

Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

April 4, 2017

Cherry County Court House Meeting Room

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

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

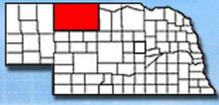
Public Comment: Guest Ann Warren asked to see the whiteboard chart that was created at the previous meeting. She handed out a letter regarding environmental impacts, specifically concerning the sellability of land once turbines are placed.

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

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

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

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



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

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

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

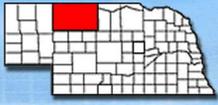
There aren't as many items listed under the Yes column simply because there are not as many issues with those in favor. They are trying to resolve land use issue, and are basically focusing on the problems.

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

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

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

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



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

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

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

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

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

Ann Krueger, Recorder

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

APPROVED