

# Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

May 2, 2017

Cherry County Court House Court Room

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

Not present: Chairman Jim Buer and Albert Ericksen

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

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

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

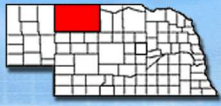
Dan Welch is an opponent of wind farms and shared his personal experience dealing with NPPD about easements on his land. He's not against entrepreneurs and people being successful but feels harassed and misled about what's happening on his land and wanted to share his concerns with the public. He does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

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

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

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

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



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

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

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

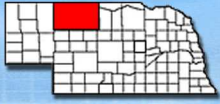
Continuing with the outlined concerns on the whiteboard, the planning commission discussed fire threat. Valentine Fire Chief Terry Engles spoke to the commission last month and was asked his opinion, which were detailed in the minutes from last meeting. The planning commission will be talking to other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

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

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

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

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



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

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

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

Ann Krueger, Recorder

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

APPROVED