

Boone County Planning and Zoning Minutes



BOONE COUNTY PLANNING & ZONING COMMISSION RECORD OF MINUTES OF MEETING

January 24, 2011

1 – CALL TO ORDER

The regular monthly meeting of the Boone County Planning and Zoning Commission was called to order by Chairman Paul Groeteke in the County Courtroom, Boone County Courthouse, Albion, Nebraska, Monday, January 24, 2011 at 7:00 p.m. Chairman Groeteke noted that a copy the Open Meetings Act is posted and copies are available for the public. The agenda for this meeting was given in advance to all members of the Commission. Notice for this meeting was given in advance by publication. All proceedings hereafter shown were taken while the convened meeting was open to the public.

2 – ROLL CALL

The following quorum of Commission members were present and answered roll call: Paul Groeteke, Justin Frey, Brad Stephens, Mark Jensen, Mark Wagner

Absent: Hilary Maricle, Chris Baum, Lee Ketteler, Jim Meysenburg

Others present: Dave Primrose, Boone County Attorney John Morgan, Jim Dickerson with the Albion News, County Commissioners Tom Schuele, Ken Luettel and Jerry Tisthammer (reconvened meeting from earlier in the day)

Hilary Maricle arrived at 7:08 p.m.

Hilary Maricle left the meeting at 8:00 p.m. to attend another meeting.

3 – APPROVAL OF MINUTES

Copies of the December 27, 2010 meeting minutes were mailed to all Commission members prior to the current meeting. The Chairman requested additions or corrections to the minutes, or a motion to approve. Jensen made a motion that the minutes be approved with the correction of the date of the last meeting changed to December 27, 2010, second by Stephens. Vote: 3 Ayes, 0 Nays, 2 Abstain, 4 Absent.

4 – ELECTION OF OFFICERS FOR 2011

A motion was made by Jensen, second by Frey, that all officers stay the same for 2011. Vote: 5 Ayes, 0 Nays, 4 Absent. The officers for 2011 are:

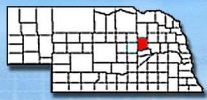
Chairman	Paul Groeteke
Vice-Chairman	Brad Stephens
Secretary	Mark Jensen

5 – DISCUSS PIPELINE CONSTRUCTION, INSTALLATION, LOCATION, AND MAINTENANCE ABOVE GROUND AND BELOW GROUND WITH JOHN MORGAN, BOONE COUNTY ATTORNEY

John Morgan, Boone County Attorney, stated that from what he has read state governing officials don't want to get involved in the pipeline at the state level, they want the federal government to take care of it. Groeteke stated he has heard some concerns in the county about reclamation. After discussion from all interested parties that were present board members decided not to take any action concerning pipeline regulations at this time.

6 – DISCUSS NO FEE LIVESTOCK REGISTRATION FORM

Hanson stated that she has been asking livestock producers that are filling out the No Fee Livestock Registration Form to state their head count as of 10-1-1999. New livestock producers also need to fill out the form as of the date the operation



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started. After discussing the regulations the board agreed that this is correct. Hanson stated that she will have a list of the completed forms that are of file by the next meeting.

7 – OPEN DISCUSSION

The board discussed Conditional Use Permit regulations and DEQ permits in regards to livestock feeding operations. Hanson updated the board, and discussion was held, on the situation with Big Drive Cattle Co. The Conditional Use Permit for Craig Seier's division of land in 2008 was recorded as 2.59±. Craig is going to have it resurveyed and get it corrected.

8 – CORRESPONDENCE/ZONING ADMINISTRATORS REPORT

Hanson handed out the activity report for the month of December. Attached to the report was a list of permits issued in 2010 and the estimated cost of construction. A reminder notice that zoning permits are required before beginning construction was published in all area newspapers, the Shopper and the Advisor. The board advised putting this on the front page of the newspapers and running it more often. A suggestion was also made that an information packet be put together stating that Boone County has zoning regulations and what some of the requirements are. This packet would be given to people when property is transferred to new ownership. Hanson will work on getting this done. Discussion was held on grain bins built in the sight triangle at an intersection or if the 83' setback is not met from the road, they wanted to know what the procedure is to address these situations. Discussion was also held on division of land and when it needs to go to the Board of Adjustment. Hanson handed out copies of the registration for the NE Annual Planning & Zoning Conference to be held March 30 – April 1, 2011 in Grand Island. Hanson will attend this conference.

9 – SCHEDULE NEXT MEETING

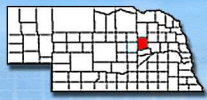
The Chairman announced that the next monthly meeting of the Commission is scheduled for Monday, February 28, 2011 at 7:00 p.m. in the County Courtroom, Boone County Courthouse, Albion, Nebraska.

10 – ADJOURN

A motion to adjourn was made by Stephens at 8:15 p.m., second by Wagner. Vote: 5 Ayes, 0 Nays, 4 Absent.

SUBMITTED: _____ COMMISSION SECRETARY

AFFIRMED BY: _____ COMMISSION CHAIRPERSON



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March 28, 2011

1 – CALL TO ORDER

The regular monthly meeting of the Boone County Planning and Zoning Commission was called to order by Chairman Paul Groeteke in the County Courtroom, Boone County Courthouse, Albion, Nebraska, Monday, March 28, 2011 at 7:03 p.m. Chairman Groeteke noted that a copy the Open Meetings Act is posted and copies are available for the public. The agenda for this meeting was given in advance to all members of the Commission. Notice for this meeting and public hearings were given in advance by publication. All proceedings hereafter shown were taken while the convened meeting was open to the public.

2 – ROLL CALL

The following quorum of Commission members were present and answered roll call: Paul Groeteke, Justin Frey, Hilary Maricle, Mark Jensen, Mark Wagner, Lee Ketteler
Absent: Brad Stephens, Chris Baum, Jim Meysenburg
Others present: Tom Schuele, Don Beierman, Dave Primrose

3 – APPROVAL OF MINUTES

Copies of the February 28, 2011 meeting minutes were mailed to all Commission members prior to the current meeting. The Chairman requested additions or corrections to the minutes, or a motion to approve. Jensen made a motion that the minutes be approved as submitted, second by Frey. Vote: 5 Ayes, 0 Nays, 1 Abstain, 3 Absent.

4 – PUBLIC HEARING TO APPROVE OR DENY AN APPLICATION FOR CONDITIONAL USE PERMIT BY SHAWN AND LARA NOVACEK TO DIVIDE THE 11± ACRE BUILDING SITE FROM FARM GROUND LOCATED IN A FR. OF THE W½ SW¼ SECTION 11, T19N, R8W OF THE 6TH P.M., BOONE COUNTY, NEBRASKA TO USE AS A PERSONAL RESIDENCE.

A motion was made by Jensen, second by Maricle, to open the public hearing for Shawn and Lara Novacek. Vote: 6 Ayes, 0 Nays, 3 Absent.

Shawn and Lara Novacek were not present at the public hearing, Hanson stated that she sent them a letter but had not heard from them. Hanson explained that Shawn and Lara want to sell the farm ground and keep the building site to use as a personal residence. The building site is between 10 and 12 acres. The surveyor for the Novacek's contacted Hanson about what needed to be on the survey, but as of the meeting date Hanson has not seen a survey. The commission members had questions about what the Novacek's were keeping. Wagner wanted to know if they were keeping the access road. Hanson stated yes. Members did not think it looked like it would amount to 11 acres, maybe 5 or 6. Wagner asked that since the lot size was not entered, is this a legal application? Hanson said that previous divisions had been approved as long as a survey was done. Hanson thought we would have the survey by tonight's meeting. Maricle stated that there were more questions than answers. They are advertising about 71 acres for sale so it would be about 9 acres they are dividing. Discussion was held on what parameters to put on conditions for the division so that it would not hold up the sale of the property. It has to be at least 3 acres plus the road right-of-way or it will have to go to the Board of Adjustment. Hanson stated that Craig Seier's property by Petersburg was stated as 5± acres and the survey came back at about 1½ acres, Hanson asked the County Attorney how to handle it, he said to have them correct the division to at least the minimum that the regulations require.

A motion was made by Frey, second by Jensen, to close the public hearing. Vote: 6 Ayes, 0 Nays, 3 Absent.

A motion was made by Jensen to recommend approval to the Boone County Commissioners of the application for Conditional Use permit by Shawn and Lara Novacek with the following conditions: a survey needs to be in the Zoning



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Office before the public hearing with the Boone County Commissioners and the division has to be at least 3 acres plus the road right-of-way, second by Frey. Vote: 6 Ayes, 0 Nays, 3 Absent.

5 – PUBLIC HEARING TO APPROVE OR DENY AN APPLICATION FOR CONDITIONAL USE PERMIT BY DONALD BEIERMAN TO DIVIDE 1.23± ACRES FROM FARM GROUND LOCATED IN A FR. OF THE SW¼ SECTION 2, T20N, R6W OF THE 6TH P.M., BOONE COUNTY, NEBRASKA TO OPERATE A SEED SALES BUSINESS.

A motion was made by Frey, second by Wagner, to open the public hearing for Donald Beierman to divide 1.23± acres from farm ground located in a Fr. of the SW¼ Section 2, T20N, R6W of the 6th P.M., Boone County, Nebraska to operate a seed sales business. Vote: 6 yeas, 0 nays, 3 absent.

Hanson stated that Don had stopped in her office in March of 2009 for a zoning permit. When checking through all of the regulations before issuing the permit Hanson found that a feed a seed sales business requires a C. U. P. Hanson tried several time to get ahold on Don and visited his building site a couple of times. This then got buried on Hanson's desk and didn't get addressed until Don stopped in to get another zoning permit. Hanson stated that a survey was done quite some time ago and there are no lot size requirements for this business except that all other regulations are met, such as setbacks, etc. Don stated that he has bulk bins and a seed treater there now and wants to put up a 30' x 80' building to enclose the seed treatment equipment. The commission members questioned why this needs a C. U. P.; Hanson stated that it is listed under permitted conditional uses. Members think we need to address this in the future about making a feed and seed sales business such as this a permitted use. Wagner wanted to know if we would then have to notify Don that the business is now a permitted use and the C.U.P. is null and void. Jensen stated that seed sales such as the one in Petersburg should remain a Conditional Use because it is in town and conditions may have to be added to something like that one. Hanson will check to see what the proper procedure would be if it is changed to a permitted use in the agricultural districts. Hanson stated that she has received a notice from Madison County that they are changing feed and seed sales businesses in the agricultural districts to a permitted use.

A motion was made by Jensen, second by Wagner, to close the public hearing. Vote: 6 yeas, 0 nays, 3 absent.

A motion was made by Jensen, second by Maricle, to recommend approval of the above stated Conditional Use Permit for Donald Beierman to the Boone County Commissioners as submitted. Vote: 6 yeas, 0 nays, 3 absent.

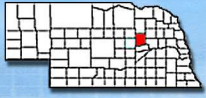
6 – OPEN DISCUSSION

Chairman Groetke asked about the status of Big Drive Cattle. Hanson explained that Big Drive has been turned over to the County Attorney. Chairman Groetke also asked about animal composting at some confinement sites. Hanson stated that she does have a written complaint about the composting pits, she has talked to Jim about it and that she will address it this summer. Hanson has also talked to PST and let them know that there has been a complaint and that it is going to have to be addressed. A general discussion was held on zoning.

7 – CORRESPONDENCE/ZONING ADMINISTRATORS REPORT

Hanson handed out the activity report for the month of January and February, and a list of the No-Fee Livestock Registration forms that we have on file. Hanson also gave an update on what may be on the April agenda. Hanson stated that she had met with the St. Edward City Council; they are interested in the County handling their zoning issues. Discussion was held on the staffing issue in the Zoning Administrators office.

8 – SCHEDULE NEXT MEETING



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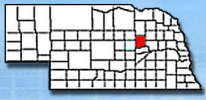
The Chairman announced that the next monthly meeting of the Commission is scheduled for Monday, April 25, 2011 at 8:00 p.m. in the County Courtroom, Boone County Courthouse, Albion, Nebraska.

9 – ADJOURN

A motion to adjourn was made by Wagner at 8:18 p.m., second by Frey. Vote: 6 Ayes, 0 Nays, 3 Absent.

SUBMITTED: _____ **COMMISSION SECRETARY**

AFFIRMED BY: _____ **COMMISSION CHAIRPERSON**



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BOONE COUNTY PLANNING & ZONING COMMISSION RECORD OF MINUTES OF MEETING

April 25, 2011

1 – CALL TO ORDER

The regular monthly meeting of the Boone County Planning and Zoning Commission was called to order by Chairman Paul Groeteke in the County Courtroom, Boone County Courthouse, Albion, Nebraska, Monday, April 25, 2011 at 8:00 p.m. Chairman Groeteke noted that a copy the Open Meetings Act is posted and copies are available for the public. The agenda for this meeting was given in advance to all members of the Commission. Notices for this meeting and public hearing were given in advance by publication. All proceedings hereafter shown were taken while the convened meeting was open to the public.

2 – ROLL CALL

The following quorum of Commission members were present and answered roll call: Paul Groeteke, Justin Frey, Brad Stephens, Mark Jensen, Chris Baum, Mark Wagner, Lee Ketteler, Jim Meysenburg

Absent: Hilary Maricle

Others present: Doug Koch, Tony Thieman, Jeanne Stokes, Tina Henn, Mark Niewohner, Jim Dickerson, Ted Thieman, Jerry Niewohner, Jim Vanderloop

3 – APPROVAL OF MINUTES

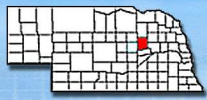
Copies of the March 28, 2011 meeting minutes were given to the Commission members, at the current meeting, for approval. The Chairman requested additions or corrections to the minutes, or a motion to approve. Jensen made a motion that the minutes be approved as submitted, second by Frey. Vote: 7 Ayes, 0 Nays, 1 Abstain, 1 Absent.

4 – PUBLIC HEARING TO: A) APPROVE OR DENY AN AMENDMENT TO THE FUTURE LAND USE MAP FOR LOTS 13 – 24, BLOCK 8, WEST PETERSBURG ADDITION, PETERSBURG, NEBRASKA FROM HIGHER DENSITY RESIDENTIAL TO HIGHWAY BUSINESS DISTRICT; B) APPROVE OR DENY AN APPLICATION BY THE PETERSBURG INDUSTRIAL DEVELOPMENT CORPORATION TO REZONE LOTS 13 – 24, BLOCK 8, WEST PETERSBURG ADDITION, PETERSBURG, NEBRASKA FROM “R-2” MULTIPLE FAMILY RESIDENTIAL TO “B-1” HIGHWAY BUSINESS DISTRICT. THIS ACTION, IF APPROVED, WILL AMEND THE OFFICIAL ZONING MAP TO REFLECT SAID ZONING CHANGE.

Hanson stated that the items can be discussed together, but separate motions to approve or deny will be required.

Stephens made a motion to open the public hearing for item: 4-A) approve or deny an amendment to the Future Land Use Map for Lots 13 – 24, Block 8, West Petersburg Addition, Petersburg, Nebraska from Higher Density Residential to Highway Business District and 4-B) approve or deny an application by the Petersburg Industrial Development Corporation to rezone Lots 13 – 24, Block 8, West Petersburg Addition, Petersburg, Nebraska from “R-2” Multiple Family Residential to “B-1” Highway Business District, second by Baum. Vote: 8 Ayes, 0 Nays, 1 Absent.

Doug Koch, representing the Petersburg Industrial Development Corporation, stated that they had been in contact with a wind industry company to locate an operations and maintenance building in Petersburg. This site is one of the few locations, if it can be rezoned to business, for the business to construct a 40’ x 60’ building with some office space, a shop area in the back and a fenced in area for some of their equipment. Jensen asked if the neighbors had been notified, Hanson stated that notices had been sent to all property owners within 300’ on all sides of the area to be rezoned. Chairman Groeteke asked for any other comments from the public. Tony Thieman, Village Board Chairman, stated that the Village Board is in favor of the rezone and the opportunity it brings to Petersburg. Chairman Groeteke asked for any other supporting or dissenting opinions. Hearing none Stephens made a motion to close the public hearing, second by Meysenburg. Vote: 8 Ayes, 0 Nays, 1 Absent.



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Item: 4-A) Jensen made a motion to recommend approval of the amendment to the Future Land Use Map, as submitted, to the Village Board of Petersburg, second by Stephens. Vote: 8 Ayes, 0 Nays, 1 Absent.

Item: 4-B) Jensen made motion to recommend approval of the application to rezone by the Petersburg Industrial Development Corporation, as submitted, to the Village Board of Petersburg, second by Ketteler. Vote: 8 Ayes, 0 Nays, 1 Absent.

5 – REVIEW BLIGHT AND SUBSTANDARD DETERMINATION STUDY FOR AREA REFERRED TO AS THE CENTRAL PETERSBURG REDEVELOPMENT AREA AND MAKE A RECOMMENDATION TO THE VILLAGE BOARD OF PETERSBURG

✚ CONSIDERATION OF RESOLUTION PC01(11) RECOMMENDING APPROVAL OF THE CENTRAL PETERSBURG REDEVELOPMENT AREA AS BLIGHTED AND SUBSTANDARD

Jensen asked Tony Thieman, Chairman of the Petersburg Village Board, if the Village Board was aware of this and in favor of it. Tony Thieman stated that they are and that this is an extension of the area that was blighted a year or so ago. The idea is to take advantage of the TIF financing that could be captured to help improve that area of town. The Village Board is fully in favor of this. Hanson stated that Michael Bacon did state that a Village the size of Petersburg can blight 100% of the town. Tony said that the Village choose not to do that because if something develops outside of the city limits they have to have something to tie that area to, you can't blight open fields. That's why the area is intermingled the way it is.

Jensen made a motion to approve Resolution PC01(11) recommending approval to the Village Board of Petersburg, of the Central Petersburg Redevelopment Area as blighted and substandard, second by Wagner. Vote: 8 Ayes, 0 Nays, 1 Absent.

6 – OPEN DISCUSSION

Discussion of zoning requirements was held by the board and those present at the meeting.

7 – CORRESPONDENCE/ZONING ADMINISTRATORS REPORT

Hanson handed out the activity report for the month of March. Hanson stated that she had denied several permits for grain bins, the replacement of a garage and office space that was destroyed by fire, and a deck. Most were denied due to setbacks. The Boone County Board of Adjustment will meet May 24, 2011 to review the items that are prepared by that date. All of the permits for Third Planet Windpower have been issued. Planning for the city of St. Edward has been put on hold until we figure out what to do about the workload in the zoning office. Hanson attended the spring zoning conference; one of the topics of discussion was the Energy Element that has to be a part of the Comprehensive Plan by January 1, 2015. David Potter suggested waiting for a while until some of the other counties have it completed and use that as an example, to make it easier for us. Due to an Airport Zoning legislation change that was passed last summer we will have to update our Airport Zoning regulations as soon as possible. The Commission felt that this was done a couple years ago. Hanson stated that she will look for the updates. Discussion was held on the work load of the County Zoning office and whether the office should take on more of a workload or if the communities should take care of their own work. Groetke feels that this should be handled by the Commissioners.

8 – SCHEDULE NEXT MEETING

The Chairman announced that the next monthly meeting of the Commission is scheduled for Monday, May 23, 2011 at 8:00 p.m. in the County Courtroom, Boone County Courthouse, Albion, Nebraska.



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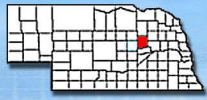
9 – ADJOURN

A motion to adjourn was made by Stephens at 9:30 p.m., second by Meysenburg. Vote: 8 Ayes, 0 Nays, 1 Absent.

SUBMITTED: _____ COMMISSION SECRETARY

AFFIRMED BY: _____ COMMISSION CHAIRPERSON

Draft Only - Not Approved



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BOONE COUNTY PLANNING & ZONING COMMISSION RECORD OF MINUTES OF MEETING

May 23, 2011

1 – CALL TO ORDER

The regular monthly meeting of the Boone County Planning and Zoning Commission was called to order by Vice-chairman Brad Stephens in the County Courtroom, Boone County Courthouse, Albion, Nebraska, Monday, May 23, 2011 at 8:00 p.m. Vice-chairman Stephens noted that a copy the Open Meetings Act is posted and copies are available for the public.

The agenda for this meeting was given in advance to all members of the Commission. Notices for this meeting and public hearings were given in advance by publication. All proceedings hereafter shown were taken while the convened meeting was open to the public.

2 – ROLL CALL

The following quorum of Commission members were present and answered roll call: Justin Frey, Hilary Maricle, Brad Stephens, Mark Jensen, Chris Baum, Lee Ketteler,

Absent: Paul Groetke, Mark Wagner, Jim Meysenburg

Others present: Tony Thieman, Jeanne Stokes, Larry Temme, Steve Boyer, Ted Thieman, Jim Dickerson, Tammy Bode

3 – APPROVAL OF MINUTES

Copies of the April 25, 2011 meeting minutes were mailed to all Commission members prior to the current meeting. Vice-chairman Stephens requested additions or corrections to the minutes, or a motion to approve. Jensen made a motion that the minutes be approved as submitted, second by Baum. Vote: 5 Ayes, 0 Nays, 1 Abstain, 3 Absent.

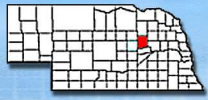
4 – Review Redevelopment Plan Petersburg CDA Area #1 and Area #2 2011 and make a recommendation to the Village Board of Petersburg

Consideration of Resolution PC02(11) recommending approval of the Redevelopment Plan Petersburg CDA Area #1 and Area #2 2011

Jeanne Stokes and Tony Thieman were present from the Village of Petersburg. Hanson explained that this is a continuation of the Blight Studies done earlier for the West Petersburg Redevelopment Area and the Central Redevelopment Area. Jeanne Stokes stated that the redevelopment plan for these areas explains how the CDA will finance improvements by borrowing funds for the infrastructure cost and obtaining repayment by capturing the increase in real property ad valorem taxes on the property described in the plan. The increase in ad valorem taxes generated over a 15 year period is intended to reimburse the CDA for its fund advance on project improvements. The plan provides a project list of improvements that can be made in the redevelopment areas. Vice-chairman Stephens asked for any questions about the redevelopment plan from the public. There were no questions presented.

Jensen made a motion to approve Resolution PC02(11) recommending approval of the Redevelopment Plan Petersburg CDA Area #1 and Area #2 to the Village Board of Petersburg, second by Ketteler. Vote: 6 Ayes, 0 Nays, 3 Absent.

5 – Public hearing to approve or deny an application for Conditional Use Permit by TPW Petersburg, LLC to construct an operations and maintenance building approximately 60' x 40', property to be bounded by a chain link fence w/gate, conex boxes located adjacent to the building on permanent foundations, RV hookup, and paved parking area located in Lots 13-24, Block 8, West Petersburg Addition, Petersburg, Nebraska. This property is owned by the Petersburg Industrial Development Corporation.



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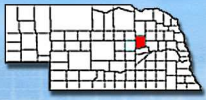
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Jensen made a motion to open the public hearing, second by Maricle, for the application for Conditional Use Permit by TPW Petersburg, LLC to construct an operations and maintenance building approximately 60' x 40', property to be bounded by a chain link fence w/gate, conex boxes located adjacent to the building on permanent foundations, RV hookup, and paved parking area located in Lots 13-24, Block 8, West Petersburg Addition, Petersburg, Nebraska. This property is owned by the Petersburg Industrial Development Corporation. Vote: 6 Ayes, 0 Nays, 3 Absent.

Hanson stated that since there wasn't a specific item for an operations and maintenance building she talked to David Potter with JEO about this CUP. He said we need to note in the minutes that this proposed use is similar to Construction Storage and Offices that have been approved in the B-1 District and that the uses will generally be similar, such as office space, storage of equipment and maintenance, and storage of materials. Steve Boyer with TPW, Petersburg, LLC introduced himself and explained that TPW would like to build their operations and maintenance building about ½ block off of Hwy 14 in the West Petersburg Addition. There is a similar building along Hwy 32 for the other wind farm, this building would be substantially smaller than the Laredo Ridge building. The TPW building which will be 60' x 40' will be more in relation to the size of TPW's wind farm which is 27 turbines compared to Laredo Ridge's 54 turbines. TPW will have approximately 2 to 6 fulltime employees; there will be approximately 3 offices inside of the building, a break room, conference room and a shop area where they could park 1 or 2 pickup trucks. The yard outside would be graveled with a concrete apron leading into the shop area. The operations manager will be bringing an RV providing for the need for RV hook-up. At this time TPW will need one conex box which is an affordable way to provide storage. You often see them stacked on trains. TWP would like to have the conex box adjacent to the building on the east side. Through discussions with various people from Petersburg TPW is aware of how that will appear. TPW is prepared to put a roof over it and put siding around it so that you can only see the doors on the south side. It would be put on a poured concrete footer and attached to the footer. Also for security purposes the property would be bounded by a non-climbable chain link fence approximately 6' high with 3 strands of barbed wire on top. Due to the nature of the equipment storage in the yard TPW feels that the security is necessary with that type of fence. The fence will be gated with one access to the property from the south side along 8th Street which is an extension of Main Street to the west on the west side of Hwy 14. There will be minimal truck traffic in and out of the facility once it is built. Most of the traffic associated with this wind farm will be east of town in the area of the wind farm. There will be lubricant oils that will be picked up and delivered on a semi-regular basis, and will be in an enclosed containment building behind the (operation and maintenance) building. TPW expects that the graveled area will allow trucks access to the property from the front and back as well as the side. There is a platted alley in the back that is currently grass, TPW is not sure if they will need to activate the alley. They believe with the gravel around all sides of the building they will be able to access it. Wagner asked Tony Thieman if this had been presented to the Village Board. Thieman stated they have been discussing it for several months now and the Village Board's only concern is the conex boxes. The Village Board is 100% behind them. Ted Thieman asked why this had to be a Conditional Use Permit. He thought the property was zoned right. Hanson stated that the property is zoned correct but the only item that would match this in the district is listed under Permitted Conditional Uses and is listed as Construction Storage and Offices. Steve explained the location of the property and where the proposed building would be located on that property. Some trees will be left standing and there will be a good sized grass area.

Vice-chairman Stephens asked for any other comments from the public, hearing none Frey made a motion to close the public hearing, second by Jensen. Vote: 6 Ayes, 0 Nays, 3 Absent.

Jensen made a motion to recommend approval of the application for Conditional Use Permit by TPW Petersburg, LLC, to the Petersburg Village Board, with the following conditions: Conex box will be sided with a roof over it and that if the property is sold the conex box and foundation will be removed and the area where the conex box is will be restored to the original condition, second by Frey. Vote: 6 Ayes, 0 Nays, 3 Absent.



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6 – Public hearing to approve or deny an application for Conditional Use Permit by Rae Valley Market, LLC, Larry Temme, to construct and operate a grocery store and paved parking area located in Lots 1-5, Block 1, West Petersburg Addition, Petersburg, Nebraska.

Baum made a motion, second by Ketteler, to open the public hearing for an application for Conditional Use Permit by Rae Valley Market, LLC, Larry Temme to construct and operate a grocery store and paved parking area located in Lots 1-5, Block 1, West Petersburg Addition, Petersburg, Nebraska. Vote: 6 Ayes, 0 Nays, 3 Absent.

Larry Temme, owner of Rae Valley Market, introduced himself and explained that they are proposing to build an 80' x 120' building on the stated lots. They would like to move their grocery store down on the highway and update everything. They would like a paved parking lot on the east side and on the south side. The paved parking will extend 50' x 120' on the south side. They will be 35' off the right-of-way on the east side, so the parking will be 35' x 80' with a new approach off of Hwy 14. Larry has a signed approval from Darrel Thorin, the Boone County Highway Superintendent for the new approach. The area has been rezoned to B-1 Highway Business District. Hanson stated that the Petersburg Village Ordinance requires a Conditional Use Permit for a grocery store in the B-1 district. This property is located at the 14-32 intersection on the west side of the road where the Klein house was burned. The lot sizes are 60' x 140' so the total lot size will be 300' x 140'. Jensen asked Tony Thieman if the Village is aware of this project, Tony stated that they are.

Vice-chairman Stephens asked for other comments from the public, hearing none Jensen made a motion to close the public hearing, second by Frey. Vote: 6 Ayes, 0 Nays, 3 Absent.

Baum made a motion to recommend approval of the application for Conditional Use Permit by Rae Valley Market, LLC, Larry Temme as requested to the Petersburg Village Board, second by Maricle. Vote: 6 Ayes, 0 Nays, 3 Absent.

7 – Public hearing to approve or deny an application for Conditional Use Permit by Ted & Tammy Bode to divide 6.406± acres from farm ground located in a Fr. of the NW¼ Section 1, T22N, R7W of the 6th P.M., Boone County, Nebraska to construct a new home for a personal residence. This property is owned by Jerald and Carol Bode.

Jensen made a motion, second by Frey, to open the public hearing for an application for Conditional Use Permit by Ted and Tammy Bode to divide 6.406± acres from farm ground located in a Fr. of the NW¼ Section 1, T22N, R7W of the 6th P.M., Boone County, Nebraska to construct a new home for a personal residence. This property is owned by Jerald and Carol Bode. Vote: 6 Ayes, 0 Nays, 3 Absent.

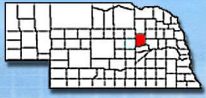
Tammy Bode was present and stated that they wanted to divide the land to build a new house on the county hill. Hanson stated that a survey has been done. This property is located north of Jerry's house on the east side of the highway. The Bode's plan to access the property from the county road on the north side. A Waiver of Distance has been signed and notarized for Pelster Farms, for a LFO located within the setback distance. Notices were sent to surrounding property owners and also to the property owners in Antelope County. Vice-chairman Stephens asked for other comments from the public, hearing none Baum made a motion to close the public hearing, second by Ketteler. Vote: 6 Ayes, 0 Nays, 3 Absent.

Frey made a motion to recommend approval of the application for Conditional Use Permit by Ted and Tammy Bode to the Boone County Commissioners as submitted, second by Baum. Vote: 6 Ayes, 0 Nays, 3 Absent.

8 – OPEN DISCUSSION

There was no open discussion.

9 – CORRESPONDENCE/ZONING ADMINISTRATORS REPORT



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Hanson handed out the activity report for the month of April, which was very busy. Several permits were denied due to setbacks, the Kelley's denial in Petersburg was from a fire last July, construction had to be started within 6 months since the house is in a business district. There is a County Board of Adjustment meeting scheduled for May 24, 2011. I'll need to schedule another BOA meeting for other permits that were denied that I don't have the paperwork back on yet. We will have to update our Airport Zoning Regulations. The Airport Authority would like to be involved in this and the City of Albion will have to update their regulations also since the 3 mile approach in each direction will include the city's jurisdiction.

10 – SCHEDULE NEXT MEETING

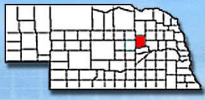
Vice-chairman announced that the next monthly meeting of the Commission is scheduled for Monday, June 27, 2011 at 8:00 p.m. in the County Courtroom, Boone County Courthouse, Albion, Nebraska.

11 – ADJOURN

A motion to adjourn was made by Jensen at 8:54 p.m., second by Baum. Vote: 6 Ayes, 0 Nays, 3 Absent.

SUBMITTED: _____ **COMMISSION SECRETARY**

AFFIRMED BY: _____ **COMMISSION CHAIRPERSON**



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June 27, 2011

1 – CALL TO ORDER

The regular monthly meeting of the Boone County Planning and Zoning Commission was called to order by Vice-chairman Brad Stephens in the County Annex Building, Boone County Courthouse, Albion, Nebraska, Monday, June 27, 2011 at 8:06 p.m. Vice-chairman Stephens noted that a copy the Open Meetings Act is posted and copies are available for the public.

The agenda for this meeting was given in advance to all members of the Commission. Notices for this meeting and public hearings were given in advance by publication. All proceedings hereafter shown were taken while the convened meeting was open to the public.

2 – ROLL CALL

The following quorum of Commission members were present and answered roll call: Justin Frey, Hilary Maricle, Brad Stephens, Mark Jensen, Chris Baum, Mark Wagner, Lee Ketteler, Jim Meysenburg

Absent: Paul Groeteke

Others present: Ted Thieman, Jerry Simons, Jeanette Simons, Ken Luettel, Tracy Coakes, Jim Dickerson, Joel Travis, Anastasia Travis, Kelly Noble, Jerry Niewohner, Mark Niewohner, George Beierman, Jerry Leifeld, Dave Reinhart, Jack Kunzman, Marion Kunzman, Jim Vanderloop, Sharon Travis, and Ted Travis.

3 – APPROVAL OF MINUTES

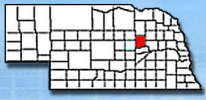
Copies of the May 23, 2011 meeting minutes were mailed to all Commission members prior to the current meeting. Vice-chairman Stephens requested additions or corrections to the minutes, or a motion to approve. Frey made a motion that the minutes be approved as submitted, second by Ketteler. Vote: 6 Ayes, 0 Nays, 2 Abstain, 1 Absent.

4 – Public hearing to approve or deny an application for Conditional Use Permit by George Beierman to divide 4.1± acres from farm ground located in a Fr. of the NE¼ NW¼ Section 34, T21N, R6W of the 6th P.M., Boone County, Nebraska to construct a new storage building.

Baum made a motion to open the public hearing for an application for Conditional Use Permit by George Beierman to divide 4.1± acres from farm ground located in a Fr. NE¼ NW¼ 34-21-6, second by Maricle, Vote: 8 Ayes, 0 Nays, 1 Absent.

George Beierman stated he intends to put up a storage building on the corner of 255th Avenue on land that he intends to own. The land is currently not in his name due to being held up at his attorney's office. The land is 4.1± acres with .74± acres of that land being used as a county road. This would still leave over 3 acres of land for George to build on. George confirmed he is familiar with the setbacks from the road. George stated the land is currently in Jerry Beierman's name. Hanson stated no comments were received from any of the notices she mailed out to the neighboring land owners. Ted Thieman of Petersburg questioned why there was a need for a Conditional Use Permit. It was explained that a Conditional Use Permit was required because they were changing the use of the land and because the land ownership was changing. Ted stated he has no objection to the CUP for George Beierman; he was just not sure if it fit with any precedent. Ted was told this is a division of land under new ownership. If George owned the whole quarter, he would only need a zoning permit.

Vice-chairman Stephens asked for any other comments from the public, hearing none Meysenburg made a motion to close the public hearing, second by Frey. Vote: 8 Ayes, 0 Nays, 1 Absent.



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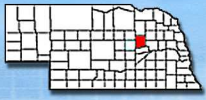
BOONE COUNTY PLANNING & ZONING COMMISSION RECORD OF MINUTES OF MEETING

Frey made a motion to recommend approval of the application for Conditional Use Permit by George Beierman to divide 4.1± acres from farm ground located in a Fr. NE¼NW¼ 34-21-6, to the Boone County Commissioners as submitted, second by Meysenburg. Vote: 8 Ayes, 0 Nays, 1 Absent.

5 – Public hearing to approve or deny an application for Conditional Use Permit by Niewohner Farms to construct a Class I Livestock Feeding Operation, Hog Confinement Unit (301-1000 Animal Units) located in a Fr. of the NE¼ Section 5, T20N, R6W of the 6th P.M., Boone County Nebraska.

Wagner made a motion, second by Maricle, to open the public hearing for an application for Conditional Use Permit by Niewohner Farms to construct a Class I Livestock Feeding Operation, Hog Confinement Unit (301-1000 Animal Units) located in a Fr of the NE¼ 5-20-6. Vote: 8 Ayes, 0 Nays, 1 Absent.

Jerry Niewohner stated he would like to put up a couple of finishers in Boone County, but he believes it is impossible because of the setbacks. Jerry would like to build in the A2 district, but he is unsure about meeting a requirement for ¾ mile from a residence. Only ½ a mile setback is required for a nonfarm residence, discussion was held on the setback distance for a nonfarm residence. Hanson stated she would clarify what the distance should be and the definition of a nonfarm residence. Niewohner wanted to know why he had to be that far away from encroaching on himself if he had no objection to it. Stephens said they discussed it at the first meetings and one of the biggest things was that you cannot sign off on yourself because then you could pile units up right on top of each other. Niewohner said he's not on top of each other, Stephens said he understood that, but said it would set a precedence if allowed. Niewohner said his mistake was that he didn't put 12,000 head units to start with at Bogey 4 because the setback wasn't near as far per animal unit as the smaller one he wants to put up now. Jerry feels if we're going to try to help the smaller person out in this county, we're not helping him out at all. Jerry had another site picked out, but was unable to get it on the agenda. Jerry was asked to stay on the topic of the current agenda site. Jensen asked if the 2's and 3's got split into A & B for the Ag-2 district as well. Barb and Stephens both stated they could not find any amendments for the A-2 district. Jensen stated the A-2 says that the enclosed housing operations shall be located at least 2640' from any nonresident or other residence not on owner's property. Frey said on the back page it states for a new nonfarm residence, but Joan Majerus' home is not a new nonfarm residence. Barb said it was broken off in 2000 and so it would make it a new nonfarm residence. Frey said it was a nonfarm residence, but not a new one. There wasn't someone building or dividing land in order to build, so it was not a new nonfarm residence. Barb stated that setback would then be ½ mile not ¾ of a mile. Jensen explained a chart they were looking at as it gives the livestock a ¼ mile advantage. A new house has to be a ¼ mile more away from a livestock facility than a new livestock facility has to be away from a house. The reasoning behind that is so that livestock can expand, but you cannot expand upon livestock. Barb mentioned Bogey 4 also needs to be addressed. It is a Class II-A and has a 1 mile setback. Niewohner asked how a Class II-A is different. A Class II-A is 1001-2500 animal units and a Class II-B is 2501-5000. Niewohner said he thinks that Bogey holds 5000 right now. The DEQ permit is what they go by and his is 5000. If you take 2,500 large animal units times 2.5 it comes up to 6,250. Frey said that's a II-A which is a mile and as far as I can tell, that's over 1 mile. Niewohner wants to know what to use for a setback, the property line of the facility or the property line of the house. Stephens said it is from the house to your lagoon or your building, whichever is closer. Niewohner said he might gain some on the south side, but he's not going to gain much on the north side. Barb brought attention to 2 maps in the packets. One is a soil map for the proposed site showing it is all silt loam. Barb agreed Jerry could meet the setback from the house, but his setback with Bogey 4 overlaps. The pit will be under the units and the manure would be knifed into the soil. He does stay out of the larger one's setback from Bogey 4. Whether Niewohner can overlap with Bogey 4 is not addressed for the A-2 district. Barb stated there are some flood plain issues out there, but there's not very much, so that can be addressed. Wagner asked if this comes down to whether he can overlap with Bogey 4 with the proposed unit in A-2. There was discussion on why the A-2 district ran so far out, and it was thought it was because of industrial development, the airport, and the highway. This soil type, if it were in the A-1 district, the setback would be a half mile from a residence and other livestock units. The one mile comes in because of the size of Bogey 4. The amended setbacks weren't addressed in the A-2 district. The location of the proposed site in section 5 is in the A-2 district and the section immediately north is in the A-1 district. Barb said that section 3 is getting a lot of residential homes



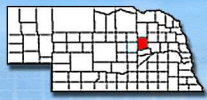
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and either it needs to be rezoned to A-2 or they need to start telling people they cannot build out there anymore. Jensen stated there is not language in the A-1 that the circles cannot overlap except in the sand soils so the overlapping of circles is not a factor. The distance from Bogey 4 and a residence is what we are looking at. Niewohner's proposed unit is over a ½ mile from Bogey 4. It was agreed that this new unit does stop Bogey 4 from expanding. Niewohner asked how Bogey 4 could expand right now. He was told it would extend the setback from 1 mile to 1½ mile and he would have to get a Conditional Use Permit. Stephens said on page 16, it has LFO spacing distance and it says nonfarm or other residence or other LFO's. If Jerry goes to the next class at Bogey 4, his circle goes to 2 miles. As long as he stays below 5000 animal units, he needs to be 1 mile from another unit and 1.5 miles to another residence. The distance from residence was split in A & B, but the distance to other feeding operations did not get split according to what's on page 16. Barb asked if it matters with the change of districts, Stephens said he did not see anything in the regulations, so it needed to be addressed before Niewohner proceeded. Barb agreed to talk to David Potter before public hearing with the commissioners to approve or deny this application. Jensen said with a ½ mile setback on this type of soil, he would not have a problem with this permit.

The Vice-chairman then asked for testimony from the public. Ted Thieman felt that the board members were sitting around the table helping the applicant somehow comply and looking at things in a logical way and a spelled out in the manual way. Ted feels no one is paying attention to the comprehensive plan. Ted reminded the board they have to take the comprehensive plan into consideration before they can make their decision before recommending approval or not. The comprehensive plan talks about the quality of life things. The DEQ will look out for only water and land; they do not look out for air, quality of life, or what the citizens or residence of the county want. That's what the zoning manual is all about, and it is based on the comprehensive plan. Ted stated Mark, Brad, and Chris went through things and it took a couple of years to come up with a comprehensive plan. There were numerous public hearings, public meetings, input, comments, and changes that went into the comprehensive plan. If the board were to read through the plan and look at it honestly, they will get nervous about whether or not they should be considering the unit when you look at it as a whole. The DEQ looks at this particular unit, and whether or not there's land to spread it on and whether or not it will affect the air and water according to their rules. The County Planning & Zoning Commission and ultimately the County Commissioners, have the right to control how the land is used through zoning. They not only have the right, but they have the responsibility, the duty and the obligation to protect the public, the citizens, the land, the air and the future generations. The law also states that the planning board is supposed to write up a document that says how you arrived at your decision. Ted does not believe that has been done lately. Ted believes that rule was passed 3 or 4 years ago. The write up is supposed to not only include items from the regulations, but also how the decision fits into the comprehensive plan. Ted is pleading with the members to look at the comprehensive plan and Boone County as a whole, think about economic development, think about future generations when it comes to whether we're going to live here or not, whether we will have water we can drink, whether we're going to have air we can breathe, whether we're going to have any population left. The population has been decreasing by about 10% on each 10 year census. Ted suggests it has something to do with the use of agriculture land and some other factors. Zoning is land use regulation and that is the job of this board. We have the responsibility to each other to use the land in a responsible way that allows us to be here for the long run, not just to worry about the short run. Even if economically in the short run it is a good thing, we should not allow that to be a factor. The comprehensive plan says we should look at the whole picture. Based on that, Ted is pleading with the members to take a good, honest look at those things and think in the back of their minds when is enough, enough? We have tens of thousands of head of hogs in Boone County and tens of thousands of head of cattle, and almost had that many historically. Never have they been this concentrated. Ted feels when large amounts of livestock are brought into one place, and water mixes with the manure, and is put on hilly land (where this facility will be), or put in the sand, there are dangerous ramifications for the future and for our kids. Ted stated he remembers very well when they were entertaining the idea of implementing zoning, before the committee was formed, Brad Stephens felt the main point was to look out for the kids. If the countryside continues to be abused like it is, the kids are going to hate us. Barb stated the comprehensive plan does state for the well being, moral, and so forth. Barb did talk to Keith Sandal at DEQ, he stated the DEQ does not regulate for the population, but for the waste control. They do not take into consideration where people live, how far they are from the units, or what the population is.



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Jerry Leifeld wanted to know if the unit would be on the corner. Niewohner said right above the ditch on the west side of the road, south of the hill. Leifeld asked why Niewohner didn't go more west with the unit, Niewohner responded because it becomes quite expensive to build roads to the building. Leifeld said Niewohner has the equipment to build up a road and it would make the property farther away from his residence. Mark Niewohner said right now, the unit is about midway between Leifeld's property and another property (Norm Reynoldson) and it would put it closer to the other property owner if it were moved and it would encroach on him (Norm). It will be about 1 mile from Norm. Leifeld stated it is only $\frac{3}{4}$ of a mile from his house and he feels it should be farther because of the smell.

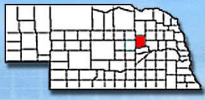
Dave Reinhart wanted to know how they would manage the manure and how much smell there would be with this unit. Niewohner replied there will be pits located underneath the barn and they will be pumped out usually once in the spring and once in the fall. More so in the spring than the fall, but he may have to pump it out in the fall to make sure there is enough storage in the winter. It will then be knifed in as stated by the zoning regulations.

Jack Kunzman agrees with Ted Thieman and added if there is this much trouble with setbacks, he feels that it means that the county is saturated enough.

Marion Kunzman stated she objected to this unit because the south wind is the only time she can be outside due to the smell and this unit will add an odor to that wind as well. She does not want the smell coming in from all sides. She also has a concern over the flies in the area. She also stated she agrees with Ted and Jack. Maricle added she received a phone call from Ann Borer and her sentiments echo those of Jerry's (Leifeld). Maricle asked Ann to send a signed letter, but has not received one yet. Marion said that Borer hasn't been listened to before and that when they first put those first hog houses by Ann's house, there wasn't zoning. This spoils their homestead because it's so close and because of the smell. That's why we now have zoning, to help prevent this. Marion said good neighbors don't do that to their neighbors by putting in something like that that causes that kind of quality of life on their farm.

Kelly Noble would like to see this CUP denied because of violations on the 4 prior Conditional Use Permits in 2009 and 2010 northwest of Loretto. Kelly stated Commissioner Tom Schuele put a condition in the permits that they could not pump manure on the sand in the fall and that Niewohner pumped during the fall of 2009 and the fall of 2010. Kelly feels if they are not complying with the CUP's they already have, they should not be given new ones. Kelly wants to see this denied. Jensen asked Niewohner if this was true, Jerry said "we pumped out there this fall because if we didn't they'd be running over in the spring." Kelly said that was mentioned when the Conditional Use was put on at the courthouse and Niewohner stated then he would pump it out onto the hard ground. Kelly said he didn't pump onto the hard ground, but onto the Valentine sands. Jensen said he was not familiar with the conditions the Commissioners put on the CUP's and Kelly said it's in the records; Jensen stated he would review it. Mark Niewohner said he thought it was in there that if the pits needed to be pumped, they could pump in the fall. Niewohner stated he pumps as much as he can in the spring, but if they are going to run over before spring, it would be foolish for them not to empty them down to prevent overflow during the winter. Kelly stated he remembered when Niewohner said that he would pump it over on the hard ground if he had to pump in the fall. There would not be any pumping on the sands in the fall. Niewohner said the map shows the whole area as sand, so he is unsure of where he is supposed to pump. Niewohner said he used to pump to the west. Niewohner asked how it was scientifically proven that applying the manure in the fall was bad. Kelly replied because of the leaching, Niewohner asked proven by who or what? Kelly said it was proven last spring with all the rain and yellow corn. Niewohner stated that could have been caused by a lack of oxygen. Ted Thieman said it proved the concept. Kelly again stated to check the permits and the records and if they're not going to follow the conditions on the permits, the whole thing is a farce to him. Hanson stated she would check the conditions that the Commissioners added to the permits.

Anastasia Travis said she lives about a mile and a half east of the proposed site and both she and her husband are against the building of the unit due to the concern over the smell. She understands there are smells in the country and they chose to live there, but enough is enough. It's a minimum maintenance road from her home to the site and she would like to keep it that way. She feels there is enough traffic on that road already. She also stated that her family, her out of town guests and herself use that road for running and biking. She feels one hog unit on that hill already is plenty. Anastasia asked about the 7 mile mark. Stephens responded that it was where the A-2 district covers. He cannot recall why they put it out so far except maybe it was because of the airport and industrial development. Someone asked if they could not build in that district then, it was clarified that you could, it is just closer to the community and has different regulations. Jensen



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said the objective was to encourage housing to be put along the highway or the main roads for county maintainers in the winter and school buses. That was the main thinking for an A-2 district.

Ted Thieman spoke again to note his concern about how the public shows up to these meetings without really knowing what they are going to be faced with. It would be nice to have a week or so before the hearings to see what's being planned. He feels if it will take a few months extra to get the application decision made, it is nothing compared to living with the units for the rest of your life. He feels the hearings would be a little fairer if they could see the plans ahead of time. As is, people are not prepared at these hearings to bring up concerns and opinions on the matters; they have to go to the commissioners with their final thoughts. Barb stated by state statute she is only required to send out a notice, but the information that she gives the board members is available to the public in her office. Stephens said the size is also stated in the paper. Barb would also like more time to gather information for these permits because the short amount of time she has now is not enough.

Jim Vanderloop spoke in complaint of this CUP. He wants the setbacks addressed so that people can live out in the country. He feels that there should be public hearings to get these setback issues figured out so that people can live out there. He feels a public citizen shouldn't have to take companies to court to revoke permits that are not being followed, but that someone at county should take care of them.

Sharon Travis stated she moved to Albion from Chase and Hayes counties where there were confinements and that due to the smell and flies, people had problems selling their properties. Property values went down and it became a real problem. She does not want that to be a problem here. She likes Albion, the clean air, and the people.

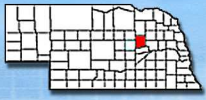
Ted Travis has respiratory problems and is not sure if this unit will be a plus or a minus for him. He wanted to know how the feces will be monitored. Stephens replied the County Zoning Board does not, the property owner and the DEQ are supposed to. Ted would hate to have his quality of water ruined, and Stephens stated "so would we."

Joel Travis wanted to know if any studies have been conducted as far as water shed areas and if there is a breach in the pit, where will it go, and what kind of an environmental impact will it have. Stephens said you do have to have an engineering study done prior to building and then follow the code of the engineer. Niewohner said with a deep pit, it will have to be reinforced. Core samples are taken to make sure things are within guidelines of what they recommend.

Barb Hanson stated she moved up here from Platte County that does not have zoning. She lived on a property that had confinements all around it and there was never a time when she could be outside without the smell.

Vice-chairman Stephens asked for other comments from the public, hearing none Meysenburg made a motion to close the public hearing, second by Frey. Vote: 8 Ayes, 0 Nays, 1 Absent.

Jensen read parts of the comprehensive plan under land use planning to the board. Members reviewed a site plan of Jerry's from a previous unit. Jerry said his new unit will be the same, except he is considering a larger pit to hold more nutrients so he will hopefully only have to pump once a year. There will be 2,499 head or 1,000 animal units at the new unit. Vice-chairman Stephens asked for any other comments from the board. Maricle stated that it appears all setbacks are met. Maricle also discussed how it fits with the comprehensive plan by encouraging industry and encouraging growth. Livestock industry is growth, and we are an agriculture community and an agricultural County. Maricle feels that we need to remember that also. Ketteler said there is a unit one mile north of his residence and another a little over 1/2 a mile west of his residence and he was greatly concerned about the smell also. He gets a little odor every once in a while. He feels the pits are better than an open lagoon and he can hardly tell these units are there. Vice-chairman Stephens asked for more discussion or a motion to approve or deny the application by Niewohner Farms for the 1000 head animal unit finisher to be constructed on the site listed in our minutes, or a recommendation with conditions to the County Board. Jensen made a motion to recommend approval of said CUP for Niewohner Farms with the following conditions: that the County Commissioners look at the previous Conditional Use Permits that have been granted to this applicant to make sure they are in compliance with the conditions placed on the previous permits, have Barb check with David Potter to get clarification on the setbacks in these districts, make sure the setbacks are in compliance and that they are measured so they know where the site will be, and that the Planning Commission's recommendations for approval are subject to the Niewohners meeting the conditions set by the County Commissioners on the previous Conditional Use Permits issued to them. Ken Luettel stated he is unsure of who is supposed to enforce the regulations that are set in the CUP's. Stephens



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said either the Commissioners or Barb recommends to the County Attorney what needs to be done. The Boone County Planning and Zoning Commission is a board that makes recommendations to the Commissioners. They do not enforce the regulations that are set; they only make recommendations to the (County) Board, the recommendations do not have to be followed by the Commissioners. The Commissioners will hold their own public hearing, like this one, where testimony is given and the Commissioners will make their decision from there. Barb stated she is the one to check for compliance, but has not had the time to do it due to time restraints.

Jensen made a motion to recommend approval of said CUP for Niewohner Farms with the following conditions: that the County Commissioners look at the previous Conditional Use Permits that have been granted to this applicant to make sure they are in compliance with the conditions placed on the previous permits, have Barb check with David Potter to get clarification on the setbacks in these districts, make sure the setbacks are in compliance and that they are measured so they know where the site will be, and that the Planning Commission's recommendations for approval are subject to the Niewohner's meeting the conditions set by the County Commissioners on the previous Conditional Use Permits issued to them, second by Meysenburg. Vote: 7 Ayes, 0 Nays, 1 Abstain, 1 Absent. Baum abstained due to a conflict of interest.

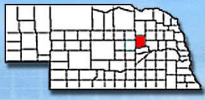
Vice-chairman Stephens thanked everyone for coming and for their comments.

6 – OPEN DISCUSSION

There was no open discussion.

7 – CORRESPONDENCE/ZONING ADMINISTRATORS REPORT

Barb pointed out there is some information on an upcoming Manure expo in Norfolk. Maricle said she would like to invite everyone to this expo where it will show some of the newest innovations in manure. There was discussion between the board on who was going or not. Barb also stated the Department of Aeronautics would like to have a review of the regulation she gave everyone in order to get back to them by July 31, 2011. They would like to address any issues people may have at the formal hearing. Barb is unsure if the City will be able to look at the issue at their July 5th meeting. This will not be a public hearing, just a hearing to see if there are any recommendations. Barb has asked for an updated map, but has not been able to obtain it yet. Barb has also attempted to get a hold of someone from the Airport Authority in order to include them, but has not yet reached anyone. This plan is for 3 miles, there is some push out there for 10 miles, which would mean 20 miles. Stephens said it should be done by the size of the airport, not by a set number for all. City and County report of May was also included in the packet. All the items that went to the Board of Adjustment were granted and there was one zoning change that was approved by the City Planning and City Council. Barb introduced her new assistant Natalie Pugh. Ted Theiman wanted to know if the Boone County Regulations were online to view. Barb is working on updating everything in order to get accurate information online. Barb and David Potter have been working on this, but it takes time to get through the amendments and to make sure that the Regulations are correct when they are published. Jensen told Ted he really likes the Class I livestock facilities. He feels they are small and promote livestock in Boone County. Ted replied that they are the beginning of the end. Ted said our kids will look back at what we are doing now and be angry that it was allowed just as he looks back at what his ancestors allowed and is angry about it. How can we take fresh water, livestock and rain water with the manure and completely contaminate the countryside. It is not the number of animals, but the concentration that is the key. Ted likes the livestock, but is unhappy with the mixing of water with manure. Jensen said the setbacks are tight. Meysenburg said it is the same size operation that a small grower like himself would put together, if he were still raising hogs just outside of town. That is the size he would use for a one man operation. Whether it is Jerry or somebody else, this unit is the perfect size. Ted said it is dangerous to mix water with concentrated manure, pumping it through pivots and knifing it into the sand in the fall. There could be leaks that are happening that we don't even know about. Some day the water will be contaminated because of the hog concentration from the sandhills. Meysenburg responded that when they knife this in, the hose is lying on top of the ground. Ted said



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that they pick them up on the end and sludge will get stuck out there where you can see the puddles from the road. Wagner stated that whether it was hog manure or fertilizer from Helena, the water would be polluted the same over time. Ted wants a responsible use of fertilizer, not a ban on farming. There was an ongoing heated discussion between board members and Ted that was ended in order to schedule the next meeting and end the current meeting.

8 – SCHEDULE NEXT MEETING

Vice-chairman announced that the next monthly meeting of the Commission is scheduled for Monday, July 25, 2011 at 7:30 p.m. in the County Courtroom, Boone County Courthouse, Albion, Nebraska.

9 – ADJOURN

A motion to adjourn was made by Meysenburg at 9:36 p.m., second by Frey. Vote: 8 Ayes, 0 Nays, 1 Absent.

SUBMITTED: _____ **COMMISSION SECRETARY**

AFFIRMED BY: _____ **COMMISSION CHAIRPERSON**

Draft only-not confirmed



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July 25, 2011

1 – CALL TO ORDER

The regular monthly meeting of the Boone County Planning and Zoning Commission was called to order by Chairman Paul Groeteke in the Boone County courtroom, Boone County Courthouse, Albion, Nebraska, Monday, July 25, 2011 at 7:30 p.m. Chairman Groeteke noted that a copy the Open Meetings Act is posted and copies are available for the public. The agenda for this meeting was given in advance to all members of the Commission. Notices for this meeting and public hearings were given in advance by publication. All proceedings hereafter shown were taken while the convened meeting was open to the public.

2 – ROLL CALL

The following quorum of Commission members were present and answered roll call: Paul Groeteke, Justin Frey, Mark Jensen, Mark Wagner, Lee Ketteler

Absent: Hilary Maricle, Brad Stephens, Chris Baum, Jim Meysenburg

Others present: Jim Dickerson, Troy Patzel, and Linda Patzel.

3 – APPROVAL OF MINUTES

Copies of the June 27, 2011 meeting minutes were mailed to all Commission members prior to the current meeting. Chairman Groeteke requested additions or corrections to the minutes, or a motion to approve. Jensen made a motion that the minutes be approved as submitted, second by Frey. Vote: 4 Ayes, 0 Nays, 1 Abstain, 4 Absent.

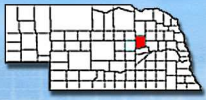
4 – Public hearing to approve or deny an application for Conditional Use Permit by Troy Patzel to divide 3.5± acres from farm ground located in a Fr. of the NE¼ Section 11, T21N, R5W of the 6th P.M., Boone County, Nebraska for use as a personal residence.

Jensen made a motion to open the public hearing for an application for Conditional Use Permit by Troy Patzel to divide 3.5± acres from farm ground located in a Fr. NE¼ 11-21-5 to use as a personal residence, second by Ketteler, Vote: 5 Ayes, 0 Nays, 4 Absent.

Troy Patzel stated his mother just moved to town & he would like to put a home onto the 3.5 acres of land he is requesting to divide. There is currently a home on the land that will be removed. A survey was done that included the driveway and a building site. The survey stated the land measured 3.29 acres. All of the necessary information on this CUP was sent to each planning commission member and notices were sent to nearby land owners before the meeting. Troy will be able to meet the setbacks from the roads. Troy will also meet his septic and sewage requirements.

Chairman Groeteke asked for any other comments from the public, hearing none Frey made a motion to close the public hearing for Conditional Use Permit by Troy Patzel, second by Ketteler. Vote: 5 Ayes, 0 Nays, 4 Absent.

Jensen asked Troy how many livestock were located around the property and Troy answered he has 80 cow/calf pairs. The closest facility is the Benson's about a mile away. Jensen felt that Troy should sign a livestock waiver for his mother due to taking the center of the quarter out for a residence. Jensen said worst case scenario is that Troy and his mother may get into a fight and Troy would sell the house and leave. Troy said the bank wanted to make sure they put access to the easement in the permit. Barb went and got a waiver from her office for Linda and Troy to take to her lawyer. Wagner asked if Troy would acquire the 36' wide easement as well, Troy replied he would own the driveway as well because otherwise he would not be over the 3 acres. The waiver will get filed with the deed at the courthouse. It was also



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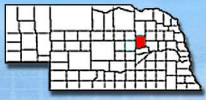
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suggested to Linda that she have her attorney add a first right of refusal into things so if the property ever goes up for sale, she would have the option to buy it before it goes for sale to the general public. The members said it makes them nervous when the land is coming out of the center of a quarter because things happen. Troy was told his commissioner meeting is scheduled for the 8th of August.

Frey made a motion to recommend approval of the application for Conditional Use Permit by Troy Patzel to divide 3.29± acres from farm ground located in a Fr. NE¼ 11-21-5 to use as a personal residence, to the Boone County Commissioners as submitted, second by Ketteler. Vote: 5 Ayes, 0 Nays, 4 Absent.

5 – Review the Airport Zoning Regulations draft from the Nebraska Department of Aeronautics and consider recommendations.

Barb stated she was able to get a copy of the airport zoning map from February 24, 1977. She has requested an updated map, but it is still being worked on. Barb was told by Russ (Dept. of Aeronautics) that there probably wouldn't be too much of a change to it with the new regulations. Currently, there is about a 6 mile circle because there is the option of putting in an east/west runway. Barb said Ron Levander with the airport authority looked over things and believes these changes are a good thing to have. Ron told Barb that with the turbines, met. towers, and cell towers, if any were to go up within the hazard area, we could lose federal funds that would cause us to also lose the airport. Ron Levander has expressed his support of these new regulations. Wagner said he had no problem with their rules, but was unhappy that we would be responsible for enforcing them and would incur the cost. If we did not have zoning in Boone County, the State Aeronautics would be in charge of enforcement. Barb said if anyone would like to send their thoughts on what they would like to see they could. The city of Albion is not going to say anything about this, but will wait to see what happens at the meeting that the letter talks about. There was no date in the letter for the meeting, but there was a July 31st deadline to get back to the attorney handling the regulation proposal. These changes will affect the City of Albion and their jurisdiction. Currently, the airport is in the County's jurisdiction, but not the city's jurisdiction or the ETJ. Barb said there has been discussion of extending the circle to 10 miles in each direction instead of 6 miles across. The farther out you go from the airport, the higher the allowance for building. Barb was told by Russ that if a wind turbine was placed on the highest hill, the 10 miles would not affect building it. Barb said there are people fighting the 10 mile radius hazard area, especially airports our size. Groeteke thought we may be able to tax the wind generation base and offset the federal funds that would be lost from not approving the regulations. If we approve the regulations, we would have to do more checking of heights in the area when we issue permits. Ron told Barb if we don't do this and we run into trouble, we will lose our federal funds. Groeteke said we could institute them and revoke them at any time if they become too restrictive resulting in losing the federal funds. Ron Levander told Barb that they first became aware of this when Norm Reynoldson built out near the airport and found out he would have to be careful how high he built. Mark Niewohner has a home on top of the hill just northeast of the airport that we are unsure of how he was able to build it within the current regulations. Wagner read from the proposed regulations that whenever the County Zoning Board determines that a structure, new or old, exceeds the height restrictions then the owner of the property shall be notified in writing that they must paint or mark the structure with the appropriate markings and or lighting that the Zoning regulator deems appropriate. The county would have to pay for the markings or lightings. We do not know what funding amount we would lose or what non-conforming properties are out there that we will have to pay to mark. Paul said he would like to wait until more research is done before any decisions are made. We have until July 31st to send them any questions or concerns we have. Groeteke wants to know what amount of federal funding would be lost before a decision is made as well. The proposed regulations also state that the County building inspector will enforce this, and Boone County does not have a building inspector. Jim Dickerson wanted to know if the airport would ever be able to expand if these regulations were not adapted. We will look at the cost/benefit to decide what to do. There was a question that if we don't adapt these rules, if they would be forced upon us anyway because we have zoning, and in that case, would the Department of Aeronautics enforce them. Platte County is not zoned, so the Department of Aeronautics will need to enforce the rules there. Barb said there was a letter or email that stated by statute 3-303 if there is a comprehensive plan, we must adopt the regulations. Barb said she would talk to Russ about it. There will be a hearing before the legislature to approve or deny the regulations. Groeteke expressed his concern



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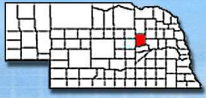
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with adopting these while wind power is developing in the county and it may put restrictions on that. Mark Wagner said that he foresees there being an increase in the number of wind farms here because the current ones are running in the 80's for efficiency and the national average is in the 40's. The first turbine went online in February and by May, there were only 2 days where no power was generated.

6 – OPEN DISCUSSION

Barb suggested we have a public hearing to review the setbacks in the county. Right now, they are 83' from the center line of the road. The county road gets 66', half way is 33', and zoning adds 50' from the center line of the road to the structure. That is how we get the 83' from the center line of the road to what is being built. Jensen feels that it doesn't make sense to have it that far from the road. Jensen would like to see it knocked down to something more logical than 50'. The 83' is causing a lot of cost and work for both the applicant and the county. Each variance costs \$150, there is researching and reviews that have to be done on paper and going to the site, there are letters to be mailed out, and Board of Adjustment meetings to be held. Jensen and Hanson would like to reduce the center line setback, but keep the corner sight triangle as is. Groeteke was concerned with a blanket approval that there may be some that would cause problems with snow. Members discussed allowing buildings closer to the road, but the trees may be more of a problem than any structure would. Barb stated she believes the setback from power lines is 20'. Some power lines require more of a setback than 20'. Groeteke felt the power companies setbacks would be a good thing to consider when we update our setbacks. Barb said she would check with the power companies for setbacks from them and the gas company for where gas lines are buried. There was a discussion about trees and problems they cause for roads. The NRD has a reputation for planting trees too close to the road. Trees are required to be planted 73' or farther from the center line of the road. Several members of the planning commission agreed they would like to have a hearing on updating the setback from the center line of the road. There will need to be public notice of this hearing in every paper in the county to give proper notice. Barb will contact the utility companies for their setbacks and where they could be buried.

There was a review of Niewohner's current 4 hog confinement findings. There was a south wind of about 15 miles an hour and that prevented smelling the confinements. There was water in the ditch at the site 20-21-7 that did not appear to have an odor. There have been previous complaints that there was a seepage problem with the unit and that the standing water contained manure. Niewohner's has never turned in any nutrient management plans and Barb has received a complaint about the 20-21-7 and 21-21-7 sites being too close to the road. There were no zoning permits issued when Niewohner's were granted their conditional use permits, so Barb is not authorized to go on the property to check for compliance. There were no drawings provided with the setbacks labeled either. Trees have not been planted at all of the sites and where they have been planted they are too close to the road. The tree locations should have been determined by the zoning staff, but the office was not contacted to authorize the locations. Barb was told the trees at site 30-21-7 were planted before the unit was built at that site. Water tests have never been sent in, so we have nothing to compare original concentrations to. The water tests were a condition placed by the commissioners. Barb is unaware of a monitoring well at each site. Barb has written Jerry with numerous concerns, but Jerry has not responded to her letter yet. Barb said that Jerry had agreed to build up a road by site 21-21-7 and then the county was to take over maintaining the road as a minimum maintenance road. The road is currently in the process of being built up. Jerry Niewohner's Commissioner hearing is August 15, 2011. Barb showed the planning board where the condition of applying the manure in the spring and only in clay soil was in the conditions for Niewohner's 4 other Conditional Use Permit units. Barb talked to David Potter about some of the questions that were raised at the previous meeting. A new non-farm residence is where land is divided for a new house. Joanie Majerus would not be considered a new non-farm residence. The circles for a setback cannot overlap in the A-1 district in certain soil types. In the A-2 district, this subject was not addressed, so you could overlap over sands. David Potter suggested to Barb that the overlap in the A-2 district is addressed along with limiting the sizes of units be addressed. Jensen said that they felt the concentration of homes in the A-2 district would have eliminated any congestion of confinements. Groeteke stated he does not see any point in changing the A-2 district when there is no sand in there anyway. There was a discussion about the population of Boone County dropping since the last census was done. Clarification was made that circles can overlap in the A-1 district as long as it is not over sands. Barb asked about



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expanding Bogey 4, and it was believed that Ann Borer would have to sign a waiver in order to expand it. Barb verified that the new site in the A-2 district would meet all statutory requirements in order to be eligible for approval.

7 – CORRESPONDENCE/ZONING ADMINISTRATORS REPORT

8 – SCHEDULE NEXT MEETING

Chairman announced that the next monthly meeting of the Commission is scheduled for Monday, August 22, 2011 at 7:30 p.m. in the County Courtroom, Boone County Courthouse, Albion, Nebraska.

9 – ADJOURN

A motion to adjourn was made by Jensen at 8:35 p.m., second by Frey. Vote: 5 Ayes, 0 Nays, 4 Absent.

SUBMITTED: _____ COMMISSION SECRETARY

AFFIRMED BY: _____ COMMISSION CHAIRPERSON