

Cherry County Planning Commission Minutes

October 20, 2026

Cherry County Courthouse Meeting Room

APPROVED AS AMENDED

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

Roll Call

Roll call was taken. The following members were present: Chad Tetherow, Gary Swanson, Sherri Bacon, Marla Shelbourn, Gary MacLeod, Duane Kime, Gordon Witte. Absent were: Bill Wachob and Wade Andrews. Also present were Jane Stolzenburg, Interim Zoning Administrator, and various members of the public.

The Open Meetings Act was noted as well as verification of proper advertisement for the meeting. The meeting was advertised in the Valentine Midland News, October 14, 2026.

Approval of minutes

Marla S. made a motion to accept the meeting minutes with the addition of under new business we set the next meeting for October 20, 2026 at 4:30 pm at the courthouse meeting room. Seconded by Gordon W. Roll call vote was taken. Gary S – Yes, Chad T. - Yes, Sherri B. – Abstain, Bill W. – Absent, Gordon W. – Yes, Marla S. – Yes, Wade A. – Absent, Gary M. -Yes, Duane K. – Yes. Motion carried 6- yes, 1 abstain, 2 absent.

Public Comment

One member of the public commented.

Old Business

Solar regulations definitions were part of the minutes of the last meeting that private or individual would need to be defined. Private was in the motion but if we all agree that individuals was defined. It was the consensus of the planning commission to keep the original definition for (ISCS). It will read: An individual solar conversion system (ISCS) shall be for the specific use of an individual residential, commercial, public or industrial use. Commercial is individual commercial and this would allow a ranch or business, for their own use, and not sell to utility companies.

New Business

Gary M. made a motion to allow small wind energy system development in Cherry County and not allow commercial wind development that are built to sell electricity to utility providers with revised reasons that were handed out. Insert under 6.04 in zoning regulations. Small wind energy is already allowed as an accessory use. 6.05 is commercial and it would get rid of the entire section. Striking all of 6.05 it looks like it was just omitted and not considered. Gary M. moved to retain resolution 6.04 small wind energy systems and omit 6.05 commercial utility grade wind energy systems based on presented reasons and they will be attached to the minutes. Gordon W. seconded the motion. Discussion followed. Roll call vote: Bill W. – Absent, Gordon W. – Yes, Gary M. – Yes, Duane K. – No, Sherri B. – No, Gary S. – No, Chad T. – Yes, Marla S. – Yes, Wade A. – Absent. Motion carried 4-Yes, 3 – No, 2 Absent.

Section 6.04 Small Wind Energy Systems – Strike 6.04.01 the first sentence and move the second sentence to 6.04.02 after the first sentence. Add the word "small," so it will read "Individual towers within a small WECS shall require a zoning permit issued by the Zoning Administrator. Change 6.04.02 to 6.04.01 and number sequentially the remainder of the section and add a number to the table on page 95. On page 67 under 4.08.05 number 2 delete "50 feet in height and". 6.04.02 will be the following definitions from pages 96 – 97: Meteorological Tower, Rotor Diameter, Total Height, Tower, Tower Height, Wind Energy Conservation Systems (WECS), and Wind Turbines.

Chart on page 95 the information will be the same for the Wind Turbine – Non-Commercial the same as Meteorological Tower. Under the chart change the word "commercial" with "small" under the one starred item. Participants and non-participants having the ability to waive or reduce the setback and whether or not to include definitions was discussed and if it needed to be included under the table. It was decided to keep the *** item under the table "as is".

Data Center discussion of size, purpose, cooling, AI, AI demand, and health risks were discussed. Lincoln County data center regulations were discussed as well as the regulations submitted by Kieth Marvin. May have to re-visit the definition of warehouse regarding data centers. More research will have to be done prior to making any decisions.

Chad T. made a motion to table data center discussion until the next meeting. Marla S. seconded the motion. Roll call vote: Duane K. – Yes, Gordon W. – Yes, Sherri B. – Yes, Marla

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S. – Yes, Gary S. – Yes, Chad T. – Yes, Wade A. – Absent, Bill W. – Absent, Gary M. – Yes. Motion carried 7 – Yes, 2 – Absent.

The board set November 4, 2026 at 2:00 PM CT for the next regular meeting.

Communications

Interim Zoning Administrator acknowledged the training hours received for Chad T. and Marla S.

Reports and Recommendations

Interim Zoning Administrator reported Applied Connective has been working on the streaming of the meetings and hopefully they will be working correctly for this and future meetings.

Excused Absences

Marla S. made a motion to excuse Wade A and Bill W. from the meeting. Duane K. seconded the motion. Roll call was taken: Sherri B. – Yes, Gary S. – Yes, Marla S. – Yes, Chad T. – Yes, Gary M. – Yes, Bill W. – Absent, Gordon W. – Yes, Wade A. – Absent, Duane K. – Yes. Motion carried 7 – Yes, 2 – Absent.

Adjournment

The meeting was adjourned at 6:12 pm.

Jane Stolzenburg

Interim Zoning Administrator

See attached reasons as presented by Gary M. as part of original motion.

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Reasons as presented by Gary M.

1. US District Court Senior Judge, John Gerrard, stated, in the case, North Fork Wind LLC vs Knox County. "There is a conceivable relationship between aesthetics and safety – a legitimate governmental interest – and a ban on commercial windfarms." Nebraska law expressly recognizes that wind energy systems might pose risk to the public welfare." "The court can derive no legislative intent, implicit or explicitly, to deny counties the right to prohibit wind energy if the county decides such a development would be a detriment to the public good in their jurisdiction." "County zoning boards have the comprehensive power to 'regulate and restrict' uses of buildings and 'the uses of land for agriculture, forestry, recreation, industry, and trade." "Counties may 'regulate, redistrict, or prohibit the erection, construction, reconstruction, alteration, or use of nonfarm buildings or structures and the use, conditions of use, or occupancy of land.' This argument is unavailing."
2. Strong voter opposition during public meetings and hearings are overwhelmingly against commercial wind and solar installations.
3. Commercial WECS (Wind Energy Conversion System) have been shown to decrease property values near any wind towers, causing economic harm and direct financial loss to the owners of the affected real estate.
4. When operating, commercial WECS developments emit constant noise and shadow flicker, which disturbs nearby residents causing them mental and physical harm.
5. Commercial WECS cause significant view-scape pollution and are not consistent with the rural character of Cherry County.
6. A commercial WECS development presents a substantial health and safety issue to crop dusting planes and reduces the area that can be safely dusted.
7. A commercial WECS development presents substantial safety issues for private planes in Cherry County.
8. Approximately 90% of Cherry County's real estate consists of the Sandhills. Cherry County is predominantly Valentine soils which are environmentally unsuited to support these large structures.
9. The Nebraska Sandhills are a unique geographic feature and delicate ecosystem of North America and form the largest stabilized sand dune system in the Western Hemisphere. They comprise one of the most untouched, pristine grassland ecoregions in North America. Covering nearly 20,000 square miles across north-

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central Nebraska, this massive landscape is a rare combination of desert-like sand dunes completely blanketed and anchored by mixed-grass prairie.

10. Cherry County sits directly over the Ogallala Aquifer. As such, Cherry County has many sub-irrigated meadows and shallow lakes. The combination of a high-water table and delicate permeable sand soils makes Cherry County particularly unsuited for commercial construction and especially the wind turbines and large solar facilities for commercial WECS development.
11. The Samuel McKelvie National Forest is located in Cherry County and it consists of 115,703 acres. The United States Fish and Wildlife Services manages 90,622 acres in Cherry County. This real estate is a tourist attraction which would be harmed by the construction of WECS in Cherry County.
12. Merritt Reservoir State Recreation Area in Cherry County is designated as an international Dark Sky Park. It is a leading Nebraska astrotourism site backed by solid conservation and community engagement. Commercial WECS would interfere with the dark sky and disturb the stargazing experiences.
13. The Comprehensive Plan states that Cherry County will work to ensure that changes in the use of local land have no adverse impact on the present and future viability of agricultural operations on neighboring lands. Guiding principle #3 states: "Protecting the health, safety, and welfare of the citizens is the County's highest priority and is the purpose for the policies contained within this plan."
14. Approximately 90% of Cherry County's real estate is devoted to farming and ranching.
15. Commercial WECS may decrease the existing revenue for tourism businesses in Cherry County and could discourage growth in hunting, fishing, water sports and golf. Tourism is an important part of the Cherry County economy and it creates a non-agricultural revenue stream, thus, diversifying the economy.
16. Cherry County is home to two world class golf courses. People from all over the world come to golf here. These golfers often comment about the seclusion, quiet and distance from industrial development as their reasons for traveling to Cherry County.
17. Commercial WECS have a history of killing birds; including federally protected birds. Cherry County is part of the Central Flyway where Sandhill and Whooping Cranes plus many species of waterfowl, migrate every year.
18. The Niobrara River is located in Cherry County. It is a major tourist destination which generates substantial tax revenue for Cherry County and revenue for Cherry County businesses. Congress has designated a 76-mile stretch of the Niobrara

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River as the Niobrara National Scenic River. One of the goals of the Cherry County Comprehensive Plan is to protect the Niobrara River Corridor view-scape and decrease light pollution, as well as limit construction close to the river. Commercial WECS could adversely affect revenue from tourism.

19. Commercial WECS is an industrial use that manufactures electricity, which is inconsistent with the agricultural character of the county.
20. Commercial WECS is not compatible with the agricultural nature of Cherry County.
21. Currently there are no pre-existing high-capacity electrical lines to transmit significant quantities of electricity from Cherry County to more populated areas. Furthermore, Nebraska Public Power District (NPPD) has not acquired all of the easements necessary to build high-capacity transmission lines in Cherry County. The capital expense incurred by NPPD for the construction of new high-capacity lines will be passed on to NPPD's customer-owners in the form of electricity rate increases.
22. The highest and best use of real estate in Cherry County is for the efficient production of food rather than the inefficient production of electricity.
23. Commercial WECS developments and battery energy storage systems are susceptible to catching on fire and the local volunteer fire departments do not have the proper equipment to contain or extinguish electrical fires of this nature. There are also concerns regarding toxic chemicals that might be released into the air and onto the land in the event of fire, thus, affecting the health of Cherry County residents as well as pollution of the land from the materials that will be left in the ground.
24. With the expiration of federal tax credits for wind producers, the market has already moved up the kWh prices that Nebraska Public Power District would have to pay to wind and solar energy developers for new power purchase agreements. Open-source data indicates kWh rates will be 40% to 120% higher for wind and solar energy projects after 2026.
25. The State of Nebraska has designated Highway 12 from Sioux City to Valentine as the Outlaw Trail Scenic Byway and Highway 20 from Wyoming to Valentine as Bridges to Buttes Scenic Highway. Preservation of the scenery of those routes should be protected. Additionally, since 1984, the Nebraska Sandhills has been designated a National Natural Landmark.

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