

Cherry County Planning and Zoning Minutes



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.

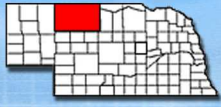
Old Business: Updates on wind research: Gary Swanson handed out packets of literatures, including a grouse study. First pages are a study by university, paid for by Game Fish and Wildlife. The study talks about setbacks of towers, the effects of sound and mentioned a 1 ¼ mile setback. The packet discusses 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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Jeffery 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.

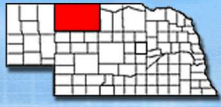
Public Hearings: Public Hearing for CUP 01-17 – Verizon Tower, Crookston Area was opened at 4:30 PM CT.

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.

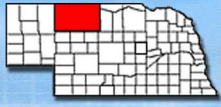
Carolyn Semin asked in the future if just one tower could be used instead of five separate for each carrier. Mr. Skinner mentioned in the metro markets that yes, that is definitely possible and has been done. At the time the carriers started putting up towers, there were no regulations set on where towers 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)