

## MINUTES

### **Pierce County Joint Planning Commission**

Pierce, Nebraska

The February 16, 2021 meeting of the Pierce County Joint Planning Commission was called to order by Chairman Zimmerman at 7:00 p.m. in the Pierce County Planning Multi-Purpose Room, 111 W Court St, Pierce, Nebraska.

#### **Call To Order/Roll Call- Consideration and/or action on:**

**Present:** Ryan Zimmerman, Byron Wragge, Joe Aschoff, Guy Ellsworth, Gerry Krueger, Dwaine Hoffman and Tom Nathan.

**Absent:** Larry Schaefer

**Also present:** Andrew Ekstein, Josh & Paula Fruedenburg, Dawn Winkelbaur, Lucas Winkelbaur, Travis Caspersen, Doug Hall, Bronson & Jill Stonacek, Rich Koenig, Max Henn, Chad Schomberg, Perry Staver, Shirley Staver, Tom Wingert, Curt Raabe, Brian Oestreich, Derek Oestreich, Adam Venteicher, Ken Venteicher, Keith Petersen, Tom Weinrich, Aaron Zimmerman, Doug Ludden, Lisa Ludden, Joe Matuska, Administrator Heather McWhorter and Office Assistant Jennie Martinez.

**Proof of Publication:** Chairman Zimmerman stated there were notices in The Plainview News, The Osmond Republican, and The Pierce Leader.

**Open Meeting Act:** Chairman Zimmerman pointed out the Open Meetings Act is posted on the wall and will be followed.

**Minutes-June 15, 2020:** The minutes of the June 15, 2020 Pierce County Joint Planning Commission were presented. Motion made by Ellsworth to approve the minutes and seconded by Krueger. Members Wragge, Nathan, Ellsworth, Krueger, Hoffman, Aschoff and Zimmerman vote "AYE" none vote "NAY". Motion Carried.

The Winkelbauer Pre-submission meeting to discuss the application of Lucas Winkelbauer to operate a large cattle operation of up to 10,000 head of property described as Part of the South ½ of Section 25, Township 25, Range 3 West of the 6<sup>th</sup> P.M., Pierce County, Nebraska was held prior to the Regular Pierce County Planning Commission Meeting. (Please see Pre-submission meeting minutes)

#### **Zimmerman reads the first Public Hearing.**

**The purpose of this hearing is to receive public comments concerning the application of Doug and Lisa Ludden to construct a home on less than 40 acres on LUDDEN'S LOTSPLIT on property described as Part of the Northwest ¼ of the Northwest ¼ of Section 26, Township 26 North, Range 1**

**west of the 6th P.M., Pierce County, Nebraska. This property is located at 55610 854 Road, Pierce County, Nebraska.**

Heather states that the applicant currently has a home on this property which consists of 86 acres. They are wanting to build a new home in a new location on the property on LUDDEN'S LOTSPLIT which is a 5-acre tract. The new location is to keep the new home out of the floodplain.

Heather reads the Finding of Facts and the Recommended Conditions.

Statement of Finding of Facts:

1. This application is consistent with the Madison County Comprehensive Plan, Zoning and Subdivision Regulations and the Zoning Map.
2. The property is zoned AG1 Ag Intensive and meets the density requirements for the Zoning district.
3. Currently a foundation is located within the requested lot split building setback.

Recommended Conditions:

1. This Conditional Use Permit is permanent and may be transferred between owners.
2. This Conditional Use Permit allows a single-family home on less than 40 acres.
3. With the passage of this permit, the applicant and/or residence builder realizes that the new residence is going to be subject to livestock odors, dust, and general nuisances. This does not mean that the applicant is giving up the right to be protected by Madison County and the State of Nebraska.
4. The applicant should be aware it is his responsibility to remove any Nebraska Noxious Weeds found on the property at any time after the approval of this application by the County Board of Commissioners.
5. A zoning permit must be obtained from the Zoning Office before construction of the home begins. Zoning Permit will not be approved until foundation is moved outside of the building setback line.
6. A copy of the signed permit must be recorded with the County Register of Deeds office by applicant.

**7:24 P.M.** Zimmerman opens the Public Hearing.

Zimmerman asks if there is anyone in favor.

Doug Ludden speaks in favor and states that they would like to build a shouse.

Krueger discusses setbacks with the Ludden's. Heather states that the setbacks will be handled with the Zoning Permit.

Zimmerman asks if there is anyone else in favor.

No one speaks.

Zimmerman asks if there is anyone opposed.

No one speaks.

**7:25 P.M.** Zimmerman closes the Public Hearing.

Ellsworth makes a motion to approve based on the above recommended conditions.

Krueger seconds the motion.

Members Zimmerman, Aschoff, Ellsworth, Hoffman, Krueger, Wragge and Nathan vote "AYE"

None votes "NAY".

Motion Carried.

Zimmerman reads the second Public Hearing.

**The purpose of this Hearing is to receive public comments concerning a possible amendment to the Commercial Solar Energy regulations regarding setbacks from a feedlot.**

Heather states that there has been some concern about dust that may be generated from a feedlot. She states that it will not affect anyone currently close to the approved CUP however anyone requesting a new CUP or any other solar facility that applies would have to abide by the setback. She states that this hearing is to discuss and make a determination of distance.

Discussion consists of the amendment being necessary to protect both the feedlot and the Solar facility and anything prior to the amendment will be grandfathered in.

**7:30 P.M.** Zimmerman opens the Public Hearing.

Zimmerman asks if there is anyone in favor.

Winkelbauer asks what kind of distance is being proposed.

Heather discusses that setbacks that are currently in the regulations are determined by the amount of animals.

Heather refers to a setback table from a livestock facility to a residence that is currently in the regulations as a starting point.

Doug Hall asks how it would work if the same owners own the feedlot and solar facility.

Heather states that there is a waiver that can be signed.

Hall discusses with Zimmerman if the setbacks would be the same for confinements.

Zimmerman states that inside operations don't really create dust and this would pertain to outdoor operations.

Krueger states that farmers combining throw dust.

Zimmerman asks if there is anyone that would like to speak in favor.

Aaron Zimmerman speaks in favor and states that he is in favor of a setback but does not know what that setback should be.

Zimmerman asks if there is anyone else in favor.

No one speaks.

Dawn Winkelbauer discusses with the Planning Commission building a calving barn or shed within the setbacks and if it would be prohibited. Heather states that the setbacks of a Commercial Solar Energy Facility from a feedlot would not apply to these types of enclosed buildings. She states that there are already setbacks in the regulations that address these buildings.

Lucas Winkelbauer discusses with Heather the current setbacks for Solar Panels. Heather states that they follow the regular building setbacks of 83' from the center of the road, 15' from the side property lines and 25' from the rear property line. Zimmerman asks if there is anyone opposed. No one speaks.

**7:42 P.M.** Zimmerman closes the Public Hearing.

Heather states that this is just a recommendation to look at and states that she feels this protects both sides, the Solar Facility and the Feedlot.

Zimmerman states that he feels that the setbacks should be set according to size and refers to the setback table (Exhibit A).

Krueger suggests not changing anything. He states that we need to protect the cattle operation. Heather states that this will protect everyone including the cattle operation. Krueger makes a motion to table a recommendation and revisit the possible amendment at the March 22, 2021 meeting.

Hoffman seconds the motion.

Members Zimmerman, Aschoff, Ellsworth, Hoffman, Krueger, and Nathan vote "AYE" None votes "NAY".

Motion Tabled.

Zimmerman reads the next Public Hearing.

**The purpose of this hearing is to receive public comments concerning the application of Lucas Winkelbauer to operate a large cattle operation of up to 10,000 head on property described as Part of the South ½ of Section 25, Township 25 North, Range 3 West of the 6th P.M., Pierce County, Nebraska. Property located along the intersection of 545 Ave and 847 Rd.**

Heather states that Luke wants to expand his current operation. She states that he is outside of the required setbacks and meets all the requirements.

Facts:

1. The application is consistent with the Pierce County Comprehensive Plan.
2. The application is consistent with the Pierce County Zoning and Subdivision Regulations.
3. There are cattle currently on the property, this is an expansion to 10,000 head.
5. The proposed expansion would be outside of the ¼-mile setbacks to the nearest homes.
6. Applicant has begun the process of expanding the permit with NDEQ.
7. The property is zoned A-1 Agricultural Intensive.

Recommended Conditions:

1. This is a Livestock Feeding Operation Conditional Use Permit for an operation of up to 10,000 head of cattle.

2. This Conditional Use Permit shall be for a period of twenty (20) years from the date of this resolution.
3. This permit is subject to all the Pierce County Zoning and Subdivision Regulations and the governing powers of the State of Nebraska and shall be constructed to meet both groups.
4. DEQ permits shall be made part of the file.
5. A copy of the signed permit must be recorded with the Pierce Register of Deeds office by the applicant

**7:59 p.m.** Zimmerman opens the Public Hearing.

Zimmerman asks if there is anyone in favor.

Luke Winkelbauer states that he is in favor.

Zimmerman asks if there is anyone in favor.

Doug Hall speaks in favor. He states that a feedlot of this size creates a lot of activity year-round. He states that it is important for County businesses.

Zimmerman asks if there is anyone else who would like to speak in favor.

Aaron Zimmerman: neighbor and part owner of neighboring Solar Project speaks in favor. He states that he has talked in length with Winkelbauer and Winkelbauer has said that he doesn't want this to negatively affect Zimmerman's project.

Zimmerman asks if there is anyone else in favor.

No one speaks.

Zimmerman asks if there is anyone opposed.

Joe Matuska discusses with Winkelbauer the location of feed storage and road issues.

Winkelbauer states that he is unsure where everything will be at this time but over time would like to be established on the west side of the road.

Zimmerman asks if there is anyone else opposed.

Max Henn states that he is not in opposition, however, knows the road that Matuska is talking about and states that the road is bad and the County is not keeping up.

Kenny Venteicher lives 2 miles north of the site. He states that this expansion will add more traffic to the roads and the roads cannot handle the traffic. He states that they are 1930 roads and 2021 traffic. He states that pressure needs to be put on the County to get them fixed. He states concern with the water in the area.

Matuska continues discussion of condition and concern of roads.

Zimmerman asks if there is anyone else opposed.

Shirley Staver speaks in opposition. She states that she owns the pasture to the north. She discusses concern with pollution, sand, drainage, dust and flies. She states that no one spoke to her about the proposed expansion and she is very disappointed.

Zimmerman asks if there is anyone else opposed.

Brian Oestreich speaks in opposition. He states that he has land 1/4 mile east of the proposed site. He discusses many issues including the bad road conditions and those that ruin them. He states that this ground is sand and could affect the Stavers land. He states that that his son may like to put a house up one day and not be able to. He is concerned with disease from having 10,000 head and could lower land values.

Zimmerman asks if there is anyone else opposed.

No one speaks.

**8:19 P.M.** Zimmerman closes the Public Hearing.

Krueger asks if there is an existing well.

Winkelbauer states that there is.

Heather states that the road to the south, that runs east and west can only be used if it is built up to County standards because it is a minimum maintenance road.

Krueger makes a motion to approve based on the above recommended conditions.

Hoffman seconds the motion.

Members Aschoff, Ellsworth, Hoffman, Wragge and Krueger vote "AYE"

Nathan and Zimmerman "Abstain"

None votes "NAY".

Motion Carried.

### **Other Business:**

**Heather states that we need to make a recommendation to the County Board for fees for Wind and Solar commercial facilities. She states that she contacted a few other counties for their fee amounts as seen below.**

- Antelope: Charges \$10,000 for a Wind CUP and \$500 per tower for a zoning permit  
Solar is charged the standard \$100 CUP fee and standard \$25 permit fee.
- Knox: Charges \$300 Wind CUP fee and \$300 per tower for a zoning permit  
Solar is charged \$300 standard CUP fee and \$300 zoning permit fee.
- Kimball: Charges \$350 for a Wind CUP and \$350 permit fee plus \$1,000 per tower  
Solar is standard fees.
- Hamilton: Charges \$500 for a Wind CUP and \$250 per tower for a zoning permit  
Solar is standard.
- Cass: Charges \$3,000 for a Wind CUP was not able to determine permit fee with info
- Merrick: Charges \$500 for a Wind CUP and \$5,000 per tower for a zoning permit  
Solar is \$150 standard CUP fee.  
After speaking to a few administrators, Wind CUP's and permits require much more detail and information for permitting and include multiple sites to inspect and review for approval, therefore the fee is increased to cover the extra time invested in the project.  
While solar is commercial, it is all inclusive in one location with one site plan and does not require the additional attention to detail, therefore the fee has remained appropriate to the scope of work.

Heather states that her suggestion is:

- Commercial Wind Energy CUP: \$1,000
- Commercial Wind Energy zoning permit: \$300 per tower permit
- Solar Energy CUP: \$130 standard fee

- Solar Energy zoning permit: .20 per acre with a minimum of \$300 (.20 is our commercial fee)

Madison County Board of Commissioners set their fee as follows:

\$2500 Commercial Wind Energy CUP

\$300 per tower Zoning permit

\$130 Commercial Solar CUP

\$300 Solar Zoning permit

Heather explains the amount of work that each application takes for office personal to support her recommendation of fees.

Five Members recommend the fees be set the same as Madison County.

One member would like to change the fees for the Commercial Solar Zoning permit.

Krueger states that he would like to go with the same fees that Madison County set. Zimmerman agrees with Krueger and states that it would be nice to be uniform with Madison County.

Nathan states that he would like to increase the fees that Madison County set for the Commercial Solar zoning permit to a per acre fee of \$100.00 per acre.

Zimmerman discusses with Heather permitting battery storage. Heather states that the fee would be the commercial rate at .20 per square foot.

Ellsworth states that he would just like to make sure that the fees that are set are enough to cover the work that it takes to permit them.

Hoffman states that he would agree with Madison County.

Wragge states that he would go with Madison County.

Five Members recommend the fees be set the same as Madison County.

One member would like to change the fees for the Commercial Solar Zoning permit.

Hoffman seconds the motion.

Members Aschoff, Ellsworth, Hoffman, Wragge and Krueger vote "AYE"

Nathan and Zimmerman "Abstain"

None votes "NAY".

Motion Carried.

Heather gives the Administrators report.

NPZA Spring workshop is discussed.

Zoning permits are discussed.

**8:47 p.m.** Hoffman motions to Adjourn.

Aschoff seconds the motion.

All vote "AYE" none vote "NAY".

Meeting adjourned.