

# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

January 15, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:05 PM CT by Chairman Herb Pabst in advertised location of the Cherry County Courthouse Conference Room. Meeting was then moved due to size to the Cherry County Courtroom and reopened at 4:10 PM CT.

Roll call was taken. The following members were present: Coby Billings, Michael McLeod, Gary Swanson, John Wheeler, Duane Kime, and Albert Ericksen. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

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

Minutes were presented from the December 4th meeting. Michael M. made a motion to accept the minutes as presented. John W. seconded the motion. Roll call vote was taken. Duane K.-Abstain, Coby B.-Yes, Michael M.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried.

#### Communications:

Zoning Administrator Jessica C. gave the board a copy of the NPZA Conference to be held in Kearney March 6-8, CUP 005/18 USCOC Nebraska/Kansas LLC, dba US Cellular application, and updated board on new members Duane K. and Chelsea L., reappointed members Albert E. and Dave R., and that this is Coby B. last meeting. Jessica also gave all the members a copy of a letter she received from EBI asking about a tower, but it's within City of Valentine's jurisdiction.

#### Public Comment:

Various members of the public spoke during this time.

#### Old Business:

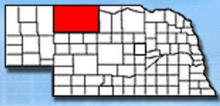
##### Discussion on the Amendment to Zoning Regulations filed by Citizen Wayne Eatinger

Gary S. reported that John W., Michael M. and himself met with Eric Scott, County Attorney for over 2 ½ hours on this amendment and the Amendment to Zoning Regulations filed by citizen William Weller. He reported that Eric said that in the State of Nebraska it would be difficult to win a case if you zone something entirely out of the county. Eventually, if it would go to court as things stand now the county would lose. He referenced Holt County where they tried to zone out hog facilities and the Supreme Court stated that you can make it very difficult for a lawful enterprise in a county but not impossible. He also referenced Arthur County where they put weight restrictions on their county roads that made it difficult for the pig facility to come in but didn't disallow them entirely. The pig facility took this to the Supreme Court where a ruling in favor of Arthur County stood as it was jurisprudence for Arthur County to put the restrictions on their roads. The pig facility said that their trucks couldn't go down the roads then and didn't put in the facility.

Gary S. also stated that whatever the Planning Commission decides this will go on to the County Commissioners and they make the decision.

##### Discussion on the Amendment to Zoning Regulations filed by Citizen William Weller

Gary S. reported that Eric Scott thought this was a rational argument to be made from changing commercial to industrial and should be discussed. Gary S. said if we don't have wind as proposed by the Eatinger Amendment why do we need the Weller Amendment. As far as changing the code it would create some issues of matching the Zoning Regulations to the Comprehensive Plan. Gary S. stated that as far as he knows that there is no Zoning Regulations in the State of



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Nebraska that has wind turbines listed as industrial use instead of commercial. There needs to be more research done. Gary said that he has only found 2 codes that use industrial when referencing wind facilities and these were in the State of New York, Oregon, and Wyoming.

John W. added that Eric Scott was alright with the Weller Amendment from their meeting.

Gary S. feels that the setbacks need to be put in motion as they would be defensible in court.

Duane K. brought up the idea of using similar setbacks like those that are in place for the feedlots when it came to the wind facilities. There was some concern as to how you'd figure this for a turbine facility as then you'd have to consider the dBA's as well as the setbacks.

Coby B. made a motion to approve the Amendment to Zoning Regulations filed by Citizen Wayne Eatinger. Albert E. seconded. Roll call vote was taken. Coby B.-Yes, Michael M.-Yes, Duane K.-No, Gary S.-No, John W.-Yes, and Albert E.-Yes. Motion carried

Michael M. made a motion to accept the proposed changes in Amendment to Zoning Regulations filed by Citizen William Weller. Gary S. seconded. Roll call vote was taken. Coby B.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-No, John W.-Yes and Albert E.-Yes. Motion carried

New Business:

Gary S. volunteered to be the Secretary for this meeting in the absence of filled position.

The date of the next meeting is February 5, 2019 at 4:00 PM CT in the Cherry County Courthouse Conference Room with a Public Hearing on CUP 005/18 at 4:30 PM CT.

Reports and Recommendation:

Zoning Administrator Jessica C. reported that Orval Stahr couldn't attend the next meeting on February 5 to train the board on parliamentary procedures and discuss the Bylaws of the Planning Commission. Jessica C. is going to see if he can attend any other dates in February, otherwise we will try for the March meeting.

Excused Absence:

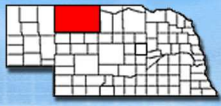
Michael M. made a motion to excuse Chelsea L. and Dave R. from the meeting. Seconded by John W. Roll call vote was taken. Coby B.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried.

The meeting was adjourned by Chairman Pabst at 5:44 pm CT.

Jessica Coyle

Zoning Administrator

Amended minutes to read 2 instead of 12.



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## CHERRY COUNTY PLANNING COMMISSION MINUTES

February 5, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:00 PM CT by Chairman Herb Pabst in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Dave Rogers, Chelsea Luthy, Gary Swanson, John Wheeler, Duane Kime, and Albert Ericksen. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

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

Minutes were read from the January 15th meeting. Albert E. made a motion to accept the minutes as amended from 12 to 2. Duane K. seconded the motion. Roll call vote was taken. Duane K.-Yes, Dave R.-Yes, Chelsea L.-Abstain, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried.

#### Communications:

Chairman Pabst reminded the board of the NPZA Conference coming up in March 6-8 in Kearney and that the registration deadline in February 21.

#### Election of Officers:

Gary S. made a motion to nominate Duane K. as Chairman. Gary S. withdrew the motion. Albert E. made a motion to nominate Gary S. as Chairman. Dave R. seconded. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-No, John W.-Yes, and Albert E.-Yes. Motion carried.

Herb P. nominated John W. as Vice Chairman. Albert E. seconded. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Duane K.-Yes, Herb P.-Yes, John W.-No, Albert E.-Yes. Motion carried.

John W. made a motion to nominate Michael M. as Secretary. Albert E. seconded. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Duane K.-Yes, Herb P.-Yes, John W.-Yes, Albert E.-Yes. Motion carried.

#### Public Comment:

Various members of the public spoke during this time.

#### Public Hearing on CUP 005/18 USCOC dba US Cellular

Duane K. made a motion to table until it can be properly advertised on CUP 005/18. Dave R. seconded. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Duane K.-Yes, Herb P.-Yes, John W.-Yes, Albert E.-Yes. Motion carried. Public hearing is rescheduled for February 26 at a Special Meeting at 4 PM CT to be finalized later during the meeting.

#### Old Business:

None

#### New Business:

Discuss and Act on CUP 005/18 USCOC dba US Cellular was not acted on due to no public hearing.

Discuss and Act on Commissioners request for Statement of Findings on both the Eatinger Amendment and the Weller Amendment: Duane said that he'd spoke with a Commissioner and their concern was why did the board go against the



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County Attorney's advice. Herb and Albert suggested just giving them the written testimony from both public hearings. The board dictated letters for the Zoning Administrator to type and then Chairman Swanson would sign before sending to the Commissioners.

Duane K. excused himself from the rest of meeting.

## Reports and Recommendation:

Zoning Administrator Jessica C. reported that Orval Stahr could attend the next meeting on March 5 to train the boards on parliamentary procedures and discuss the Bylaws of the Planning Commission and Board of Adjustments. Jessica C. is going to see about having this meeting in the library meeting room on March 5 at 2 PM CT. Jessica will finalize all and get the board the information and the advertisement for the joint meeting.

The date for the next meeting is February 26, 2019 at 4:00 PM CT in the Courthouse Meeting room. This will be a special meeting for CUP 005/18 Public Hearing. The next regular meeting is set for March 5, 2019 at 2:00 PM with location to be determined.

## Excused Absence:

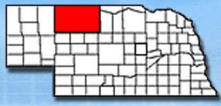
Herb P. made a motion to excuse Michael M. from the meeting. Seconded by Dave R. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Herb P.-Yes, John W.-Yes, Albert E.-Yes. Motion carried.

Chairman Swanson made a motion to adjourn the meeting at 5:41 PM CT and Dave R. seconded.

Jessica Coyle

Zoning Administrator





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## CHERRY COUNTY PLANNING COMMISSION MINUTES

Special Meeting

February 26, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:03 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Dave Rogers, Chelsea Luthy, John Wheeler, Duane Kime, Herb Pabst and Michael McLeod. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

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

Minutes were read from the February 5th meeting. Duane K. stated that he doesn't think you approve the minutes from a regular meeting at a special meeting but at the next regular meeting. Herb P. made a motion to accept the minutes as read. Dave R. seconded the motion. Roll call vote was taken. Duane K.-Yes, Dave R.-Yes, Chelsea L.-Yes, Michael M.-Abstain, John W.-Yes, and Herb P.-Yes. Motion carried.

#### Public Comment:

Various members of the public spoke during this time.

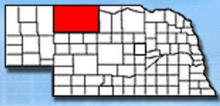
#### Public Hearing on CUP 005/18 USCOC dba US Cellular

Chairman Swanson opened the Public Hearing on CUP 005/18 USCOC dba US Cellular at 4:22 PM CT. He also recognized that it was published in the Valentine Midland News and the doors of the courthouse.

Chad Skinner addressed the board as the agent for US Cellular representing the applicant and introduced Michelle Roth another agent for US Cellular. Chad provided a handout in addition to the application detailing the reason for the need of a US Cellular tower in this location. He stated that the height of the tower depends on the terrain and varies in Cherry County due to location and terrain. Chad explained that in the handout it showed the coverage area now with lack of service in the area and then what coverage will be when the new tower is active, also how this will help with the dropped calls along highway 20. The handout also had a letter from the engineering team and the FAA. Chad answered Herb P. question if they are leasing the land or own it, Chad stated they lease the ground. He stated that the towers proposed location is 1.2 miles off highway 20 using an existing road and that there would be a new driveway of 300 ft. to the 110 sq. ft. compound with a turnaround off this existing drive. Chad also stated that there's existing power provided by KBR Electric and would only have to run power a short distance to the compound. Chad also made known that there are 4 collocations available for use by others on the tower and they have no problem with Emergency Management having space but need to discuss heights and more details on this. He addressed that there will be a dual mode light on top that is an FAA Standard Requirement. Chad also addressed the fall zone where this is located close to a dwelling and that it will avoid the dwelling.

Duane K. addressed if the ground is suitable for a tower. Chad and Michelle both said that a NEPA study was done on the area and found a spot where there was no impact to the wetlands.

Jim Ducey provided the board with a document addressing some concerns he had with the CUP 005/18. He stated that Chad had already addressed many of these issues and was impressed. He feels that with every cell tower built it degrades the landscape and we lose our dark skies. Jim also felt that US Cellular was being presumptive in getting approval when there's a tower on Arabia ranch that is within the 5 miles spacing according to his measurements. He didn't feel that collocation was addressed in the application and that the fee for permits should increase to cover costs.



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He also addressed that a NEPA study needed to be done on not just wetlands but endangered species and natural resources. Michelle Roth said that their NEPA study did cover these issues as well, plus they won't build during migratory bird time and protect the burying beetle. Also, Jim would like to see these companies give back to the communities.

Carolyn Semin asked why they needed their own tower instead of collocation in the area. Chad explained that the towers currently in this location are under 200 ft and that the cost to collocate wouldn't be cost effective for US Cellular.

Chairman Swanson asked for confirmation that the engineering does cover for 3 additional carriers to locate on the tower and Chad Skinner confirmed.

Public Hearing was closed at 5:05 PM CT.

Old Business:

None

New Business:

Discuss and Act on CUP 005/18 USCOC dba US Cellular

Duane K. stated that Jim Ducey brought up some good points and that they have all been addressed by the applicant. Herb P. addressed that the US Cellular store located in Valentine does give back to the community.

Duane made a motion to approve CUP 005/18 USCOC dba US Cellular. Seconded by Dave R. Duane then amended the motion to include that there is an understanding that the tower is located less than 5 miles, but it's up to the Commissioners to act. Dave R. seconded the amendment. Roll call votes were taken on the Amendment to original motion Dave R.-Yes, Chelsea L.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes and John W.-Yes. Motion carried. Roll call vote on original motion Dave R.-Yes, Chelsea L.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes and John W.-Yes. Motion carried.

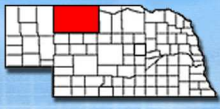
Excused Absence:

Herb P. made a motion to excuse Albert Ericksen from the meeting. Seconded by Michael M. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Duane K.-Yes, Herb P.-Yes, John W.-Yes, and Michael M.-Yes. Motion carried.

Chairman Swanson made a motion to adjourn the meeting at 5:14 PM CT.

Jessica Coyle

Zoning Administrator



# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

Joint Meeting with Planning Commission and Board of Adjustments

March 5, 2019

### VALENTINE PUBLIC LIBRARY CONFERENCE ROOM

The meeting was called to order at 2:04 PM CT by Chairman Gary Swanson in advertised location of the Valentine Public Library Conference Room.

Roll call was taken. The following members were present: Chelsea Luthy, John Wheeler, Duane Kime, Herb Pabst and Albert Ericksen. Also present were Jessica Coyle, Zoning Administrator, Orval Stahr, Planning Consultant and various members of the public.

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

Minutes were read from the February 26th meeting. Duane K. made a motion to accept the minutes as read. Chelsea L. seconded the motion. Roll call vote was taken. Duane K.-Yes, Chelsea L.-Yes, John W.-Yes, Herb P.-Yes, and Albert-Abstain. Motion carried.

#### Public Comment:

No public comment was heard.

#### Training on the duties and responsibilities of Planning Commission

Orval Stahr was in attendance to go over the proposed Bylaws and Rules of Procedure with the Planning Commission. The Planning Commission primary responsibility is recommendation only to the Commissioners, formulate a Comprehensive Plan, creating a future land use plan excluding the municipalities and their limits. He reiterated that the most important part is the Comprehensive Plan as it's the basis for the Zoning Regulations. Orval made some suggestions to the Planning Commission as items to be included in the Bylaws and Rules of Procedure such as the Rules of Procedure to include Order of Business, Contents and Conduct for Public Hearings, and that the Chairman always votes.

#### New Business:

Discuss and Act on adopting said Bylaws and Procedure by each body

Herb P. made a motion due to full body not in attendance to review and act on the Planning Commission Bylaws and Rules of Procedure at the next regular meeting. Albert E. seconded the motion. Roll call vote was taken. Chelsea L. Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, John W.-Yes, Albert E.-Yes. Motion carried.

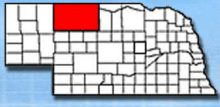
The board asked that Zoning Administrator give a copy of the Bylaws and Rules of Procedure to the County Attorney.

Herb P. made a motion to set the meeting date for the next regular meeting of the Planning Commission to May 7<sup>th</sup>, 2019. Chelsea L. seconded the motion. Roll call vote was taken. Chelsea L. Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, John W.-Yes, Albert E.-Yes. Motion carried.

#### Excused Absence:

Herb P. made a motion to excuse Dave Rogers, Wade Andrews, and Michael McLeod from the meeting. Seconded by Duane K. Roll call vote was taken. Chelsea L. Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, John W.-Yes, Albert E.-Yes. Motion carried.

Chairman Swanson made a motion to adjourn the meeting at 4:41 PM CT.



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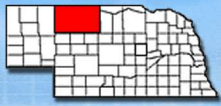


Jessica Coyle

Zoning Administrator

APPROVED





# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

April 2, 2019

### CHERRY COUNTY COURTHOUSE MEETING ROOM

The Emergency meeting was called to order at 4:03 PM CT, by Gary Swanson, Chairman. Roll call was taken. The following members were present: Wade Andrews, Albert Erickson, Michael McLeod, Duane Kime, and Herb Pabst. Also present were Jessica Coyle, Zoning Administrator, Gary Weaver, Emergency Manager and Laura Vroman.

The Open Meetings Act was noted.

#### Public Hearing

The Public Hearing on CUP 002/19 Emergency Communication Tower South of Nenzel was opened by Chairman Swanson at 4:02 PM CT.

Gary Weaver informed the board that the previous tower was built in 1968-69. The guyed wire tower fell during the night of March 13, 2019 during the blizzard and still had ¼ in of ice on it Friday when Gary got there. There is 100' of tower that was left that can be used temporarily. The tower is used for law enforcement, fire departments, road department, and school buses to communicate and paging services. The tower will be the same height of 300' as the previous tower.

Gary S. asked how long to rebuild. Gary W. said the length of time to get a new tower is 12 weeks or if they can get a structurally sound used tower possibly sooner.

Wade A. asked Gary if insurance will cover the cost. Gary W. responded that the insurance company sent out an engineer to inspect to see if it collapsed from age or weather. He stated that at this time no report was made from NIRMA the insurance company.

Michael M. asked if the road going to the tower was good. Gary W. responded that the county will have to do some work on the road in order to get the equipment to the site.

Chairman Swanson closed the Public Hearing at 4:17 PM CT.

#### Discuss and Act of CUP 002/19 Emergency Communication Tower South of Nenzel

Herb P. made a motion to approve CUP 002/19 Emergency Communication Tower South of Nenzel. Michael M. seconded. Roll call vote was taken. Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, and Albert E.-Yes. Motion carried 6-0.

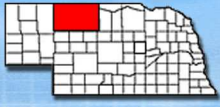
#### Excused Absences:

Herb P. made a motion to excuse Dave Rogers, Chelsea Luthy, and John Wheeler. Albert seconded. Roll call vote was taken. Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, and Albert E.-Yes. Motion carried 6-0.

The meeting was adjourned by Chairman Swanson at 4:31 PM CT.

Jessica Coyle

Zoning Administrator

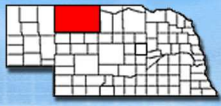


# Cherry County Planning and Zoning Minutes



Added Emergency to Meeting

Approved with Changes



# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

May 7, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:00 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Dave Rogers, Chelsea Luthy, Wade Andrews, Michael McLeod, Duane Kime, Gary Swanson, John Wheeler, and Albert Ericksen. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

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

Minutes were read from the March 5 meeting. Duane K. made a motion to accept the minutes as read. Chelsea L. seconded the motion. Roll call vote was taken. Dave R.-Abstain, Chelsea L.-Yes, Wade A.-Abstain, Michael M.-Abstain, Duane K.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 5-3.

Minutes were read from the April 2 meeting. Duane K. made a motion to approve with changes to read The Emergency Meeting called. Albert E. seconded the motion. Roll call vote was taken. Dave R.-Abstain, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Abstain, Albert E.-Yes. Motion carried 6-2.

#### Zoning Administration Report and Communications:

Zoning Administrator, Jessica Coyle, gave the board a copy of Orval Stahr review of BSH Kilgore Application on CUP 003/18, John Schuele Golf Course CUP 004/19 and reported on inspection of Schuele Golf Course Project, NPZA training that she attended and report from Commissioners Public Hearing on the Eatinger and Weller Amendments.

#### Public Comment:

Various members of the public spoke during this time before and after scheduled Public Hearing of CUP 001/19 Mercure Cattle Co. LLC.

Public Hearing on CUP 001/19 Mercure Cattle Co. LLC for Proposed 30'x30' pavilion, 28'x40' shower/restroom and 12'x16' cabin

Chairman Swanson opened the Public Hearing at 4:30 PM CT as advertised. Jessica Coyle, Zoning Administrator, reported on the additional information that the applicant supplied to her stating how that are going to adhere to the regulations in the NRCAG district.

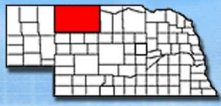
Rich Mercure addressed the board and stated that they plan to use the existing campground with some improvements of additional rv hookups. Michael M. asked if they had started any construction yet and Rich stated no. Wade A. addressed Rich about the colors of the buildings. Rich stated that they haven't chosen a color at this time but will adhere to the regulations.

Chairman Swanson closed the Public Hearing on CUP 001/19 Mercure Cattle Co. LLC at 4:50 PM CT.

#### Discuss and Act on CUP 001/19 Mercure Cattle Co. LLC

Duane K. asked the Zoning Administrator if the CUP is in order. Zoning Administrator stated yes.

Duane K. made a motion to accept and recommend approval of CUP 001/19 Mercure Cattle Co. LLC. Dave R. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, Albert E.-Yes. Motion carried 8-0.



# Cherry County Planning and Zoning Minutes



## Old Business:

### Discuss and Act on Planning Commission Bylaws and Rules of Procedure

Zoning Administrator advised the board that they can either accept as presented or make changes as they see fit. Duane K. would like an answer from the County Attorney before acting on these and if there needs to be a public hearing to adopt. Zoning Administrator read the current Bylaws that state they can make changes to the Bylaws at any regular meeting.

Duane K. made a motion to table the Planning Commission Bylaws and Rules of Procedure until the regular meeting in July to get a response from the County Attorney. Michael seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, Albert E.-Yes. Motion carried 8-0.

Public Hearing on CUP 003/19 Mountain Tower and Land for a new 330' tower, multiple ground support structures, pad mounted generator and buried propane tank

Chairman Swanson opened the Public Hearing at 5:02 PM CT as advertised for 5:00 PM CT. Jessica Coyle, Zoning Administrator advised the board that this was a reapply after applicant had let permit lapse.

Rick Bailey with Mountain Tower and Land added that they have multiple carriers that will collocate on this tower due to its location being very rural. He also stated that they are ready to build as soon as they get approval without any delays. Also, the tower will be utilized for FirstNet and will enhance the existing 911 per Gary Weaver.

Jim Ducey provided the board with a handout stating how this isn't a complete application due to the fact you can't legibly make out the Applicant's name on the Cattle Country easement.

Albert E. asked the distance to the nearest tower and Rick stated that none of their towers are within the 5 mile distance between towers.

Chairman Swanson closed the Public Hearing on CUP 003/19 Mountain Tower and Land at 5:15 PM CT.

### Discuss and Act on CUP 003/19 Mountain Tower and Land

Chairman Swanson asked Gary Weaver if there's any other carrier towers located within the 5 miles of this location. Gary Weaver said no.

Chelsea L. asked Rick Bailey, applicant, if any new research had been done since previous application. Rick stated that they had surveyor re-establish boundaries, paid electrical to put in line and checked on the FAA regulations.

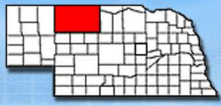
Chairman Swanson asked if any of the members had any issues with the Cattle Country Easement interpretation.

Dave R. made a motion to accept the CUP 003/19 Mountain Tower and Land as presented. Duane K. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-No, Wade A.-Yes, Michael M.-No, Duane K.-No, Gary S.-Yes, John W.-Yes, Albert E.-No. Motion failed 4-4.

Albert E. made a motion to approve and recommend CUP 003/19 Mountain Tower and Land with the condition that the Cattle Country Easement be clarified and legible. Michael M. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-No, Albert E.-Yes. Motion carried 7-1.

## New Business:

Set Date and Time for Public Hearing on CUP 003/18 for BSH Kilgore



# Cherry County Planning and Zoning Minutes



Chairman Swanson asked if there was any review of application from the County Attorney. Zoning Administrator stated no.

Michael M. made a motion to table setting a Date and Time for Public Hearing on CUP 003/18 for BSH Kilgore until next regular meeting. Michael M. retracted previous motion and made a motion to set the Date and Time for the Public Hearing on BSH Kilgore to June 4, 2019 at 2:00 PM CT to be held at Valentine Community Schools Auditorium with a review from County Attorney on CUP 003/18 BSH Kilgore. Duane K. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, Albert E.-Yes.

## Reports and Recommendation:

Duane K. reported that he attended the Commissioner's Public Hearing on the Eatinger Amendment and Weller Amendment. He stated that there was interest in the Weller Amendment with changing of language, but the board wanted additional information as to the effect the change would have on the Comprehensive Plan and Zoning Regulations.

## Set Date and Time for Next Meeting

Chairman Swanson said that the Zoning Administrator will set a Special Meeting for Public Hearing on CUP 004/19 Schuele Golf Course. The next Regular meeting will be held June 4 at the Valentine Community School Auditorium.

## Excused Absence:

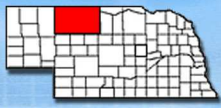
Michael M. made a motion to excuse Herb P. from the meeting. Seconded by Duane K. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, Albert E.-Yes. Motion carried 8-0.

Chairman Swanson made a motion to adjourn the meeting at 5:57 PM CT.

Jessica Coyle

Zoning Administrator





# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

### SPECIAL MEETING

May 28, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The Special meeting was called to order at 4:00 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Dave Rogers, Chelsea Luthy, Michael McLeod, Duane Kime, Gary Swanson, John Wheeler, and Albert Ericksen. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

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

Minutes were read from the May 7 meeting. Duane K. made a motion to accept the minutes as read. Michael M. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 7-0.

#### Public Hearing on CUP 004/19 John Schuele for Golf Course with Associated Structures

Chairman Swanson opened the Public Hearing at 4:12 PM CT as it was advertised to start at 4:00 PM CT. Gary Swanson asked Jessica Coyle, Zoning Administrator if the application was complete with her responding yes.

Merrial Rhoades recommended approval of the application as it would benefit the entire county with the business it would bring.

John Schuele addressed the board and told them about the project of an 18-hole golf course with structures that would house 48 total bedrooms. He is guessing that it will be completed in 3 years due to weather and golf architect's schedule. It will create 30-40 jobs and is projected to be a \$7-8 million total project. They expect to have 180-200 members with part of the dues going to scholarships of no less than \$40,000 a year total. Currently they have 10 investors all from Nebraska and would like at least 2 more. The buildings and course won't be seen from HWY 97 due to the grade, but all buildings will blend and compliment the surroundings. John also stated that the tentative name is The Ranch.

Anne Sawyer Vaughn requested a copy of the map from applicant and John Schuele provided her with one.

Twyla Witt feels that it will be great for tourism and notoriety for Cherry County.

Chairman Swanson closed the Public Hearing on CUP 004/19 John Schuele at 4:30 PM CT.

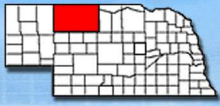
#### Discuss and Act on CUP 004/19 John Schuele for Golf Course with Associated Structures

Duane K. asked John Schuele to explain to the board and show on the map the layout of the course, roads, and buildings.

Duane K. made a motion to accept and recommend approval of CUP 004/19 John Schuele for Golf Course with Associated Structures aka The Ranch. Albert E. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, Albert E.-Yes. Motion carried 7-0.

#### Public Comment

There was only one member who spoke during this time.



# Cherry County Planning and Zoning Minutes



## Communications:

Zoning Administrator gave the board a copy of the tentative agenda for the June 4<sup>th</sup> meeting and copy of the notices on the BSH Kilgore Application.

## Reports and Recommendation:

Chairman Swanson reported that the County Attorney wouldn't be providing any recommendation to the Planning Commission on the BSH Kilgore Application.

Duane K. stated that he feels the board needs to make sure to stick with the advertised 3 minutes of testimony on the upcoming Public Hearing for BSH Kilgore.

## Excused Absence:

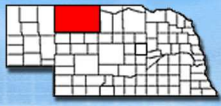
Michael M. made a motion to excuse Wade A. and Herb P. from the meeting. Seconded by Duane K. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, Albert E.-Yes. Motion carried 7-0.

Chairman Swanson made a motion to adjourn the meeting at 5:04 PM CT.

Jessica Coyle

Zoning Administrator

APPROVED



# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

June 4<sup>th</sup>, 2019

Valentine Community Schools High School Auditorium

The meeting was called to order at 2:00 PM CT by Chairman Gary Swanson in advertised location of the Valentine Community Schools High School Auditorium in Valentine, NE.

Roll call was taken. The following members were present: Chelsea Luthy, Wade Andrews, Michael McLeod, Duane Kime, Herb Pabst, Gary Swanson, John Wheeler, and Albert Ericksen. Dave Rodgers was absent. Also present were Jessica Coyle, Zoning Administrator, Orval Stahr, consultant for Planning Commission, and various members of the public.

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

Minutes were read from the May 28th meeting. Duane K. made a motion to accept the minutes as read. Albert E. seconded the motion. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Abstain, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 7-1 with abstention.

### Communications:

Zoning Administrator, Jessica Coyle, gave the board a copy of notices and ads concerning the BSH Kilgore LLC CUP 003/18 and testimony received prior to meeting on Public Hearing on CUP 003/18 BSH Kilgore LLC.

Point of Order was made by Diana Vogt, Attorney for Preserve the Sandhills, stating that Gary Swanson has a perceived conflict of interest on the BSH Kilgore LLC CUP 003/18. Orval Stahr stated that there wouldn't be a conflict of interest due to no financial gain or loss from the project. Gary Swanson personally decided after consulting with the County Attorney, Eric Scott, to chair the meeting for appearance and abstain from comment and voting on the BSH Kilgore CUP 003/18.

### Public Hearing on CUP 003/18 BSH Kilgore LLC for a Commercial/Utility Grade Wind Energy Conversion System

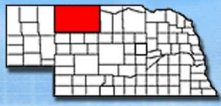
Chairman Swanson opened the Public Hearing at 2:52 PM CT with Public Hearing advertised to begin at 2:30 PM CT. Chairman Swanson read the ad that was placed in the Midland News pertaining to this public hearing that ran in the May 22<sup>nd</sup> edition.

Michael Knapp spoke on behalf of the applicant of BSH Kilgore LLC. Michael gave some personal background and stated that every decision made by BSH is with Cherry County in mind. He also stated that 5% of the profits will be donated to the community, setbacks exceed the regulations, roads to be used are HWY 20, Lehrman Rd and 16F Spur, it's a 60 megawatt project with 19 turbines, powerlines will be underground south of project and the lights used are Intellilight System from Vestas.

Rick Weber, the Owner of Weber and Co. Real Estate, spoke and gave his opinion of the effects on property values on real estate due to the turbines and that people want to purchase land without easements and restrictions based on 20 years of real estate business.

Carolyn Semin, of Kilgore, spoke that the application lacks substance, no environmental study completed, county road plan isn't included, tourism will be affected, and decommissioning financing is need.

Matt Coble, Cherry County landowner and taxpayer, spoke in favor based on 3 reasons of it meets or exceeds regulations, allow significant landowners to diversify, and will not cause financial or physical harm to neighbors.



# Cherry County Planning and Zoning Minutes



Bob Stetter, a resident for 83 years, spoke and is fearful that WECS are about to take over the sandhills and exhibit A in the application is 74 pages long of legal descriptions of property to be affected by the CUP 003/18 and should be a concern.

Melanie Coffman, a Thomas County Resident, spoke on her request of the Planning Commission to not approve the CUP based on that as of May 30<sup>th</sup> they haven't entered into an agreement with the Southwest power pool and NPPD grid, so where is the power going and being sold to.

LeRoy Semin, of Kilgore, spoke on the setbacks of tower 1 next to HWY 20, fires can cause property damages, towers 16 & 17 are close to Lehrman road and 2 possible buildings that were approved, and that towers 16, 17, and 18 are in violation of the regulations.

Dave Hamilton, a Cherry County Landowner and proponent of wind, spoke that legislature failed to pass legislation to help relieve property tax and wind energy can give landowners some relief and that change is consistent with wind representing change.

Mike Young, owner of Young's Western Wear and lifelong resident, spoke in opposition to wind due to the effect on tourism and the economy.

Mike Buechle, a landowner in Cherry County, asked that both boards do an environmental study and feels he's a possible expert on the effect of powerlines due to the work he's done on golf courses.

Wayne Eatinger, a Cherry County Resident, spoke on the decommissioning plan in the application and that the prices used by applicant aren't correct or efficient with no financial assurance guaranteed.

Anita Robinson, a rancher south on 16 F Spur, spoke that she has a granddaughter with a rare genetic disorder called DUP 15, similar to autism, and that sounds from a turbine can cause a shortened life span, with a proposed tower being a little over a mile from the granddaughter's residence this could have adverse effects on her health.

Craig Andreson spoke on the risks regarding health, safety, and welfare of residents, that infrasound can be heard as far away as 6.2 miles and stated that there are over 300 studies highlighting the adverse effects of infrasound.

Tom Witt, a landowner in southern Cherry County, stated his opposition to the CUP, private property rights of some are more important than others and read LB 155 Section 70-1014.02.

Doug Oertwich, from Pilger, NE, spoke that NPPD makes more electricity than using, wind is not needed for generation of electricity, tax credits are not feasible, and that wind projects are sold up to 2 times before or after built.

Twyla Witt, a Cherry County Landowner, spoke that Nebraska tourism is a big business in Cherry County second to agriculture and the money brought in by tourism will be affected by approving the CUP.

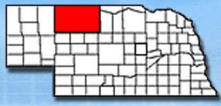
Billy Weller spoke on the Ogallala Aquifer needs protected from the wind turbines and that they aren't required to carry insurance like well drillers are to protect the aquifer.

Vicki May from Holt County spoke that they live close to turbines and the effects it had on their lives and their property values.

Ann Warren spoke on the wind regulations being done by a wind promoter, due to conflicts of interest the regulations aren't complete, amendments to regulations have not been addressed, and doesn't recommend moving forward until these issues are addressed.

Glenda Phipps spoke against the CUP due to in effectiveness, raises electricity rates, and wind power is a set backwards.





# Cherry County Planning and Zoning Minutes



Jim Ducey showed a graphic and gave handout of the project area showing the entire project is surrounded by those against wind energy.

Barbara Welch spoke on the environmental studies that are missing from the project and that the application is incomplete and is not acceptable.

Tyler Rath, of Thedford, spoke that the application is not complete based on the environmental impact study missing, especially to the whooping cranes.

Steve Moreland spoke on the "Dancing White Elephants" referring to turbines, the lack of photogenic appeal and that it appears to be another pseudo pyramid scheme.

Sam Miles, a lifelong resident of Cherry County, stated he feels that the negatives out way the positives and it's a detriment to taxpayers.

Dr. Brent Steffen, resident of Thomas County, agreed that change is consistent and not all change is good, plus the problem with turbines is the environmental impacts.

Merrial Rhoades spoke not to recommend the CUP and read portions of Senator Bruce Bostleman's opening statement for LB 700 decommissioning requirements for Wind Turbines.

Mike Burg, a board member of Cherry County Wind, spoke that the application was filed a year ago on June 4<sup>th</sup> and recommends approval as it meets the current regulations and the power created will be sold out of state.

Peggy Marsh, has a ranch close to Mullen and is a member of Cherry County Wind, spoke recommending approval based on starting with a small wind farm as a trial opportunity to prove either it works or doesn't.

Michael Knapp spoke again in response to testimony given by stating the tax benefits needed for the Kilgore School, application submitted a year ago, environmental studies aren't a requirement of the CUP process and encouraged board to act today.

Public Hearing CUP 003/18 BSH Kilgore LLC for a Commercial/Utility Grade Wind Energy Conversion System closed at 4:44 PM CT.

Chairman Swanson reopened the regular meeting at 4:57 PM CT after a short recess.

Discuss and Act on CUP 003/18 BSH Kilgore LLC for a Commercial/Utility Grade Wind Energy Conversion System

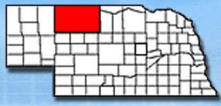
Chelsea L. asked the applicant if the certified engineer had renewed his stamp since it expired after the filing of the CUP. The applicant said that as far as they knew it was and Orval Stahr said it wasn't a concern.

Duane K. asked Orval if the application was complete, met all the regulations and design and performance standards. Orval Stahr stated that the application was complete as far as meeting the regulations. He also stated that he addressed the other concerns of design and performance standards and decommissioning concerns in his written review.

Orval Stahr stated that the costs in the decommissioning are being predicted 20 years down the road and there's a better way to provide financial surety. He suggested that in 10 years do a decommissioning study at the applicant's cost and again at 15 years with an irrevocable letter of credit at a bank of 3<sup>rd</sup> party. Have the contract include costs would be the responsibility of the owners and not the county to protect the taxpayers of the county and that after 20 years of existence then owners would reapply for use.

Herb P. made a motion to reject the CUP 003/18 BSH Kilgore LLC for a Commercial/Utility Grade Wind Energy Conversion System until such a time that decommissioning costs are a known factor and have a concrete figure of cost. Michael M. seconded the motion. Orval stated that this is usually completed upon approval. Roll call vote Chelsea L.-





# Cherry County Planning and Zoning Minutes



No, Wade A.-No, Michael M.-Yes, Duane K.-No, Herb P.-Yes, John W.-No, and Albert E.-Yes. Motion failed 4-3. Chairman Swanson didn't vote due to perceived conflict of interest.

Duane K. asked Orval Stahr if all regulations at the time of application were met and Orval said yes.

Zoning Administrator stated that the application was complete.

Duane K. asked if there could be more than 1 motion in a meeting and Orval stated yes.

Wade A. asked Orval Stahr about the decommissioning costs in 20 years and for a plan in place. Orval suggested that the plan include a cost analysis in 10 and again in 15 years at owner's expense and be included in the contract between the County and BSH Kilgore. This cost would be put in the form of a letter of credit in the County's name to only be withdrawn by the county at a 3<sup>rd</sup> party holder.

John W. asked for clarification on the decommissioning recommendation he provided.

Chelsea L. suggested that the board come up with a middle ground on the requirements of decommissioning and doing the studies. She had a concern with waiting until year 10 for a decommissioning study and financial surety for the County.

Michael Knapp, applicant, stated that they have insurance that would cover the costs if a natural disaster happens during the life of project. BSH lawyer, Dave Levy, stated that state law doesn't require any financial surety until year 10.

Chelsea L. asked if they can put stipulations on the recommendation for the Commissioners and Orval advised yes.

Herb P. asked if the insurance policy will be on file in the courthouse with the value of the policy the replacement value of project. Orval stated that this could be made as a condition of approval to maintain a copy of policy in the courthouse.

Duane K. brought up the issue of property rights on both sides and that everyone has the right to make money on their own property.

Chelsea L. stated that the lighting system to be used would reduce the lights at night more than a typical project.

Wade A. asked the applicant about the deicing of the turbines. Michael Knapp said that the 136 turbines have a deicer, but all turbines have balance sensors that shut them down when off balance. Wade also asked Michael if there is a control to limit the shadow flicker and Michael said that their study shows 0 hours of shadow flicker.

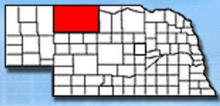
Chelsea L. suggested that a deicing for the 110 turbines be a condition of recommendation.

Herb P. brought up the fact of that concrete leaches into the sand and should have a study done on the effects of this on the aquifer, plus wanted to know who would be putting the roads back to condition since it's hard to accomplish in the sandhills. Michael Knapp said that the regulations state they must reseed with native seed and guarantees they will comply with the law.

Chairman Swanson asked Orval to state a couple options for the board to move forward in the meeting.

Chelsea L. made a motion to accept CUP 003/18 BSH Kilgore LLC for a Commercial/Utility Grade Wind Energy Conversion System and recommend with Orval Stahr's comments in written review and start financial surety at year 5 instead of year 10. Orval was asked to provide additional written comments on the decommissioning. Duane K. seconded.

Albert E. said that with new board members they've missed out on the studies and doesn't want a trial. He doesn't feel that the application addresses the issues of problems with ground water and decommissioning, majority of Cherry County residents are not in favor, and the regulations aren't efficient in relation to adjacent landowners. He stated that it's wrong to do this and that it can't be undone.



# Cherry County Planning and Zoning Minutes



Herb P. agreed with Albert and stated that Chelsea's motion was made without previous experience and in bad taste.

Wade A. stated that while he's new, decisions are hard, and emotion tends to win over reason. He also stated that he feels in order to stop wind turbines they need stricter regulations and that the Planning Commissions job is to advise the Commissioners.

Roll Call vote Chelsea L.-Yes, Wade A.-Yes, Michael M.-No, Duane K.-Yes, Herb P.-No, John W.-Yes, and Albert E.-No. Motion carried 4-3. Chairman Swanson didn't vote due to perceived conflict of interest.

Old Business--None

New Business:

Albert E. stated he'd like to have an agenda item on the next regular meeting that a moratorium of no more wind energy or solar conditional use permits be accepted until regulations are reviewed.

Reports and Recommendation:

Orval Stahr updated the board with the progress of his contract and that he is working on the Comprehensive Plan. He is preparing to present this at a later meeting.

Set Date and Time for Next Meeting

The date for the next meeting is set for July 2<sup>nd</sup>, 2019 at 8:00 AM CT in the Courthouse Meeting Room.

Excused Absence:

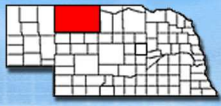
Michael M. made a motion to excuse Dave R. from the meeting. Seconded by Duane K. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 8-0.

Chairman Swanson made a motion to adjourn the meeting at 6:09 PM CT.

Jessica Coyle

Zoning Administrator

Approved with Corrected spelling of Peggy Marsh



# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

July 2, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 8:02 AM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Chelsea Luthy, Wade Andrews, Michael McLeod, Duane Kime, Herb Pabst, Gary Swanson, John Wheeler, and Albert Ericksen. Absent was Dave Rogers. Also present were Jessica Coyle, Zoning Administrator, Orval Stahr, and various members of the public.

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

#### Approval of Minutes

Duane K. made a motion to accept the minutes from June 4<sup>th</sup> meeting with a correction to the spelling of Peggy Marsh. Albert E. seconded the motion. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 8-0.

#### Public Comment:

Various members of the public spoke during this time.

#### Old Business:

##### Discuss and Act on Planning Commission Bylaws and Rules of Procedure

Duane K. asked if there had been any response from the County Attorney on the proposed bylaws and thought they should contact him before acting.

Herb P. made a motion to continue the Planning Commission Bylaws and Rules of Procedure until receiving a response from the County Attorney. Duane K. seconded the motion. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 8-0.

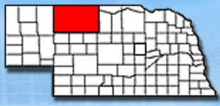
#### New Business:

##### Discuss and Act on a Moratorium of No More Wind Energy or Solar Conditional Use Applications Until Regulations are Reviewed

Duane K. made a motion of a Moratorium of No More Wind Energy or Solar Conditional Use Applications Until Regulations are Reviews. Herb P. seconded to motion. Herb P. suggested they may want to have it state reviewed and adopted. Duane K. amended his original motion to that of a Moratorium of No More Wind Energy or Solar Conditional Use Applications Until Regulations are Reviewed, Revised and Adopted. Herb P. seconded the amended motion. Roll call vote on the amended motion was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 8-0. Wade A. stated that he doesn't mind putting in the work on this board, but doesn't want to if the Commissioners are just going to send every recommendation back to the Planning Commission. Roll call vote on the original motion was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 8-0.

#### Presentation and Reviewing of Components of Comprehensive Plan

Orval Stahr, of Stahr and Associates, was hired by the Board of Commissioners' on a recommendation from the Planning Commission to review the current Comprehensive Plan and Zoning Regulations for Cherry County. Orval was in



# Cherry County Planning and Zoning Minutes



attendance to present a preliminary draft to the Planning Commission part of the components of the Comprehensive Plan that included Population, Economic and Housing Analysis; Environmental Analysis; Existing Land Use Analysis; and Goals and Objectives; and Future Land Use Plan. The Comprehensive Plan provides a vision for the future of the county and state law specifies that certain items be in the plan. Orval stated that the planning period for the Comprehensive Plan is for the next 10 years only, because of the changes that happen with regards to technology. Orval stated that the numbers used in the analysis are based off the 2010 census data as it's the most accurate and reviewed page by page the information contained in this preliminary draft. Orval stated in the section of goals and strategies for the county are based on the same guiding principal as when original Comprehensive plan was written in 1997.

Orval supplied a hard copy of these portions to each Planning Commission member, Zoning Administrator and a physical copy for viewing by the public to be stored in the Zoning Office. Orval is sending a digital copy to Zoning Administrator that will be put on the county website for public access. Orval will present more data to include County Facilities and Services Plan, Transportation Plan and Expanded Energy Plan at the next regular meeting.

## Set Meeting Date and Time

The next regular meeting is set for August 6<sup>th</sup> at 8:30 AM CT in the Cherry County Courthouse Conference Room.

Communications: None

Reports and Recommendation: None

Excused Absence:

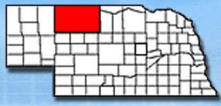
Michael M. made a motion to excuse Dave R. from the meeting. Seconded by Herb P. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-No, Herb P.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 7-1.

Chairman Swanson adjourned the meeting at 10:13 AM CT.

Jessica Coyle

Zoning Administrator





# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

August 6, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 8:32 AM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Chelsea Luthy, Wade Andrews, Michael McLeod, Duane Kime, Herb Pabst, Gary Swanson, and Albert Ericksen. Absent was Dave Rogers and John Wheeler. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

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

#### Approval of Minutes

Duane K. made a motion to accept the minutes from July 2<sup>nd</sup> meeting. Chelsea L. seconded the motion. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, and Albert E.-Yes. Motion carried 7-0.

#### Public Comment:

Various members of the public spoke during this time.

#### Old Business:

##### Discuss and Act on Planning Commission Bylaws and Rules of Procedure

Duane K. stated that according to the Bylaws of the Planning Commission the County Attorney needs to respond before acting on the changes to the Bylaws. No action taken.

##### Reviewing of Components of Comprehensive Plan and Proposed Future Land Use

Herb P. stated that he feels that there could be more current data used than what was presented.

Duane K. feels that the proposed land use could be significantly affected if the Cherry County Commissioners declare wind turbines as industrial use as proposed in the Weller Amendment.

Herb P. feels that the turbines will hurt the tourism in Cherry County if the tourism board gets the county declared a dark sky area for star viewing.

Albert E. suggests that they not take any action until a new consultant is hired to replace the passing of Orval Stahr.

Chairman Swanson stated that the Comprehensive Plan is a long way from being complete and that a new consultant is needed to assist in finishing the process.

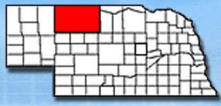
No action taken.

#### New Business:

Carolyn Semin Present written Protest to Incomplete Motion made at the June 4<sup>th</sup>, 2019 Public hearing

Carolyn Semin read her written statement stating in her opinion that the motion made by Chelsea L. at the June 4<sup>th</sup>, 2019 Public Hearing on the BSH Kilgore LLC CUP 003/18 wasn't recorded in the minutes as it was stated in her personal video. A copy of the statement is on file in the Zoning Office.





# Cherry County Planning and Zoning Minutes



Herb P. said that he felt it wasn't a complete motion and according to law it will die at some point.

Chairman Swanson stated that the motion would be made complete by the Cherry County Commissioners at their Public Hearing had this not been canceled due to a district court temporary stay. No action taken.

## Communications

Zoning Administrator, Jessica Coyle, reported that Orval's son Jason Stahr oversees his estate and will be letting her know if Orval has more information on the Comprehensive Plan.

## Reports and Recommendations

Chairman Swanson reported to the board with a handout from the Nebraska Department of Environment & Energy about the cement platforms of the Wind Turbines leaching into the ground water. Brain McManus replied to Chairman Swanson that his agency isn't aware of any hazards of concrete leaching into the ground water. Chairman Swanson also stated he visited with multiple contractors and the cement that is ripped up is used in lakes and streams to stabilize if it doesn't contain rebar.

Duane K. made a comment concerning the possibility of moving the Public Comment to the end of the meeting and he said that the Board of Education also always had theirs at the beginning of the meeting as well. Herb P. and Albert E. both feel that this is a general rule to have it at the beginning of the meeting.

Wade A. asked the other board members if they had gotten a call from an Omaha World Herald reporter. No one else had.

## Set Meeting Date and Time

The next regular meeting is set for September 10<sup>th</sup> at 4:00 PM CT in the Cherry County Courthouse Conference Room.

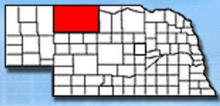
## Excused Absence:

Wade A. made a motion to excuse Dave R. and John W. from the meeting. Seconded by Chelsea L. Chairman Swanson was notified by both members on their absence. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, Gary S.-Yes, and Albert E.-Yes. Motion carried 7-0.

Chairman Swanson adjourned the meeting at 9:12 AM CT.

Jessica Coyle

Zoning Administrator



# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

September 10, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:00 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Dave Rogers, Wade Andrews, Michael McLeod, Duane Kime, Herb Pabst, Gary Swanson, and Albert Ericksen. Absent was Chelsea Luthy. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

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

#### Approval of Minutes

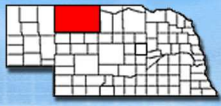
Duane K. made a motion to approve the minutes from the August 6<sup>th</sup> meeting. Albert E. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Absent, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, John W.-Abstain, Gary S.-Yes, and Albert E.-Yes. Motion carried 7-1.

Chelsea L. joined the meeting at 4:04 PM CT.

#### New Business:

#### Discuss and Act on Keith Marvin of Marvin Planning Associates assistance on Comprehensive Plan and Zoning Regulations

Keith Marvin was available by video conference to discuss him taking over for Orval Stahr as consultant for updating the Comprehensive Plan and Zoning Regulations for Cherry County. Keith stated that he could incorporate all of Orval's information to date, but would make minor formatting changes. Keith showed the board an example of Knox County's Comprehensive Plan so they could see his layout. Keith stated that he would expand the environmental section to include soil survey and include maps on the different soils to show building issues that could arise. Gary S. asked Keith if he would be willing to come and attend some meetings with the public in other parts of the county. Keith stated that he could work in some additional trips. Keith quoted a price of between \$16,000 and \$18,000 to complete both the Comprehensive Plan and Zoning Regulations. Chelsea L. asked how Keith could make the Comprehensive Plan unique to Cherry County. Keith stated that the environmental section, maps and county facilities and services plan would be more than 1 chapter, plus he would include a hazards mitigation plan that would need to be reviewed every 5 years. Keith also stated that there would be a more detailed land use plan as well. Herb P. asked if Keith could use newer census data than 2010. Keith said that they could use estimates from 2017 or ag census data from 2012 but they would only be estimates. Gary S. asked Keith about his review of the Planning Commission Bylaws that Orval had presented. Keith had sent to the Zoning Administrator a copy of the Bylaws with his changes to include that any vote must be a majority of the board overall not those in attendance and would take out the allowing to vote via phone or video conference. Keith did tell the board that an option to save money would be to do some of the meeting via video conference like using tonight. Keith also told the board that should they recommend his hiring he would get in contact with Jason Stahr, Orval's son in charge of his estate, to get all the information Orval had to date. Keith stated that his schedule would work to be attend their meetings the 1<sup>st</sup> Tuesday of the month. The board ended to video conference so that they could discuss further. Duane K. stated that he has no problem with Keith Marvin and agrees with the changes made to the Bylaws. Wade A. asked why Orval was hired over Keith originally and was informed that Orval had wrote the original Comprehensive Plan. Chelsea L. made a motion to recommend to the Commissioners the approval of Keith Marvin of Marvin Planning Associates to fulfill the rest of Orval Stahr's contract on the Comprehensive Plan and Zoning



# Cherry County Planning and Zoning Minutes



Regulations. Duane K. seconded the motion. Roll call vote was taken. Dave R.-No, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Yes, John W.-Yes, Gary S.-Yes, and Albert E.-Yes. Motion carried 8-1.

## Public Comment:

Various members of the public spoke during this time.

## Old Business:

Discuss and Act on Planning Commission Bylaws and Rules of Procedure

The board discussed the changes that Keith Marvin suggested and if a response had been received from the County Attorney. The County Attorney hadn't responded as of the date of the meeting. No action taken.

Reviewing of Components of Comprehensive Plan and Proposed Future Land Use

The board discussed the changes Keith Marvin had presented in the video conference. No action taken.

## New Business:

Set the date for the next meeting of October 1, 2019 at 4:00 PM CT in the Cherry County Courthouse Meeting Room.

## Communications

Gary S. brought to the attention of the board the comments that Orval Stahr had given the Commissioners on the BSH Kilgore CUP 003/18 application. John W. and Chelsea L. thought that there were items that Orval hadn't included in the document that were discussed at the Planning Commissions Public Hearing.

## Reports and Recommendations

Duane K. reported on his travels to Iowa and Dallas, TX, that of the wind turbines he seen either all were turning or none. He did say that he only saw 1 with a blade missing but met tons of semitruck convoys hauling blades.

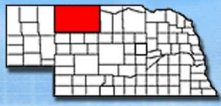
## Excused Absence:

None as Chelsea L. joined the meeting after roll call.

Chairman Swanson adjourned the meeting at 5:25 PM CT.

Jessica Coyle

Zoning Administrator



# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

October 1, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:00 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Dave Rogers, Chelsea Luthy, Wade Andrews, Michael McLeod, Duane Kime, Gary Swanson, John Wheeler, and Albert Ericksen. Absent was Herb Pabst. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

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

#### Approval of Minutes

Duane K. made a motion to approve the minutes from the September 10<sup>th</sup> meeting. Wade A. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Absent, John W.-Abstain, Gary S.-Yes, and Albert E.-Yes. Motion carried 8-0.

#### Public Comment:

Various members of the public spoke during this time.

#### Old Business:

##### Discuss and Act on Planning Commission Bylaws and Rules of Procedure

The board discussed the changes that Keith Marvin suggested and other changes that they would like to see struck out or added to for clarification. Chairman Swanson and a couple other board members were going to try to set a meeting with the County Attorney to discuss the Planning Commission Bylaws and Rules of Procedure. No action taken.

#### Communications

Zoning Administrator, Jessica Coyle, reported that the contract with Keith Marvin of Marvin Planning Associates had been approved by the Commissioners and the date for the Commissioners decision on CUP 003/18 BSH Kilgore will be held on October 15<sup>th</sup> at 3 PM CT in the Court Room.

#### Reports and Recommendations

Duane K. reported on attending the Public Hearing for the Commissioners on CUP 003/18 BSH Kilgore application. He felt that it was well ran and there was good information brought up.

#### Excused Absence:

Albert E. made a motion to excuse Herb Pabst from the meeting. Seconded by Duane K. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 8-0.

#### New Business:

Set the date for the next meeting of November 4, 2019 at 4:00 PM CT in the Cherry County Courthouse Meeting Room.

Chairman Swanson adjourned the meeting at 5:00 PM CT.

Jessica Coyle



# Cherry County Planning and Zoning Minutes

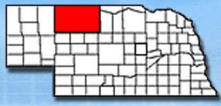


Zoning Administrator

Approved with changes made to adding John Wheeler as present for the meeting.

APPROVED





# Cherry County Planning and Zoning Minutes



## CHERRY COUNTY PLANNING COMMISSION MINUTES

December 3, 2019

### CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:02 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Dave Rogers, Chelsea Luthy, Duane Kime, Gary Swanson, John Wheeler, and Albert Ericksen. Absent was Wade Andrews, Michael McLeod, and Herb Pabst. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

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

#### Approval of Minutes

Duane K. made a motion to approve the minutes from the October 1<sup>st</sup> meeting with correction to make John Wheeler as present. John W. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Absent, Michael M.-Absent, Duane K.-Yes, Herb P.-Absent, John W.-Yes, Gary S.-Yes, and Albert E.-Yes. Motion carried 6-3.

#### Public Comment:

No public spoke during this time.

#### Old Business:

##### Discuss and Act on Planning Commission Bylaws and Rules of Procedure

The Zoning Administrator reviewed for those not present during the committee meeting on November 5 the changes discussed with Keith Marvin. Duane clarified that only the Planning Commission votes on the Bylaws and not the Commissioners. No action taken.

#### New Business:

##### Discuss and Act on Survey for County Zoning and Comprehensive Plan

Chairman Swanson reviewed with those members not present during the committee meeting on November 5 the proposed survey. Chairman Swanson also reported from the Commissioner's meeting Duane K. and himself attended asking for the funds to send the survey out to registered voters in Cherry County. Chelsea L. suggested moving the demographic part of survey to the end. Albert E. stated he would like the questions pertaining to the school removed as the Planning Commission doesn't have any jurisdiction over them. They said there will be further discussion on this at the next meeting. No action was taken.

Set the date for the next meeting of January 7<sup>th</sup>, 2020 at 4:00 PM CT in the Cherry County Courthouse Meeting Room.

#### Communications

None

#### Reports and Recommendations

None

#### Excused Absence:



# Cherry County Planning and Zoning Minutes



Albert E. made a motion to excuse Wade Andrews, Michael McLeod, and Herb Pabst from the meeting. Seconded by Duane K. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Duane K.-Yes, Gary S.-Yes, John W.-Yes, and Albert E.-Yes. Motion carried 6-0.

Chairman Swanson adjourned the meeting at 5:04 PM CT.

Jessica Coyle

Zoning Administrator

APPROVED