire departments should be included. Guest Jim Ducey said there is no burden of responsibility of the turbine owner, just the fire department. Shouldn't the company be responsible? An example was given in the case of if a baler catches on fire. Is the manufacturer of the baler responsible? It was discussed that they should be liable. Herb said being liable and responsible for putting the fire out are two different things, and that is not the focus of this page of the report. This report is not the same as what is in the regulations. The wind turbine company would have liability insurance and would handle these cases as any business would, such as a manufacturing plant.

New Business:

The agenda item, notice of study in progress for solar farms, was moved to new business. This agenda item was added in order to alert the planning commission that zoning for solar farms will needed to be looked at similarly as to how the wind turbine regulations have been studied. No formal studies have yet been conducted. This issue could be included on the report to the Commissioners on Page 7 of the conclusion under "other issues that have arisen and remain unresolved", stating that solar farms would need to be addressed. Currently, there are no zoning regulations on solar farms and there needs to be new code to include it. Rob asked if there should be a moratorium until there are regulations in place, and the group agreed that it would make sense. When pressed by guests to get more details of a proposed solar farm, Herb stated that this item was put on the agenda as notification that studies need to be done, and since there were not enough notice of this agenda item, a lengthy discussion was not to be had at this time.

New Business: The next regular meeting was set for October 3, 2017 at 4 pm CT at the Cherry County Commissioners Meeting Room.



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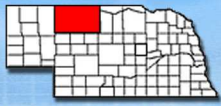
A motion to excuse the absences of Jim Buer and Coby Billings was made by Albert Ericksen. Rob seconded. The motion carried with a unanimous roll call vote.

The meeting was adjourned by Vice-Chairman Herb Pabst at 5:20 pm CT.

Ann Krueger, Recorder

Guests included: Merrial Rhoades, Gail Hermann, Charlene Reiser-McCormick, Ann Warren, Thomas Witt, Jim Hermann, Jim Ducey, Bob Stetter, Matt Coble, Lana Peterson, A.J. Abbott.

APPROVED AS CORRECTED



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

October 3, 2017

Cherry County Court House Conference Room

The meeting was called to order at 4:01 pm CT, by Jim Buer, Chairman. Roll call was taken. The following members were in attendance: Jim Buer, Gary Swanson, Rob Lee, Albert Ericksen, John Wheeler, Lynell Stillwell, Todd Mathis, Herb Pabst, and Coby Billings.

Also present were Cherry County Zoning Administrator, Joel Mundorf, Ann Krueger, recorder, and several guests. The meeting was moved to the conference room due to number of guests present.

The Open Meetings Act was noted. Public notice for the meeting was published in the September 20, 2017 edition of Valentine Midland News. Minutes from the September 5, 2017 meeting were read. Correction was made by Lynell Stillwell to change the location to the Meeting Room from the Court Room. Motion to approve the minutes as corrected was made by Rob Lee. Herb seconded. Roll call vote was taken with all members voting in favor. Motion carried unanimously.

Public Comment: Five guests indicated they would like to comment publicly. A timer was brought in to help keep track of the comment time.

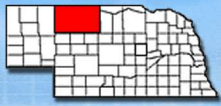
Leroy Semin commented that if BHS Kilgore gets their permit and gets their easement, he said there will be at least five miles of county road involved. He wanted to bring that to the board's attention as there will be extensive use of the county road.

Lana Peterson passed out a handout to the planning members. In reviewing the wind zoning regulations, there are two suggestions that her and her husband Randy have. It is imperative that land owners be held responsible for decommissioning for the wind turbine. If the companies go bankrupt or fail to decommission, this is a way to ensure they will be taken down properly. Also, a two-mile setback should be required. She also mentioned that an engineer should calculate how far an ember would travel if a 600-foot turbine caught fire with conditions present like 50 mph winds and 114-degree temps, such as during the Big Rock fire.

Michael Knapp offered his counterargument about the setbacks. Changing a setback is a very different change to the regulations than altering a fire protocol. You are directly restricting private property landowners' rights when the setback is changed. It will have a direct and profound impact to the 400,000 acres of recorded leases involved in the wind turbine development.

Jim Ducey issued a complaint regarding the emails from Ron Elliot that discussed the impact of wind turbines on property values and how it was reported by the media. He also had a question on the agenda, under New Business, Item a. Review Zoning Regulations. He did not know what that item refers to and thinks it is too vague to try to discuss during their public comment period. He would like those agenda items to be more expressive. Last month, there was a disagreement about the solar discussion. That item was put under new business, but this month it is not on the agenda. On the handout passed out today, there was some discussion at the last meeting that there be something done about solar farm regulations and suggested that it be put in the Conclusion of their report under Other Items. He would also like to request to the zoning board that each month the zoning administrator give a report, or brief summary, of his monthly activities. He wants accountability and to hear what he does, as he's a paid member by the county.

Charlene Reiser-McCormick asked if anyone was able to watch the hearing at Lincoln that took place on September 22nd. She would like to request if she could show that hearing to the planning commission when it becomes available. It regarded testimony on a resolution (LR125) introduced by Natural Resources Committee Chairman Dan Hughes that studied public power in Nebraska, including the role of renewable energy in state economic development. It included



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testimony from landowners near turbines and the problems they have had with them, including noise. She knows the two-mile setback would affect the thousands of acres that are involved in the wind projects, but there are also thousands of acres affected by surrounding neighbors. She also mentioned the letter given by the appraiser could have another letter from the other side just as easily in its place. The property they looked at did not show a complete enough picture. It is not recent enough, nor complete enough. Ron Elliot has been doing property valuations in Thomas County, and there have been many protests with his valuations. There are no statistics given by the appraiser, just a generalization. They also do not indicate if the property was sold to a wind energy development company.

Bob Stetter wanted to add on to Charlene's statement. He was at the meeting in Lincoln, and after being there, he is definitely against wind turbines. The people presenting at the meeting were experiencing firsthand the negative effects of the turbines. He asked why this particular appraiser was chosen. Gary said that Ron Elliot has worked for Cherry County for years, and so that was the reason why he was used. Herb asked if it the testimony changed any other the board member's opinions at the meeting. Bob said they didn't voice their opinion during the meeting, but thought they did. Herb asked if the resolution will leave the committee and go to the floor? Bob said it was very probable. He also said that some of the senators said they had no idea of the effects of the turbines, and others were biased because they "had their finger in the pot".

Lynell asked where the people that testified were from and the guests said various counties.

Twyla Witt watched the hearing live and some of the counties included: Holt, Boone, Nuckolls, Garden, Knox, among others. One of the Senators spoke of the problems he had in his district. The meeting lasted over four hours. She said that Senator Brewer's office and the Natural Resources Committee could direct you to the website or the recording of it. Carolyn Semin said it was not quite available yet. The hearing room was full and there were 30-40 people in the overflow room.

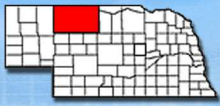
Bob added that there's an article in the Lincoln Journal Star, which discusses what the meeting was a about. It is written by JoAnne Young dated September 22 and uploaded September 25, 2017. Bob has a copy and he would be happy to make more copies, and said it was worth reading.

Twyla asked if they can make comments after the conclusion of the meeting, regarding what the planning commission will include in their report to the commissioners.

Lana asked if the planning commission were to change the zoning regulations, would the commissioners have to approve it. Herb said that was correct. There will be a public hearing first.

Communications: Chairman Buer asked if everyone on the committee received a copy of the letter from Dave Hamilton. The planning commission took a moment to review the letter and asked him to read it. Dave wanted to restate his reasons for supporting wind energy. Under section 613.03, under the purpose statement with regards to Wind Energy Development, it says: "It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy systems within Cherry County". He mentioned this will expand property valuation, bring money into the community, and bring stability into markets. It will promote economic growth and provide jobs. It would create 60 megawatts of clean electricity. He mentioned how the County Commissioners had the planning commission look into more issues, and gave the committee six months to take more time. Now, nine months later, proponents are patiently waiting to hear if they will be able to develop.

The report shows no dangerous health effects with a half mile setback. Wind Energy development is an established technology with 13 years success in Brown County and 4 years in Broken Bow, in Custer County. There is talk the planning commission will change the setback, which will cause more delay. A Save the Sandhills group at one time tried to ban center pivots. Change is constant. Enough time has been taken for these studies.



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Guest Charlene Reiser-McCormick had given the planning commission a letter from a judge from Massachusetts where the operation of wind turbines was declared a nuisance. The judge concluded that there was unreasonable interference with the plaintiffs' enjoyment of their property and therefore that constituted a nuisance. After reading the handout, she begged the committee to watch the hearing to see firsthand the effects they have on people.

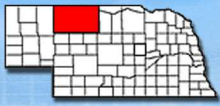
Old Business:

- a. Review of Wind Turbine Property Values Report: Gary said on page two of the report, there is now the letter from Matthew Wilson, whom appraiser Ron Elliot works for. There aren't very many property changes and it's basically not clear of any effect on property values. Gary asked if they should have more than just this letter. Lynell said the letter is the only "official" report they have. This property valuation is more recent than the Berkeley study, but there are limited land sales. Gary said the Berkeley study doesn't say much different than the appraisal by Ron Elliot done on ag land. Chairman Buer asked if the letter would be attached, and it was discussed that it would be the body of that page of the report.
- b. Review of the Commissioners Report: Chairman Buer asked the commission to work through the entire report. With regards to the fire page, page 3, Herb felt that there was not much more that could be done. There is a spelling correction to the word sheriff that still needs to be done. Page 4, the Lancaster County Health Review, was examined. In the health report, the height of the turbines was not discussed. That could have an impact. Gary asked if there were any additions or corrections to Page 5. Lynell asked if the wind farms in other parts of Nebraska are on primarily flat ground? Gary said they differ. The commission moved on to page 6, the conclusion.

Albert made a motion to add to the report a two-mile setback from a non-participating dwelling, and one-mile setback from non-participating property line. No Wind Turbine Facility should exceed 35 decibels (dBA) at the nearest non-participating dwelling. Herb seconded the motion. Gary made a motion to vote on those issues separately, but withdrew his to have discussion on Albert's motion currently on the floor. Rob also felt it would be pertinent to break down the motion separately as well. A roll call vote was taken on Albert's motion with Albert, Todd, and Herb voting in favor. Gary, Rob, John, Lynell, and Coby voted against. The motion failed 5-3. Gary made a motion for a setback of 1 mile for non-participating dwellings be required. Rob seconded. Albert felt one mile is too close because the turbines are enormous. Coby said after Gary's motion is voted on, another motion could be made to change the setback back to two miles. A roll call vote was taken with Gary and Rob in favor. The remaining members voted against and the motion failed 6-2.

Coby made a motion to set the setbacks at two miles from non-participating dwellings. Herb seconded. Lynell asked if it had to be either one or two or if it could be a mile and a half. Albert, John, Todd, Herb, Coby voted in favor of the motion. Gary, Rob, and Lynell voted against. Motion carried 5-3.

Albert made a motion for a setback of one mile from a non-participating property line. Herb seconded. Gary discussed that a half mile is adequate and extending out a mile is perhaps overkill. The setback is two miles from a dwelling in their proposal, so on a property line, where there may not be anyone around for months on end, and a mile may be too much. Half a mile fulfills their obligations and puts an end of any chance for the turbine to get across the property line. Noise abates at that distance. Albert argued that a lot of non-participating property owners don't think that even a mile is enough distance, and therefore he is trying to find a middle ground. Lynell said that people might want to build closer to their property line and that would influence that ability. Rob said the non-participating people's concerns are always addressed, but what about the people that would want to participate? Would that over-restrict the parties that would like to participate? An easement could be signed to change these setbacks between the parties. Discussion ended, and a roll call vote was taken. Albert, Lynell, Todd, Herb and Coby voted in favor of the motion. Gary, Rob, and John voted against. Motion carried 5-3. Under section 613.03.13, Albert made a motion that no Wind Turbine Facility should exceed 35 dBA to the nearest non-participating dwelling. Herb seconded. Albert said the reason for that decibel level is due to the



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infrasound, and the lack of studies done on how that affects people. A roll call vote was taken with all in favor. Motion carried unanimously.

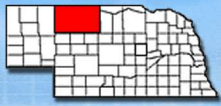
Page 7 of the report was then examined. Gary asked if there were any additions. Guest Jim Ducey suggested to add the proper names of US Fish and Wildlife Service and Nebraska Game and Parks Commission. LB 504 is the bill that might move out of committee, and is addressed under "Other Issues". John said if they should ask the commissioners to wait and see what happens with LB 504, the bill proposing the moratorium and task study, before moving forward with changes to the zoning regulations? Rob suggested to put a reason as to why LB 504 is listed, as it is unresolved, at least until January. Coby said they should put LB 504 as item number six, and the commissioners should consider it.

A suggestion was made by Guest Ducey to say that the commissioners should consider LB 504 based on this being a priority bill and also because of the comments made at the legislative hearing on September 22, 2017. The transcription would probably take two weeks to be available.

The planning commission discussed wording a recommendation in the report to the commissioners as follows: That the Cherry County Commissioners consider LB 504, which is a bill introduced to create a two-year moratorium on industrial development of wind energy projects in the sandhills as well as form a task force study. They also recommend the Commissioners consider the testimony from the Nebraska legislative hearing on September 22, 2017, which should be available shortly, and concerns legal resolution 125, the interim study to examine public power in Nebraska.

Todd asked if they would add on a consideration of solar farms. Gary said it was up to the planning commission to add that but might not be necessary for this report. Gary suggested that the planning commission see an entire corrected report before voting on approving the entire report. A review of the updated report will be put on next month's agenda.

New Business: a. Review zoning regulations – the votes that the planning commission made on their report means that they have to review the zoning regulations and make changes accordingly. The planning commission turned to the page of Wind Energy Zoning Conversion Facilities that shows the chart with property lines. Gary said they will have to make changes to this page, which is page 55 of the Amendments to the Wind Energy Section of the Cherry County Zoning Regulations, illustrated below:



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Setbacks

All towers shall adhere to the setbacks as measured from centerline of turbine established in the following table:

	Wind Turbine – Non Commercial	WECS Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines (other than right angle corners)	Diameter plus applicable building setback	Diameter plus applicable building setback	1.1 times the total height
Right angle corner property lines	Diameter plus applicable building setback from both property lines	Behind a line on the property lines drawn between two points 150' from the property line intersection. Generator blades must not exceed the building setback lines on the non-road side, and shall not encroach on the right-of-way on the road side. (See Figure 2)	1.1 times the total height from both property lines
Dwelling *	Diameter plus applicable building setback for owner ½ mile for non-owner dwelling	1,000' feet for participant *** ½ mile for non-participant ***	1.1 times the total height plus applicable building setback
Road Rights-of-Way**	Diameter plus applicable building setback	Diameter plus applicable building setback	1.1 times the total height plus applicable building setback
Other Rights-of-Way	Diameter plus applicable building setback	Diameter plus applicable building setback	1.1 times the total height plus applicable building setback
Public Conservation Lands including Wildlife Management Areas and State Recreation Areas	Applicable building setback	Diameter plus applicable building setback	1.1 times the total height plus applicable building setback
Wetlands, USFW Types III, IV, and V	NA	600'	1.1 times the total height
Other structures not on the applicant's project site	NA	Diameter	1.1 times the total height
Bluffs of over 15 feet		1,320'	

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

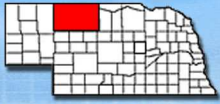
** The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-way is known.

*** Participants or non-participants may waive or reduce the required setback by any amount.

Another column might have to be added for non-participating and participating. The planning commission discussed eliminating the diameter plus non-participating property line, and replacing it with one mile. The would change the half mile to two miles for non-participating dwellings. Road Rights-of-Way are currently set at diameter plus applicable building setback. Albert discussed having the measurement at three times the total height, rather than the diameter. Albert has concerns about the turbines throwing ice during winter. Gary thought Albert's idea is rational, and if the regulations are to keep flicker off the road, there should be a section that states just that. Discussion was had on whether the height measured the blades or just when to the top of the hub, and it was determined that the current definition of tower height measure to the hub. Rights-of-way were discussed as railroads, cell phone towers, etc. Coby suggested that public lands could be treated as non-participating entities, and would have the right to sign an easement.

The planning commission discussed keeping three asterisks next to non-participating property line, which would be changed to one mile. Public conservation would also have three stars/asterisks***, which means that participants or non-participants may waive or reduce the required setback by any amount through an easement.

Noise was also suggested to be changed, found on Page 58, number 13. It currently states: "No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure occupied by humans. Exception: a Commercial/Utility WECS may



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exceed 50 dBA during periods of severe weather as defined by the US Weather Service". The commission discussed leaving the decibel at 50 dBA during severe weather, and just changing the decibel levels to 35 dba to the nearest non-participating dwelling, instead of using the term "structure occupied by humans".

Page 56, Section 1 discusses flicker. Gary suggested adding that no wind turbine should cast a shadow flicker on a public road.

Guest Ducey asked if the proposed changes be available prior to the November meeting, with at least 10 days' notice. He also asked if, in the public notice that is in the newspaper, they could put that the information that will be available on the planning commission website.

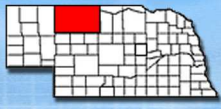
Gary said the changes proposed are just that, a proposal. It will be written up, and then the changes will be reviewed right away, and also put up on the website. After their meeting, they have a public hearing, and then they can vote to make the changes and also pass the report on to the commissioners. The earliest to have a meeting and public hearing would be the last week of October. Otherwise, they could go with their regular meeting date. Gary suggested holding the public hearing during their regular meeting. Then the commissioners will have to hold a public hearing to actually change the regulations.

The next regular meeting was set for November 7, 2017 at 4 pm CT at the Cherry County Commissioners Meeting Room. A public hearing is also planned for that time.

The meeting was adjourned by Chairman Jim Buer at 7:06 pm CT.

Ann Krueger, Recorder

Guests included: Merrial Rhoades, Marion Rhoades, Twyla Witt, LeRoy Semin, Carolyn Semin, Jim Ducey, David Hamilton, Charlene Reiser-McCormick, Matthew Miles, Mike Burge, Lana Peterson, Lynn Mundorf, John Mundorf, Bob Stetter, Ann Warren, Michael Knapp.



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CHERRY COUNTY PLANNING COMMISSION MINUTES

November 7, 2017

Cherry County Court House Court Room

The meeting was called to order at 4:01 pm CT, by Jim Buer, Chairman. The meeting was moved to the Cherry County Court House Court Room due to number of guests present. Roll call was taken. The following members were in attendance: Jim Buer, Gary Swanson, Rob Lee, Albert Ericksen, John Wheeler, Lynell Stillwell, Todd Mathis, Herb Pabst, and Coby Billings.

Also present were Ann Krueger, recorder, and several guests. The meeting was moved to the court room due to number of guests present.

The Open Meetings Act was noted. Public notice for the meeting was published in the October 18, 2017 and subsequent editions of Valentine Midland News. Minutes from the October 3, 2017 meeting were read. Corrections were made to change guest Carolyn Semin's name from Carol, and to the number of recorded leases to 400,000 from 4,000 in guest Michael Knapp's statement. The word "at" was changed from "the" in reference to the hearing at Lincoln in Charlene Reiser-McCormick's statement. A motion to approve the minutes as amended was made by Herb. John seconded. Roll call vote was taken with all members voting in favor, and the motion carried unanimously.

The meeting was closed at 4:31 pm CT to open the Public Hearing – Changes to Wind Energy Regulations.

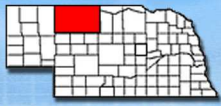
Gary handed out drafts of the proposed changes, which were highlighted on the handouts in blue.

Public Comment was opened.

Guest Matt Coble requested that no setback changes be made. He listed his reasons, some pertaining to infrasound. Mr. Coble gave examples of several wind farm studies. One of the conclusions were that the level of infrasound was well below the threshold level. He said that Section 17 already protects non-participants and the proposed setbacks are based on fabricated beliefs with no scientific evidence. He hoped that the planning commission would make their decisions based on rational, unbiased and well-informed decisions and that they not be intimidated by the opposition.

Guest Sherri Bacon was speaking on behalf of Carolyn Semin and read a letter from Mrs. Semin, which thanked the planning commission for their time spent and added their support for the proposed changes. The letter commented on past planning commission meetings as well as Cherry County Commissioners' meetings and her thoughts and opinions on what has transpired in those meetings, including statements she had heard from Matt Coble. Sherri also gave a handout that had a timeline of the planning commission meetings to share with those not able to attend every meeting. Mr. Coble added that some of his statements that were noted in Mrs. Semin's letter were taken out of context.

Guest Craig Andresen read excerpts from the Cherry County Comprehensive Development Plan, which states that the purpose is to help citizens and decision makers guide change into the framework of this vision, which includes both a traditional respect for property rights and a strong sense of responsibility and stewardship. He quoted from the comprehensive plan that "Cherry County will work to ensure that changes in the use of local land and water resources have no adverse impact on the present or future viability of agricultural operations on neighboring lands." He asked where does, in the proposed wind energy regulations, is that taken into consideration? He went on to quote that the comprehensive plan states that "Development sites shall maintain a vegetative cover sufficient to prevent wind and water erosion", "Developments that propose to use groundwater, or that could potentially contaminate groundwater, shall demonstrate that they will not adversely affect water levels or water quality in existing wetlands or lakes, or adversely affect water levels or water quality in existing wells", "Development plans should also reflect a concern for wildfire hazard, wildlife habitat and steep slopes. Naturally hazardous and sensitive lands are best left in agricultural use". He stated until the whole of the Cherry County Comprehensive Development Plan is reflected in all of the



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regulations for wind energy, the regulations considered today are wholly invalid. Mr. Andresen also mentioned a study on infrasound in Brown County, Wisconsin.

Guest Wanda Simonson stated she was here to support the proposed two-mile setback from the non-participating dwelling and one mile from non-participating property line. She is also representing her husband Pat and three sons, Eric, Mike and Nick, also Cherry County Land owners. She asked that the commission not support industrial development of wind energy projects. The testimony from Vickie Mays in Lincoln shows the actual effect of someone who does live near a wind turbine. She said that her testimony was heartbreaking.

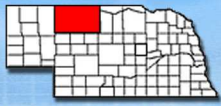
Guest Merrial Rhoades from Thedford wanted the planning commission to make sure that the all items of concern be addressed as all taxpayers will be affected. Regarding the section on wind turbine fires, why aren't the other fire districts incorporated into this report? She is also worried about the Ogallala Aquifer and the effect from contamination from turbines on the water. There are no regulations on solar, and that also needs to be addressed.

Guest Kevin Willart of Valentine thanked planning and zoning for their efforts. He addressed concerns on the handout under item 15. Roads, Section B., regarding a pre-construction survey. His personal experience has been that if the pre-construction survey isn't done to exact specifications, it could lead to legal battles. If construction is to take place, which he hopes it does not, the local entities need to fully protect themselves because the wind energy development company's assessment will be in their favor. He suggested adding video and audio survey to protect the locals' best interest. He also mentioned concerns with number 17 Public Inquiries and Complaints, Section ii, if you are aggrieved to notify board in writing, then the aggrieved land owner needs to post the money for the land study. He said that was inappropriate and it should not be the responsibility of the aggrieved to post the money.

Guest Matt Robinette thanked the commission. He quoted the purpose of the Wind Energy zoning regulations is "to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity." He stated that the proposed changes are not reasonable nor responsible, and are not substantiated by fact. They will prohibit the development of wind energy in Cherry County. He personally believes with the current state of the proposed regulations, zoning is dangerous and irresponsible. Wind Energy is only permitted as a conditional use, which allows for safe and responsible use. The CUP process allows Cherry County to have responsible regulations in the books.

Guest Jerry Adamson agreed with the previous statements by Matt Robinette. He has spent time visiting neighboring counties that currently have wind turbines. Elgin has 150 turbines and are considering 150 more. Broken Bow has 94 and he toured them extensively. Springview has only a couple but he wanted the residents' take on them. He talked to several store owners, and he explained why he was there. No one he spoke to had any derogatory statements. The proposed setbacks are an overkill. He said to think about the small and medium-sized rancher. The small rancher and his family have been discriminated against because they've been put out of the picture with the proposed setbacks. He challenged the commission to find setbacks that aren't as stringent. He wanted the commission to think about what they are doing to the small and medium-sized rancher, and also about property rights. The bottom line he hears is that opponents of wind turbines don't want to look at them. He said that one of the things about the proposed farm in Kilgore, Nebraska, is that the turbines will have radar equipment on the tower; a light system which is FAA approved, which would only come on when planes were in range. The lights would only be on 1% of the time at night. He reminded the commission that the excuse of not wanting to look at them treads on property rights. He asked, if you start treading on property rights here, where do you stop?

Guest Chris Abbott of Gordon stated that Elgin is in Antelope County, and he had updated numbers from the revenue they've taken in from turbines. In 2015, they've averaged \$5000 per turbine. This year, \$7300 per turbine was collected in nameplate tax and personal and property tax. The average turbine is 1.7 megawatts. The Kilgore wind project would double that. Antelope County is less than 1/5 the size of Cherry County. Nebraska has the highest ag-related property tax in the country. California is the second. He stated that we are in a property tax crisis and that it is staggering to know



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the number of school districts that will be filing bankruptcy. He also said that it takes 100,000 acres of grassland to raise the same valuation for tax purposes that one turbine does.

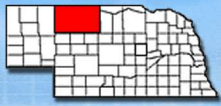
Guest Tom Weise stated that the opposition says Save the Sandhills. He is a 6th generation landowner and feels that he can speak of a true Sandhiller. He says Save the Sandhiller. He is a small operation. He has less than 5,000 acres, so to have an opportunity to have an extra income off of his family's private property would be a boon for him. The opposition says they don't want to look at them. They are so similar to a cellphone tower, which are not as heatedly opposed. There was a time when people didn't want to see a windmill or a barb wire fence, or even a railroad. He said that we look at these things every day and don't think anything about it. He can see seven blinking lights from cell towers on his hill. The scenic value isn't gone. The commission needs to help the property tax paying people of this county. He also mentioned roads and said what they are asking isn't anything different than hasn't been here for 100 years. If people want to save the sandhills, how far back do you go? How much does the planning commission want to help the tax paying citizens? It takes a lot of money to run and ranch and it's tough for the small landowner. He said for the people that don't want to look at them, tell them to take down every powerline to their house, and asked then which side would they be on?

Guest Dave Hamilton, Cherry County landowner, mentioned that he had sent to the planning commission a website link to a video presentation by Ryan Callahan, acoustical engineer, which was in regards to sound, including infrasound. Of all the testing they've done, there are many studies that have flaws. The video shows that there is no danger or health impacts. The committee may have gotten off task from the three big things the commissioners asked them to look at: property taxes, landowner lease revenue, and economic development. Instead of those three big issues, there have been discussion on irrational setbacks that are way out of line. The setbacks don't need to be the furthest away of anyone in the country. The big things need to be considered. He spoke to the chairman and a member of the Custer county wind farm. He called Sherry Bryant, county treasurer in Broken Bow, to find out numbers on nameplate and personal property tax, and she told him \$1,013,800 was generated in one year. Significant property tax relief will not come from legislators in Lincoln. Ag land owners will have to create their own relief with mechanisms such as wind energy. Fairmont, in Fillmore County, and Bluestem Energy Solutions recently held a groundbreaking ceremony. The village of Fairmont voted unanimously for the wind farm. Most rural areas are experiencing decline, so growth needs to be found elsewhere. He said that wind farms create new opportunities for existing residents. It is a resourceful way of capturing local resources. That is a good example of what could happen in Cherry County. He told the commission not to focus on the minutia.

Guest AJ Abbott read a letter from John Johnson. The ten months of research conducted by the planning commission did not show reasons to change setbacks. It was irresponsible and reckless to do so. The manner in which the planning commission board members acted violated the trust of the public. Not all board members have been willing to listen to proponents of wind energy. The data on land value showed no effect. Intimidation, fear mongering and bullying was used to come to the decisions of the proposed setbacks. Most troubling has been the discourse from the opposition which has been combative and without respect. Without the tolerance of free speech, we are no longer a free society. School districts and fire departments are funded by proceeds allocated from landowners' wind turbines, and they are decent people doing decent things to benefit the county.

Guest Rex Adamson stated that the proposed current setback eliminates the small landowner. Even a large landowner could still not be able to participate if they had a long narrow strip of land. A half mile setback would be more fair. Wind energy is a way to relieve property taxes.

Guest John Mundorf stated that property taxes are an issue but it's not on the agenda. He's looked at several different counties and how wind energy affects property taxes, and he found that doesn't affect property taxes. Looking at a 5-year history, he has not seen any changes, regardless of if they have turbines or not. He did some research for Cherry County, and stated that Dave Hamilton says it would generate \$400,000 dollars in property taxes. The total property tax



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on the one turbine west of Valentine collected is \$1,800 dollars. His figures show that would figure as \$100,000 to \$125,000 short on the estimated revenue given previously. In Custer County, one million, 13 thousand dollars of property tax is not that much compared to the overall tax collected. Property taxes are not affected by wind energy. He agrees with some of what the proponents say. On the other hand, he said that if you live in the corridor of the R- Line, you were questioning where it was going to go. When the final route was chosen, most breathed a sigh of relief, but felt bad for their neighbors who were affected. He thinks there will be more transmission lines come through Cherry County, even though NPPD says it won't at this time.

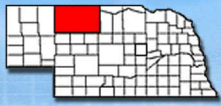
Guest Karl Busch said the R-Line would go through one mile of his property south of Crookston. There are hills there, so he questioned how many hills will be involved. The installation and maintenance could cause many blowouts. That's a concern of his. There is so much talk about taxes and money, but not about the transmission line. Why are they doing this when the windmills could be built near where the use is? There is something missing in the formula. Where is the electricity going to end up being used? He said there are many questions that still need to be addressed.

Guest Mark Birchfield stated that he agrees about property rights, but wanted to mention one thing that came up a couple of years ago. 11 years ago, wind turbines weren't even talked about. Years ago, his loan officer said a neighboring wind property wouldn't affect his land value, but he would probably have to get a new appraisal done on the ranch, which would lower the valuation. He said his borrowing capacity would in turn go down. That's why he's against the turbines.

Guest John Hanson, a member of Cherry County Wind and landowner Cherry County, said he's listened for several years to the arguments, and it boils down to viewscape and property rights. Both are important, and both are slippery slopes. In regard to property rights, everyone expects to have quiet enjoyment of their land, but there is also reasonable expectation to utilize resources to obtain financial security. If land doesn't pay the bills, it will eat your lunch. Regarding keeping our culture together, the most important part is youth. If we don't have our youth, we'll lose our culture. He said that we are continuing to lose youth in agriculture. We need to have the ability for people to be able to utilize their property. The smaller and mid-sized landowners are the ones most greatly affected. Nothing stays the same, you either progress or regress. Cherry County needs to be progressive to keep our culture here. When it comes to viewscape, we all like to look at something nice. But when he sees that or hears noise, he knows someone is making a living because of it. If you erode your rights and give up what you have and can't have, you will have nothing. Pretty quickly, there won't be anyone sitting here. Turbines are a way to offset property taxes. He stated that the commission needs to think about the long-term and the future generations. If you erode rights, pretty soon you have none.

Guest Ann Warren thanked the commission. She opposes the setbacks, only because they should be one and the same. Putting a two-mile setback on non-participating dwellings and one-mile setback on non-participating property line means you are controlling a mile of her private property rights. She mentioned an email that Carolyn Semin had from the Cobb Family from Colorado who live with wind turbines and the negative effects they have felt. It has been damaging to the people, their houses, and their livestock. These are not made up issues, and must be considered. She wondered how close the Cobb family are to the turbines, so she sent them a message. He answered that he was two miles from the closest turbine. He said there shouldn't be a residence within five miles. She recommended a moratorium and noted that LB 504 could come out of committee and onto the floor. She said that we don't need any experiments in the Sandhills. She stated that we don't know what will happen and we don't need to find out.

Guest Jim Ducey handed out his testimony on the report that is being prepared at the request of the Cherry County Commissioners. While he feels there have been steps taken in the right direction, there are still many deficiencies on the amount of studies done. The planning commission's report is lacking the depth needed to cover the amount of problems people that live near turbines have had, and mentioned Vickie May, who testified in Lincoln, and the ill effects she has faced. He feels there are problems in addressing the noise issues and what happens in the case of a fire. It is essential that the development of any wind turbine facility first and foremost respect the essential values appreciated by



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residents and that any facility not degrade the land and rural settings essential to the citizens of Cherry County as well as others which enjoy this country.

Guest Julie Olson, a Cherry County landowner, knows that property rights are a big deal. She has neighbors on both sides. With these wind energy projects come more power lines. She asked what happens when what you want brings in NPPD or another entity that has the power of eminent domain?

Guest Tom Witt from Thedford, stated that there two things to think about. One is LB 504 which will be in front of the legislature again regarding a moratorium. Another is the federal budget issue to reduce the production tax credits for wind turbines. He recommends that little if any action be taken right now. He asked that the planning commission please consider a moratorium to see how the federal budget is handled. There is no need to rush head on.

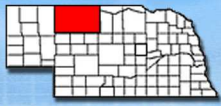
Guest Eve Millar from south of Crookston thanked everyone for their due diligence. She is leaving it up to the planning commission, because it seems as though it's coming down to us against them. We all have the same rights, but she questions what's the best for the biggest group of people? There is proof on both sides, for and against. She witnessed this with uranium mines and waste dumps. She said please do not be emotional in your decisions. Find the real studies that are pertinent to our area. Some may not be pertinent to our area as they are in eastern Nebraska and South Dakota. She said that maybe we do need to wait. Please keep that open as an option. She asked, what happens when the subsidies go away? She had a question on the small to medium landowner. It's her understanding that if you're not a part of the Cherry County wind development group, you won't get a turbine anyway. She asked to look at what is the best for the county as a whole and not just those getting the turbines and the neighbors who are opposed.

Guest Mike Burge stated that he is saddened that it's come to an opposition. This has torn the community apart, as he has friends on both sides. He stated that back to the start of Cherry County Wind, every landowner that owner that owned 100 acres or more, got a letter inviting them to join Cherry County Wind, so anyone who wanted to be involved could have been. He then read a letter from two landowners that were emailed to the commission. In December or 2016, an assignment was given to research main concerns. The results found that health impacts are placebic, the impact of fire districts are much like any other structure, there has not been data to show effect on property values. Cherry County has been labeled as closed for business. The proposed setbacks are economically crippling to our county. No Cherry County landowners have been subject to eminent domain due to wind projects and enrollment is voluntary. He asked the commission to please look at the preservation of rights, additional funding for schools, and increased job opportunities. He hopes to amend the relationships that this project has divided.

Guest Twila Witt owns a ranch in Cherry County and said she has heard numerous people talk about losing people if we don't have the turbines, but stated that numerous people are moving away from counties that have turbines. She doesn't like the sight of the turbines and other people don't as well. She said that this county will lose if the turbines come in.

Guest Craig Miles, of Brownlee, thanked the committee for their due diligence and sympathizes with their position. He's heard a lot about property rights and keeping youth in the area, he's wondering about the wind energy area in Brown County, how come they haven't gone up in class in regards to where they play in football if it's bringing in youth? He said he went to Broken Bow and asked a few people about their thoughts on wind energy, and the people he talked to said they didn't want to see the turbines, but they couldn't stop it. With regards to personal property rights, it is divisive to what has happened in our county. He doesn't want to see the face of Cherry County changed forever, and never able to go back. He's asked a member of the wind energy committee his thoughts on wind energy and that member said he doesn't want it on his land, but said he didn't care about what Mr. Miles had to look at. He said let's take the high road and the safe road, and say let's sit back and wait to see what happens. The foreign businesses are the ones benefiting.

Guest Bob Stetter said there is the issue of whether the wind turbines are able to stand on their own, without subsidies. If you can invest on your own dollars, build them with your own money and can get a good return on investment



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without having a corporation to pay for them, he would be more in favor. He doesn't like them or like to see them. His bottom line was that if we don't have to rely on the government to subsidize them, more power to them.

Guest Charlene Reiser-McCormick, from south of Valentine, warned the members of the planning and to not be fooled by the wind energy companies. It did not create local jobs or economic growth in the counties in Nebraska that have turbines. The property tax that was generated was offset by the cost to rebuild roads and bridges. She said do not be fooled by the complaints of the setbacks. Thomas County will have just as stringent or more setbacks and Hooker County also has two-mile setbacks. Section 613.03 purpose statement is to promote the safe, effective and efficient use of commercial/utility grade wind energy systems. She states they are not safe, not efficient and not effective. She mentioned that President Trump is taking away the tax subsidies for wind turbines and asked, do we want the Sandhills to be a graveyard of wind turbines. She pleaded to the commission to please make regulations that protect us.

Guest Olen Olson from south of Cherry County stated that this is a big problem. There are facts that support both sides. This is a gamble. The wind development companies want you to throw the dice. The best way to win at gambling is to not gamble.

The Public Hearing was closed at 6:30 and the regular meeting was reopened.

Old Business

- A. Review of Commissioner's Report. Gary handed out the proposed report to the commissioners. The most recent version is dated 11/7/17. The main changes from the previous version, under conclusions, added the part regarding LB 504 and that the commissioners should take that bill into consideration. Guest Jim Ducey mentioned that the commission should add a few words to read "as well as form a task force to perform studies", instead of reading a "task force study". No change was made. Guest Kevin Willert wanted to address some items on page three regarding fire, as his experience from the past is that local EMS are also involved. The planning commission felt as though EMS was covered under personnel. Guest Twila Witt wanted to know why all the fire departments weren't listed. Gary mentioned that this is a blueprint to give the commissioners a starting point for all that needs to be done. The crux of this report was to create an outline. The planning commission did not receive responses from everyone, which is why some fire departments in the area were not included.

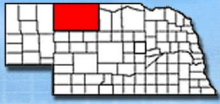
The planning commission went on to review page 6. Gary asked if there were any additions or corrections. None were made. Rob Lee moved they pass the draft of the report on to the commissioners. Herb seconded. A roll call vote was taken and all members voted in favor. Motion carried unanimously.

- B. Review of Zoning Regulations – Chairman Buer asked the commission to review changes made, which were highlighted in blue. Page 56 added that no WECS cast a shadow flicker on any public road. Page 58 had a change changing the terminology to "non-participating dwelling" and lowered the decibels to 35 dBA. Page 55 discussed the changes to setbacks. Guest Kevin Willert asked about how the easements are documented which waive the setback requirement. If a non-participant made a major change in waiving their rights, it must be filed in the courthouse. The commission said that these easements will be recorded with the court. A motion to approve the changes to the zoning regulations was made by Herb Pabst. Albert seconded. Albert, John, Lynell, Todd, Herb and Coby voted in favor. Gary and Rob voted against. Motion carried 6-2.

New Business: The next regular meeting was set for December 5, 2017 at 4 pm CT at the Cherry County Commissioners Meeting Room.

The meeting was adjourned by Chairman Jim Buer at 7:00 pm CT.

Ann Krueger, Recorder

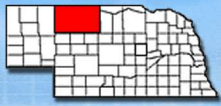


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Guests included: Craig Miles, Sam Miles, Eve Millar, Wanda Simonson, Wayne Eatinger, Kevin Willert, Olen Olson, Julie Olson, Jim Ducey, Matt Coble, Bret Adamson, Charles Stoner, Craig Andresen, Marilyn Ericksen, Lynn Mundorf, Merrial Rhoades, John Mundorf, Katie Mundorf, Joe Mundorf, Bob Stetter, Twyla Witt, Karl Busch, Sherri Bacon, Ann Warren, John Hamilton, Tom Witt, Marion Rhoades, Mark Burchfield, Mary Eatinger, Llyod McIntosh, AJ Abbott, Rex Adamson, David Hamilton, Matt Robinette, Mike Burge, Chris Abbott, Charlene Reiser-McCormick, Billy DeNaeyer, Pam Moody, Russ DeNaeyer, Rachel Dent, Mike Dent, John Hansen, Gail Hermann, Jim Hermann, Rose MacLeod, Gary MacLeod, Dixie Hollenbeck, Gary Garvin, Randy Peterson, Shirley McIntosh, Byron Eatinger

APPROVED



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CHERRY COUNTY PLANNING COMMISSION MINUTES

December 5, 2017

Cherry County Court House Meeting Room

The meeting was called to order at 4:03 pm CT, by Jim Buer, Chairman. Roll call was taken. The following members were in attendance: Jim Buer, Gary Swanson, Rob Lee, Albert Ericksen, John Wheeler, Herb Pabst, and Coby Billings. Lynell Stillwell and Todd Mathis were absent.

Also present were Ann Krueger, recorder, and several guests. The meeting was moved to the general conference room due to number of guests present.

The Open Meetings Act was noted. Public notice for the meeting was published in the November 15, 2017 and subsequent editions of Valentine Midland News. Minutes from the November 7, 2017 meeting were read.

A motion to approve the minutes as read was made by Herb. Albert seconded. Roll call vote was taken with all members voting in favor, and the motion carried unanimously.

Public Comment:

Guest Carolyn Semin was not present at the last meeting and wanted to personally thank the commissioners for their time and for sticking with the public to hear them out during this process.

A guest commented that he was proud of what the planning commission had done and wanted them to reiterate to the commissioners that the changes are being made for the adjacent landowners, and he thanked the commission because he is one of them.

Communications: Chairman Buer had some newspaper articles that he passed out to the commission for review.

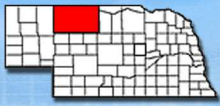
Old Business:

a. Review Zoning Regulations – this item of business refers primarily to solar energy and so new business was then discussed.

New Business:

a. Begin discussion of Solar Energy Section for Zoning Code

Gary handed out some literature regarding solar energy. Some were regulations on solar from Illinois. These regulations are for the commission to take home and study. There was another handout of regulations from Thomas County, which was more complicated. Gary also mentioned that there will be similar concerns with solar as to wind, and perhaps the setbacks and regulations already discussed for wind could be used. Two articles from the Omaha World Herald were discussed, one mentioning that OPPD wants to have 50% of energy from renewable sources. Another article was in reference towards new turbines going in Dixon County, where most of the power is going towards Facebook. Herb thought that Facebook was buying around 90% of it. Herb mentioned in Kimball County they are decommissioning 10 turbines in order to put up bigger and better ones. The company that is putting the new turbines up is paying for the decommissioning. The power lines and concrete will be reused. He also mentioned that Stanton County has voted wind turbine out completely. Herb has talked to many commissioners at various meetings he attends, and some counties did



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not have any zoning regulations on wind in place at all, which opened the doors for wind development companies to come in and start building.

Herb has read through Thomas County's solar regulations, and they seem restrictive. Jim mentioned he would like to be more involved in solar regulations, and would like to do more research.

Guest Jim Ducey mentioned that the planning commission needs to define further what the solar facility is, in regard to the height of the towers, etc. Chairman Buer said that this discussion is the beginning stages, and this is an informal conversation as of right now.

b. Meeting with Cherry County Commissioners – Chairman Buer and Albert Ericksen will plan attend the next Cherry County Commissioners meeting on December 12, 2017 and will ask to be put on the agenda for a time in the afternoon.

c. The next regular meeting was set for January 2, 2018 at 4:00 pm CT at the Cherry County Commissioners Meeting Room.

Public Hearings: No public hearings.

Reports and Recommendations: Chairman Buer recommended the commission spend time looking at solar regulations.

A motion to excuse Lynell Stillwell and Todd Mathis was made by Rob. Herb seconded. A roll call vote was taken with all in favor.

The meeting was adjourned by Chairman Buer at 4:45 pm CT.

Ann Krueger, Recorder

Guests included: Jim Ducey, Marion Rhoades, Merrial Rhoades, Twyla Witt, Carolyn Warren, Thomas Witt, Bob Stetter, LeRoy Semin, Franz Muller, Mike Welker, DeWayne Lancaster, Debby Galloway, Marla Colburn, Mark Burchfield, Phil Miller, Ann Warren, Carolyn Semin, Craig Miles and Stephen Moreland.