

**BOARD OF EQUALIZATION**

Madison, Nebraska

March 18, 2008

The Board of Equalization of Madison County, Nebraska met at 9:00 A.M.

Advance notice of meeting was published in the Thursday, March 13, 2008 edition of The Norfolk Daily News. A copy of said notice was mailed to each Board member. An affidavit of acknowledgment of receipt of notice of meeting as published was executed. Chairman Rick Uhlir called the meeting to order and notified the public of the location of the information regarding the Open Meeting Act posted in the meeting room.

Present: Commissioners Jerry McCallum, Rick Uhlir, and Lee Klein, County Treasurer Donna Primrose, County Assessor Jeff Hackerott, and County Clerk Nancy Scheer.

Motion made by McCallum and seconded by Klein to approve the agenda for the meeting. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

Motion made by Klein and seconded by McCallum to approve the minutes of the March 4, 2008 meeting. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

Chairman Uhlir opened a public hearing at 9:02 A.M. to consider the following motor vehicle exemption applications presented by County Treasurer Donna Primrose:

- Christ is King Community Church, 715 Madison Avenue, Norfolk 1999 Dodge Van
- Mid-Nebraska Lutheran Home Assn. Inc., 109 North 2nd St., Newman Grove 2007 Dodge Grand Caravan
- St. Joseph Nursing Home, 401 North 18th Street, Norfolk 1997 Dodge Minivan
- Women's Empowering Life Line, Inc., 916 South 4th Street, Norfolk 1998 Ford Windstar Van

County Treasurer Donna Primrose reported that the County Board previously approved exemption applications for all the organizations. No one appeared at the hearing to offer verbal testimony. Chairman Uhlir closed the hearing at 9:04 A.M.

After discussion, it was moved by McCallum and seconded by Klein to approve the motor vehicle exemption applications as submitted. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

County Assessor Jeff Hackerott submitted the following tax list corrections:

- #2360: Rodney Wiese, 719 East Norfolk Avenue, Norfolk  
Deduction from the tax rolls in the amount of \$166.98 for correction to the 2007 personal property tax schedule for removal of a windrower that was sold
- #2361: Merlin Oswald, 55685 830th Road, Madison  
Addition to the tax rolls in the amount of \$114.06 due to correction made on the 2007 personal property tax return after reviewing the 2006 depreciation worksheet
- #2362: ProNails, 1700 Market Lane, Norfolk  
Addition to the tax rolls in the amount of \$34.66 due to correction made on the 2007 personal property tax return after reviewing the 2007 depreciation worksheet
- #2363: ProNails, 1700 Market Lane, Norfolk  
Addition to the tax rolls in the amount of \$48.66 due to correction made on the 2006 personal property tax return after reviewing the 2007 depreciation worksheet
- #2364: ProNails, 1700 Market Lane, Norfolk  
Addition to the tax rolls in the amount of \$70.14 due to correction made on the 2005 personal property tax return after reviewing the 2007 depreciation worksheet

After discussion, it was moved by Klein and seconded by McCallum to approve the tax list corrections as submitted. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

The Board of Equalization adjourned at 9:07 A.M.

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Chairman

\*\*\*\*\*

**COMMISSIONERS PROCEEDINGS**

Madison, Nebraska

March 18, 2008

The Board of County Commissioners of Madison County, Nebraska met in regular session at 9:30 A.M.

Advance notice of meeting was published in the Thursday, March 13, 2008 edition of The Norfolk Daily News. A copy of said notice was mailed to each Board member. An affidavit of acknowledgment of receipt of notice of meeting as published was executed. Chairman McCallum called the meeting to order and notified the public of the location of the information regarding the Open Meeting Act posted in the meeting room.

Present: Commissioners Jerry McCallum, Rick Uhlir, and Lee Klein, and County Clerk Nancy Scheer. County Highway Superintendent Richard Johnson joined the meeting at 9:55 A.M. and Planning and Zoning Administrator John Johnson joined the meeting at 10:02 A.M.

Chairman McCallum read the following consent agenda items into the record:

1) Approval of minutes of the March 4, 2008 meeting

2) RESOLUTION #2008-19

WHEREAS, Madison County has occasion to house certain prisoners in the Madison County Jail Facility until such inmates are sentenced by a court of law and become state prisoners; and

WHEREAS, Section 47-119.01, Nebraska Revised Statutes provides for a prisoner reimbursement program and requires the Nebraska Department of Correctional Services to reimburse counties for the housing of such prisoners at a rate of thirty five dollars per day, subject to the total reimbursement for all counties not to exceed \$3,910,000.00; and

WHEREAS, during previous fiscal years, the maximum allowable reimbursement has been met and Madison County has not received approximately \$780,115.98 that would be due under the program; and

WHEREAS, lack of reimbursement from the Nebraska Department of Correction Services creates budget and cash balance problems for the county; and

WHEREAS, L.B. 587 provides that Section 47-119.01, Nebraska Revised Statutes be amended to remove the limit of \$3,910,000.00 on state appropriations for the prisoner reimbursement program; and

WHEREAS, the Board of Commissioners of Madison County feels that, if the statutory limit is removed, full reimbursement could be made to all counties under this program;

NOW, THEREFORE BE IT RESOLVED that the Board of Commissioners of Madison County hereby supports L.B. 587 and strongly encourages that the Nebraska State Legislature enact this bill into law.

3) RESOLUTION #2008-20

WHEREAS, Madison County desires to be in conformance with the standards set forth in the MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES, as amended from time to time; and

WHEREAS, it is in the best interests of Madison County to establish and maintain proper and consistent signing in conformity with said Manual; and

WHEREAS, the speed limit on part of South 1st Street running south from the south corporate limits of the City of Norfolk, Nebraska was reduced from 55 miles per hour to 40 miles per hour by the Board of Commissioners of Madison County due to damage to the bridge over the Elkhorn River and to provide for the safety of students and the traveling public in the area of Reiche Public School District No. 37; and

WHEREAS, the bridge over the Elkhorn River has since been repaired; and

WHEREAS, Reiche Public School District No. 37 is now a part of the Norfolk Public Schools system and will be permanently closed at the end of the 2007-2008 school year; and

WHEREAS, the area on South 1st Street from the south corporate limits of the City of Norfolk to the Elkhorn River is primarily residential;

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of Madison County that the speed limit of 40 miles per hour will remain in full force and effect from the south corporate limits of the City of Norfolk, Nebraska to the south side of the Elkhorn River.

BE IT FURTHER RESOLVED that, effective June 1, 2008, the speed limit on South 1st Street south of the south side of the Elkhorn River shall be 55 miles per hour as provided for by state statute.

BE IT FURTHER RESOLVED that placement, erection, and removal of speed limit signs, as required to be in accordance with the MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES and this resolution, shall be completed on June 1, 2008.

4) RESOLUTION #2008-21

WHEREAS, the Board of Commissioners of Madison County desires to investigate the feasibility of vacating or abandoning a road in Madison County; and

WHEREAS, Nebraska State Statutes require that, prior to setting a date for a public hearing concerning the vacation or abandonment of a county road, the Board shall receive a report from the County Highway Superintendent documenting the use being made of the road;

NOW, THEREFORE, BE IT RESOLVED, that the County Highway Superintendent is hereby directed to make a study of the use being made of the following described road:

The road beginning at the N 1/4 Corner of Section 29, Township 21 North, Range 2 West of the 6th P.M., Madison County, Nebraska, and running south to its point of termination.

BE IT FURTHER RESOLVED that the County Highway Superintendent shall file a written report of the study, including a recommendation on vacation or abandonment, with the Board of Commissioners within 30 days.

5) Authorization to advertise for bids for grader blades and culvert pipe for the 2007-2008 fiscal year and set the bid opening date for April 15, 2008

Motion made by Uhlir and seconded by Klein to approve the consent agenda. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

Motion made by Uhlir and seconded by Klein to approve the regular agenda. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

The County Board reviewed the following reports:

- 1) County Clerk February fee report
- 2) County Treasurer fund balance report
- 3) Register of Deeds February fee report
- 4) Clerk of the District Court February fee report
- 5) County Sheriff February fee report
- 6) Minutes of the February 19, 2008 meeting of the PrairieLand RC&D and March newsletter
- 7) Northeast Nebraska Economic Development District March newsletter

Pursuant to published legal notice in the Saturday, March 8, 2008 edition of the Norfolk Daily News, Chairman McCallum opened a public hearing at 10:04 A.M. to receive citizens' comments regarding the conditional use permit application of King Farms to operate a Confined Animal Feeding Operation on property located in Section 35-22-4. Planning and Zoning Administration John Johnson reported the Finding of Facts and the proposed stipulations of the conditional use permit approved by the Planning Commission. Commissioner Lee Klein questioned why the proposed permit stipulations require the waste facilities to start within one year and he asked if turning one spade full of dirt qualified as starting the waste facility. Planning and Zoning Administrator John Johnson responded that any type of construction that has started will qualify and if there are any questions he can review the project.

Steve King, representing King Farms, was present and explained that the application has been accepted by the Department of Environmental Quality. He reported that they are working with the engineering firm of Settje's Ag Services from Raymond, Nebraska for design of the waste control facility and completion of the plan documents. He stated that he understands that they have one year to complete the design process; however, Settje's Ag Services told him that the plan documents are good for five years but if construction of the facilities is not started within one year a new application would need to be completed with the Planning Commission. Mr. King stated that he understands Commissioner Klein's concerns regarding construction of the waste control facilities because it would be easy to throw one spade of dirt to meet the one-year restriction of the permit. He explained that the feedlot is not a full-time cattle-feeding operation because the cattle are purchased in November and sold by August. He reported that according to the Department of Environmental Quality the operation confines cattle for 90 days or longer, which requires a waste control facility. He stated that they don't peak out with their cattle numbers until January and by April they start selling, so they only have the maximum number of cattle for approximately four months during the winter months. Mr. King stated that construction of the waste facilities would be a big expense for their operation; however, the Department of Environmental Quality lowered the number of cattle in confinement, which requires them to construct waste control facilities. He explained that the waste control facility is a federal mandated requirement that they must comply with to continue their cattle operation.

No one appeared at the hearing to express opposition to the conditional use permit application of King Farms. Chairman McCallum closed the public hearing at 10:12 A.M.

After discussion, the following resolution was introduced:

#### RESOLUTION #2008-22

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR CERTAIN LAND LOCATED IN THE COUNTY OF MADISON, NEBRASKA UNDER AUTHORITY GRANTED BY THE MADISON COUNTY ZONING AND SUBDIVISION RESOLUTION AND LEGISLATIVE BILL 186 (1978)

WHEREAS, the Madison County Joint Planning Commission and the Madison County Board of Commissioners, having given proper notice and holding public hearings as provided by law and under the authority of and subject to the provision the Madison County Zoning and Subdivision Resolution and Legislative Bill 186 (1978).

WHEREAS, the Madison County Planning Commission and the Madison County Board of Commissioners have established the following Statement of Finding of Facts for the Conditional Use Permit application of Steve King:

1. The application is consistent with the Madison County Comprehensive Plan.
2. The application is consistent with the Madison County Zoning and Subdivision Regulations.
3. King passed the Madison County Livestock Feeding Siting Matrix.
4. This meets the setback requirements, but could not be expanded to the north in the future.
5. The operation was "grandfathered" under the Madison County Zoning Regulations.
6. Expansion and state statutes removed the "grandfather" status of this operation.
7. Section 54-2437 of the Revised Statutes of the State of Nebraska requires the applicant to receive a conditional use permit and prohibit the county from denying this application.
8. The facility currently has and will retain 100 dairy cattle and 1,200 feeder cattle. The applicant wishes to add 500 feeder cattle to the current operation.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Madison County, Nebraska, hereby grants a Conditional Use Permit to Steve King to operate a Confined Animal Feeding Operation under Section 402, Subsection A, Part 26, "AG-1" Intensive Agricultural District, Madison County Zoning and Subdivision Resolution, on the following described land:

NW¼ of Section 35, Township 22 North, Range 4 West of the 6<sup>th</sup> P.M. Madison County, Nebraska

This Conditional Use Permit shall be subject to the following conditions in addition to those established with the Madison County Zoning and Subdivision regulations:

1. This is a Large Livestock Feeding Operation Conditional Use Permit after implementation of both phases for an operation of up to 100 head of dairy cattle and 1,700 head of feeder cattle in addition to any farm animals currently housed, raised, bred, or in outdoor confine or pastured on the property.
2. This conditional use permit shall be for an unlimited amount of time subject to successfully passing an annual review of the Madison County Livestock Feeding Operation Siting Matrix and will become effective with the adoption of this resolution. This permit is subject to all of the Madison County Zoning and Subdivision Regulations and the governing powers of the State of Nebraska, and shall be operated to meet both groups.
3. Any new owner/operator of this operation must give notice to the Madison County Zoning Administrator 30 days prior to the closing date of the sale.
4. This conditional use permit shall become null and void if construction of the new waste handling facilities is not begun within one year of adoption of this resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that upon taking effect of this Resolution, the above Conditional Use Permit shall be entered and shown on the Official Zoning Map of Madison County, previously adopted by reference, and said zoning map is hereby reincorporated as a part of the Madison County, Nebraska Zoning and Subdivision Resolution as amended.

Motion made by Klein and seconded by Uhlir that the foregoing resolution be adopted. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

Pursuant to published legal notice in the Saturday, March 8, 2008 edition of the Norfolk Daily News, Chairman McCallum opened a public hearing at 10:16 A.M. to receive citizens' comments regarding the conditional use permit application of William Marx of Marx Repair LLC to operate an Agricultural Equipment Repair shop on property located in Section 7-23-2. Planning and Zoning Administration John Johnson read the Finding of Facts and the proposed stipulations of the conditional use permit approved by the Planning Commission. In addition, he reported that Bill Marx is a member of the Joint Planning Commission and he removed himself from the Board during the Planning Commission hearing process.

Commissioner Klein questioned why the conditional use permit is limited to repair of only agricultural equipment, including farm trucks. He questioned if Mr. Marx could repair his own pickup under these stipulations and Planning and Zoning Administrator John Johnson responded that Mr. Marx could repair his own personal vehicles and any other vehicles that have farm plates because that is considered agricultural equipment.

William Marx explained that he teaches diesel technology full-time at Northeast Community College and he has been active in equipment repair his entire life. He also reported that he managed Kayton International for 15 years and he needs this shop to keep current on teaching at the college.

No one appeared at the hearing to express opposition to the conditional use permit application of William Marx. Chairman McCallum closed the public hearing at 10:22 A.M.

After discussion, the following resolution was introduced:

#### RESOLUTION #2008-23

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR CERTAIN LAND LOCATED IN THE COUNTY OF MADISON, NEBRASKA UNDER AUTHORITY GRANTED BY THE MADISON COUNTY ZONING AND SUBDIVISION RESOLUTION AND LEGISLATIVE BILL 186 (1978)

WHEREAS, having given proper notice and holding a public hearing as provided by law and under the authority of and subject to the provision the 2003 Madison County Zoning and Subdivision Resolution and Legislative Bill 186 (1978).

WHEREAS, the Madison County Planning Commission and the Madison County Board of Commissioners have established the following Statement of Finding of Facts for the Conditional Use Permit application of William Marx:

1. The application is consistent with the Madison County Comprehensive Plan.
2. The application is consistent with the Madison County Zoning and Subdivision Regulations.
3. Mr. Marx has experience in this kind of work.
4. Visual inspection of his property shows it to be neat and clean.
5. This would only be part time and not Mr. Marx's sole source of income.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Madison County, Nebraska, hereby grants a Conditional Use Permit to William Marx on per Article 4, Section 404 Permitted Conditional Uses, 2003 Madison County Zoning and Subdivision Resolution as amended, on the following described land:

Part of the Southwest ¼ of Section 7, Range 23 North and Township 2 West of the 6<sup>th</sup> P.M., Madison County, Nebraska.

This Conditional Use Permit shall be subject to the following conditions in addition to those established with the Madison County Zoning and Subdivision regulations:

1. Only equipment being repaired that is too large for the building may be stored outside
2. No oil, antifreeze or other fluids may be disposed of on the ground or through a septic system
3. Only agricultural equipment, including farm trucks, may be repaired
4. A sign no larger than six square feet may be placed on the property with a required setback of no less than 25 feet from the edge of the right-of-way or 58 feet from the center of the road
5. No equipment in visible disrepair may be stored outside unless covered
6. The Conditional Use Permit is granted for a period of ten (10) years
7. If this property is sold, the Zoning Administrator must be notified thirty (30) days prior to closing
8. This Conditional Use Permit will expire in one (1) year if the business fails to open during that time.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that upon taking effect of this Resolution, the above Conditional Use Permit shall be entered and shown of the Official Zoning Map of Madison County, previously adopted by reference, and said zoning map is hereby reincorporated as a part of the Madison County, Nebraska Zoning and Subdivision Resolution as amended.

Motion made by Uhlir and seconded by Klein that the foregoing resolution be adopted. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

Pursuant to published legal notice in the Saturday, March 8, 2008 edition of the Norfolk Daily News, Chairman McCallum opened a public hearing at 10:23 A.M. to receive citizens' comments regarding the conditional use permit application of Clayton Sellin to construct a residence on less than 40 acres on property located in Section 11-23-2. Planning and Zoning Administration John Johnson read the Finding of Facts and the proposed stipulations of the conditional use permit approved by the Planning Commission.

Clayton Sellin was present and testified that he is purchasing 15.5 acres of property from his parents and he plans to construct a residence on this property, which his dad farmed since 1974. He stated that this was originally his grandfather's property and his mother inherited it when his grandfather died. He reported that he remembers playing by the creek with his cousins when he was young. Mr. Sellin stated that he grew up on a farm where his dad raised over 500 head of hogs and he is aware of livestock smells and the noise of grain bins that go along with living in a rural setting.

Commissioner Uhlir questioned how close this property was to Rich Beltz and Mr. Sellin responded that this property is adjacent to Mr. Beltz's property. Commissioner Uhlir reported that Mr. Beltz called him and was concerned about the close proximity of the two parcels. Chairman McCallum stated that if Mr. Beltz has concerns he should be present to testify during the public hearing. Mr. Sellin explained that he plans to plant a shelterbelt at the end of April to separate the two properties. Commissioner Uhlir questioned how close the two residences would be and Mr. Sellin responded that they would be approximately 800 feet apart. Mr. Sellin explained that Mr. Beltz's concern is that he practices shooting his rifle on Bob Warner's property towards the proposed location of the new residence and he would need to find another location. He explained that Mr. Beltz personally spoke to him about this concern. He reported that Mr. Beltz was present during the Planning Commission hearing; however, he didn't speak.

Randy and Peggy Sellin and Melissa Thelen, Clayton Sellin's fiancé, stated that they were supporting approval of the conditional use permit application. Clayton Sellin stated that his fiancé also grew up on a farm and is familiar with living in a rural area.

No one appeared at the hearing to express opposition to the conditional use permit application of Clayton Sellin. Chairman McCallum closed the public hearing at 10:29 A.M.

After discussion, the following resolution was introduced:

RESOLUTION #2008-24

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR CERTAIN LAND LOCATED IN THE COUNTY OF MADISON, NEBRASKA UNDER AUTHORITY GRANTED BY THE MADISON COUNTY ZONING AND SUBDIVISION RESOLUTION AND LEGISLATIVE BILL 186 (1978)

WHEREAS, having given proper notice and holding a public hearing as provided by law and under the authority of and subject to the provision the 2003 Madison County Zoning and Subdivision Resolution and Legislative Bill 186 (1978).

WHEREAS, the Madison County Planning Commission and the Madison County Board of Commissioners have established the following Statement of Finding of Facts for the Conditional Use Permit application of Clayton Sellin:

1. The application is consistent with the Madison County Comprehensive Plan.
2. The application is consistent with the Madison County Zoning and Subdivision Regulations.
3. Mr. Sellin is purchasing this property from his parents.
4. Mr. Sellin testified he is familiar with both the positives and negatives of living in the country.
5. Mr. Sellin grew up on this piece of ground

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Madison County, Nebraska, hereby grants a Conditional Use Permit to Clayton Sellin for a single family dwelling on less than forty acres Section 402, "AG-1" Intensive Agriculture District, 2003 Madison County Zoning and Subdivision Resolution, on the following described land:

Southeast ¼ of the Southwest ¼ of Section 11, Township 23 North and Range 2 West of the 6<sup>th</sup> P.M., Madison County, Nebraska.

This Conditional Use Permit shall be subject to the following conditions in addition to those established with the Madison County Zoning and Subdivision regulations:

1. This Conditional Use Permit allows a single family home on less than 40 acres.
2. This Conditional Use Permit shall be permanent and will be transferred between owners.
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, however, mean that the applicant is giving up the right to be protected by Madison County and the State of Nebraska.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that upon taking effect of this Resolution, the above Conditional Use Permit shall be entered and shown of the Official Zoning Map of Madison County, previously adopted by reference, and said zoning map is hereby reincorporated as a part of the Madison County, Nebraska Zoning and Subdivision Resolution as amended.

Motion made by Klein and seconded by Uhlir that the foregoing resolution be adopted. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

Motion made by Uhlir and seconded by Klein to approve Clayton Sellin Lot Split located in Section 11-23-2. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

Pursuant to published legal notice in the Saturday, March 8, 2008 edition of the Norfolk Daily News, Chairman McCallum opened a public hearing at 10:32 A.M. to receive citizens' comments regarding the conditional use permit application of Raymond and Ramona Duhachek, Co-Trustees, to allow Third Planet Windpower L.L.C. to construct a 60 meter MET tower to measure wind speed on property located in Section 6-22-3. Planning and Zoning Administration John Johnson read the Finding of Facts and the proposed stipulations of the conditional use permit approved by the Planning Commission.

Steve Boyer and Mary Foreman, representatives from Third Planet Windpower L.L.C., were present during the hearing. Mr. Boyer reported that the proposed tower is very similar to the existing tower located southwest of Battle Creek. He reported that the tower will measure direction, speed, and temperature and will help determine if the area is suitable for development of a wind farm. Mary Forman concurred with the testimony presented by Mr. Boyer.

Commissioner Uhlir questioned if each property being considered for a wind farm must have a test tower before proceeding with development of a wind farm. Mr. Boyer responded that a representative reading of the area is taken from the test towers, but if the project area is covered with a few test towers, the information can be used to get a good idea for the entire project area.

No one appeared at the hearing to express opposition to the conditional use permit application of Raymond and Ramona Duhachek. Chairman McCallum closed the public hearing at 10:37 A.M.

After discussion, the following resolution was introduced:

RESOLUTION #2008-25

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR CERTAIN LAND LOCATED IN THE COUNTY OF MADISON, NEBRASKA UNDER AUTHORITY GRANTED BY THE MADISON COUNTY ZONING AND SUBDIVISION RESOLUTION AND LEGISLATIVE BILL 186 (1978)

WHEREAS, having given proper notice and holding a public hearing as provided by law and under the authority of and subject to the provision the 2003 Madison County Zoning and Subdivision Resolution and Legislative Bill 186 (1978).

WHEREAS, the Madison County Planning Commission and the Madison County Board of Commissioners have established the following Statement of Finding of Facts for the Conditional Use Permit application of Raymond and Ramona Duhachek:

1. The application is consistent with the Madison County Comprehensive Plan.
2. The application is consistent with the Madison County Zoning and Subdivision Regulations.
3. Wind maps of Northeast Nebraska show Madison County has strong, consistent wind currents.
4. Any potential investors for a wind energy farm want proof that sufficient winds exist.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Madison County, Nebraska, hereby grants a Conditional Use Permit to Third Planet Wind Power on property leased from Raymond and Ramona Duhachek for a Meteorological Tower per Article 6 Section 603.3 Commercial/Utility Grade Wind Energy Systems, 2003 Madison County Zoning and Subdivision Resolution as amended, on the following described land:

Part of the Northwest ¼ of the Northwest ¼ of Section 6, Range 22 North and Township 3 West of the 6<sup>th</sup> P.M.,  
Madison County, Nebraska.

This Conditional Use Permit shall be subject to the following conditions in addition to those established with the Madison County Zoning and Subdivision regulations:

1. Transferable to another wind energy company or other third party.
2. Good for three years, may be extended by the Zoning Administrator for six month increments up to two additional years.
3. Must be removed within 3 months of completion of data compilation.
4. Madison County shall receive a report containing wind direction data based on the data generated.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that upon taking effect of this Resolution, the above Conditional Use Permit shall be entered and shown of the Official Zoning Map of Madison County, previously adopted by reference, and said zoning map is hereby reincorporated as a part of the Madison County, Nebraska Zoning and Subdivision Resolution as amended.

Motion made by Klein and seconded by Uhlir that the foregoing resolution be adopted. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

County Highway Superintendent Richard Johnson reported that the Nebraska Department of Roads District Engineer Kristine Winter requested the county to take responsibility for the energy costs and maintenance of street lights installed at the future 43rd Street intersection with Highway 275. He explained that four or five times a year big concerts are held at the Devents Event Center which creates a lot of traffic problems. He reported that Donna Herrick completed an application to the State Department of Roads for an access in and out of the property without crossing the Highway 275 median and the State denied the request. Mr. Johnson explained that the Nebraska Department of Roads met with Donna Herrick and they agreed on a plan to reconfigure the existing driveway to have two egress lanes from the property going out to the left and one lane going out to the right for use after large concerts. In addition, he explained that volunteers would also be controlling traffic. Mr. Johnson also reported that he obtained a rate schedule from the Nebraska Public Power District regarding the estimated cost of mercury vapor lights. He estimated that the energy costs would be approximately \$100 per month and the maintenance costs would include the cost of changing bulbs, which would be completed by Nebraska Public Power District and then billed to the county. In addition, he reported that other maintenance would include costs to replace poles if damaged, but presumably the county could collect damages from individuals involved in causing damage to the poles. He reported that the lights would be installed as part of the Highway 275 construction project.

Commissioner Uhlir stated that he doesn't like the idea of the county paying for the cost of lights located in a state right-of-way. Commissioner Klein questioned what happens if the county denies the request to pay for the energy and maintenance costs and County Highway Superintendent Richard Johnson responded that he didn't know. Chairman McCallum questioned which budget would pay the lighting costs and County Highway Superintendent Richard Johnson responded that the logical budget would be Road/Bridge Fund. Mr. Johnson explained that the county pays lighting costs at the Enola Road railroad crossing from the Road/Bridge Fund. Chairman McCallum responded that the railroad crossing is located on a county road, not on state right-of-way.

Commissioner Klein stated that \$100 per month seems rather expensive. Chairman McCallum stated that it seems like the state regularly tries to get the county to pay their bills. He stated that if the state is going to erect the lights, they should pay for energy costs and maintenance. Commissioner Klein stated that his opinion is that if the choice is between no lights or the county paying the expense, he would rather have the county pay the bill so someone doesn't get killed at the intersection. He stated that Divots and the Devent Center provide a large revenue stream for the area. Chairman McCallum concurred that these businesses have created a large tax base for the county; however, the state is erecting the lights and then expecting the county to pay future energy costs.

County Highway Superintendent Richard Johnson stated that he doesn't know what will happen if the county refuses to accept responsibility for the energy costs and maintenance. Commissioner Uhlir questioned if Donna Herrick is willing to pay for the lighting expense since it will benefit customers patronizing her businesses. County Highway Superintendent Richard Johnson stated that if the county agrees to pay for the energy costs, the expense would be discontinued when the property is annexed to the City of Norfolk. Commissioner Klein stated that he doesn't think it would be very long before the property is annexed to the city.

Planning and Zoning Administrator John Johnson explained that the well head protection plan being developed by the City of Norfolk stipulates that no commercial or industrial businesses will be added to this area unless they are added to Norfolk City's water and sewer. Commissioner Klein stated that he wants to see lights installed at this location and if the state won't pay the expense, then the county should. He stated that the county should deny the request and if no one else agrees to pay the energy costs, then the county should reconsider the request. He stated that he likes to see businesses on the tax rolls that are bringing money to the area and these businesses certainly bring money into the county.

Commissioner Uhlir stated that the Board should look at the safety factor. Chairman McCallum questioned who was paying the costs for the lights further north of this location and County Highway Superintendent Richard Johnson responded that the only other lights in the area are located on the private street located on the property owned by Donna Herrick. He explained that some day this private road may become a city street. In addition, he stated that if the county wants to establish a maximum dollar limit that the county would contribute towards the energy and maintenance costs he would convey this to the state. Chairman McCallum questioned who would pay for re-installing a pole if it is damaged during a storm and County Highway Superintendent Richard Johnson responded that he should check with NIRMA to determine if the county's insurance company would pay for this expense.

After discussion, it was moved by Uhlir and seconded by Klein to table a decision on the request by the Nebraska Department of Roads to provide energy costs and maintenance for street lights at the entrance to Divots Conference Center until further information is obtained by County Highway Superintendent Richard Johnson. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

Motion made by Klein and seconded by Uhlir to table a decision on setting a date for a county surplus auction. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

Motion made by Uhlir and seconded by Klein to disallow the claim payable to Physicians Inc. in the amount of \$586.22 for services rendered on January 5-8, 2007, January 13-14, 2007, July 31, 2007, and August 1, 2007 for individuals admitted into emergency protective custody. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

The following claims were audited:

GENERAL FUND

Total Net Payroll		103,344.81
Adamson Industries Corp	Equipment, County Sheriff	634.85
Alltel	Telephone Services, Planning and Zoning	63.60
American Family Life Assurance Co.	Insurance Premiums	637.91
Ameritas Life Insurance Corporation	Employee Share Retirement	6,706.90
Ameritas Life Insurance Corporation	Employer Share Retirement	9,855.04
Ameritas Life Insurance Corporation	Insurance Premiums	285.61
Anoko County Attorney	Copies, Law Enforcement	22.85
Appeara	Mat Service, Public Defender	29.22
Appeara	Mat Service, Courthouse	179.42
Aquila	Gas Service, Courthouse	2,260.79
Aquila	Gas Service, County Jail	4,347.34
Aquila	Gas Service, County Relief	800.00
A T & T	Telephone Services, Public Defender	154.14
Auto Zone	Repairs, County Sheriff	61.47
Bankers United Life Assurance Company	Insurance Premiums	9.00
Battle Creek Farmers Coop	Supplies, County Sheriff	16.64
Big Red Printing	Supplies, County Attorney	7.02
Brogan & Stafford, P.C.	Legal Services, County Court	327.65
Joanie Brugger	Mileage, Victim Witness	112.11
BTS Inc.	Services, Probation	145.90
Buck's Specialty	Uniforms, County Sheriff	64.32
Budget Inn	Rent, County Relief	500.00
Cableone	Internet Services, Public Defender	95.00
Cableone	Internet Services, Planning and Zoning	59.00
Central United Life Insurance Company	Insurance Premiums	55.01
City Directory Inc.	Publication, District Court	144.00
City Directory Inc.	Publication, County Sheriff	286.00
City of Madison	Rent, Utilities, Public Defender	501.67
City of Madison	Utilities, Courthouse	1,180.97
City of Madison	Utilities, County Jail	2,874.00
City of Norfolk	Parking, Veterans' Service Office	45.00
Clerk of the Supreme Court	Court Costs, District Court	122.00
CMRS-FP	Postage, County Sheriff	500.00
Colonial Life and Accident Insurance	Insurance Premiums	92.79
Connecting Point	Equipment, Services, District Court	244.00
Connecting Point	Equipment, County Sheriff	525.98
Connecting Point	Software, County Attorney	358.00
Connecting Point	Repairs, Juvenile Diversion	168.75
Connecting Point	Internet Services, Repairs, Probation	238.83
Connecting Point	Repairs, Supplies, Victim Witness	79.88
Connecting Point	Contract Services, Internet Services, Courthouse	2,529.90
Copple, Rockey, & McKeever P.C., L.L.O.	Legal Services, County Court	417.05
Cornhusker Auto Center	Repairs, County Sheriff	214.65
Credit Bureau Services	Garnish of Wages	128.50
Credit Management Services, Inc.	Garnish of Wages	102.61
Creighton University Medical Center	Forensic Services, Law Enforcement	197.50
Dakota Business Systems	Equipment Lease, Probation	72.00
DDSS Inc.	Services, County Attorney	55.40
DDSS Inc.	Services, Law Enforcement	173.40
DDSS Inc.	Contract Services, Courthouse	972.36
Dental Distributors Inc.	Supplies, County Jail	734.99
Jon Downey	Uniforms, County Sheriff	148.72
Eakes Office Products Center	Supplies, County Attorney	121.29
Eakes Office Products Center	Supplies, Repairs, County Jail	899.75
Eakes Office Products Center	Supplies, Probation	361.14
Election Systems & Software	Shipping, Election Commissioner	6.72
Enviromaster, Inc.	Supplies, County Jail	42.00
Faith Regional Health Services	Medical Services, County Jail	5,128.00
Faith Regional Physician Services	Medical Services, County Jail	20.00
Farner Company Inc.	Supplies, Probation	23.93
Field's Hardware	Supplies, Courthouse	74.03
Field's Hardware	Supplies, County Jail	70.06
First Concord Benefits Group	Flexible Benefit Plan	2,241.60
Fleet Services	Fuel, County Sheriff	33.69
Floor Maintenance & Paper Supply	Supplies, County Jail	499.77

Gordy's Towing and Repair	Repairs, County Sheriff	75.17
Hall County Court	Copies, Law Enforcement	9.50
Hartford Life Insurance Company	Deferred Compensation	280.00
Hobart Sales & Service	Repairs, County Jail	708.00
Linda Hughes	Mileage, Mental Health	15.15
Hy-Vee West Pharmacy	Prescriptions, County Jail	41.98
David Jaskierny, M.D.	Autopsy Costs, Law Enforcement	860.00
Jerry's Standard	Fuel, Repairs, County Sheriff	825.38
Jewell, Collins, DeLay & Flood	Legal Services, County Court	5,315.65
Johnson, Morland, Easland, & Lohrberg, P.C.	Legal Services, County Court	1,802.10
Sharon Joseph	Mileage, Public Defender	116.15
Kensington Apartments	Rent, County Relief	250.00
William Kurtenbach	Legal Services, Mileage, Mental Health	192.80
Kathleen Laughlin	Garnish of Wages	76.62
Michael Long	Mileage, Law Enforcement	15.15
Louderback Drug	Prescriptions, County Jail	597.81
Louderback Drug	Prescriptions, Juvenile Detention	17.36
Madison Ampride	Fuel, Courthouse	112.08
Madison Ampride	Fuel, County Sheriff	547.52
Madison County Bar Association	Dues, Meals, Registrations, Public Defender	450.00
Madison County Clerk	Federal Tax Deposit	32,976.82
Madison County Clerk of District Court	Court Costs, District Court	1,110.00
Madison County Court	Court Costs, County Court	854.00
Madison County Sheriff	Supplies, County Jail	139.98
Madison County Sheriff	Court Costs, Mental Health	208.60
Madison County Sheriff	Court Costs, District Court	673.55
Madison County Sheriff	Court Costs, County Court	303.26
Madison County Sheriff	Fuel, Supplies, County Sheriff	115.09
Major Refrigeration Co. Inc.	Repairs, County Jail	143.05
Christal McDonald	Court Reporting, Mental Health	140.15
Menards	Supplies, County Jail	28.97
Mid-American Specialties Inc.	Supplies, County Sheriff	453.83
Midtown Holiday Inn	Lodging, Planning and Zoning	519.60
Midwest Plumbing & Heating	Repairs, County Jail	852.43
MIPS Inc.	Computer Support, County Clerk	483.18
MIPS Inc.	Computer Support, County Treasurer	809.07
Morrissey Motor Company	Repairs, Reappraisal	52.45
Morrissey Motor Company	Repairs, County Sheriff	47.25
Moyer, Egley, Fullner, Montag & Keenan	Legal Services, County Court	432.51
Nebraska Child Support Payment Center	Garnish of Wages	505.84
Nebraska Criminal Defense Attorneys Association	Registration, Public Defender	135.00
Nebraska Department of Revenue	State Income Tax	4,151.75
Nebraska Health & Human Services	State Institutions Funding	1,686.00
Nebraska Public Power District	Utilities, County Relief	250.00
Norfolk Daily News	Publication Costs, County Assessor	140.50
Norfolk Daily News	Publication Costs, Courthouse	208.54
Norfolk Printing Company	Supplies, County Court	79.50
Norfolk Printing Company	Supplies, Veterans' Service Office	37.00
Northeast Nebraska Assessor's Association	Dues, County Assessor	25.00
Oasis Counseling International	Services, Juvenile Diversion	323.70
Valorie Olson	Court Reporting, Law Enforcement	140.60
Ivan Petersen	Rent, County Relief	300.00
Pfeifer Auto Body	Repairs, Courthouse	500.00
Pierce County Court	Copies, Law Enforcement	2.75
Platte County Sheriff	Service Fees, District Court	32.00
Postmaster	Postage, County Attorney	41.00
Quill Corporation	Supplies, County Court	658.54
Qwest	Telephone Service, County Jail	17.66
Qwest	Telephone Service, Probation	462.23
Radio Shack	Supplies, Probation	3.99
Region 4 Behavioral Health System	Quarterly Contribution	14,187.50
Reigle Implement	Supplies, County Sheriff	15.00
Reynoldson's Inc.	Fuel, County Sheriff	488.21
Schmitz Pest Services	Pest Control, County Jail	200.00
Schroeder Land Surveying	Services, County Surveyor	1,520.00
Security Shredding	Services, Probation	165.00
Share Corporation	Supplies, Courthouse	387.16
Shell Fleet Plus	Fuel, Reappraisal	248.12
Shell Fleet Plus	Fuel, County Sheriff	2,912.94
Short Stop	Fuel, County Sheriff	734.12
Deb Silverman	Attorney Costs, Law Enforcement	3,903.25
Skyline Motel	Rent, County Relief	125.00
Joseph Smith	Mileage, Meals, Law Enforcement	995.85
Summit Foods Inc.	Supplies, Courthouse	120.00
The Day Companies	Rent, Probation	2,400.00
Trane U.S. Inc.	Maintenance Agreement, Repairs, Courthouse	856.98
U.S. Cellular	Telephone Services, Law Enforcement	119.76
United Bank of Iowa	Copier Maintenance, Probation	316.00
Walmart Community	Supplies, Reappraisal	119.73
West Payment Center	Publication, District Court	105.50

Western Office Plus	Supplies, County Clerk	63.67
Western Office Plus	Supplies, County Treasurer	7.99
Western Office Plus	Supplies, County Assessor	45.98
Western Office Plus	Supplies, District Court	3.96
Western Office Plus	Supplies, County Sheriff	99.74
Western Office Plus	Supplies, Copier Maintenance, County Attorney	115.43
Western Office Plus	Supplies, Veterans' Service Office	65.57
Western Office Plus	Supplies, Victim Witness	80.81
White Star Oil Co.	Fuel, County Sheriff	122.52
Zippy Lube	Repairs, County Sheriff	36.03

#### ROAD/BRIDGE FUND

Total Net Payroll		24,447.52
Alltel	Telephone Service, District #2, #3	77.80
American Family Life Assurance Company	Insurance Premiums	187.77
Ameritas Life Insurance Corporation	Employee Share Retirement	1,494.68
Ameritas Life Insurance Corporation	Employer Share Retirement	2,242.07
Ameritas Life Insurance Corporation	Insurance Premiums	60.34
Appera	Towel Service, District #1, #2	169.68
Aquila	Gas Service, District #1	1,391.58
B & A's Welding	Repairs, District #2	11.25
B's Enterprises Inc.	Signs, District #2	400.00
Banker's United Life Assurance Company	Insurance Premiums	44.53
Battle Creek Farmers Coop	Fuel, District #1, #3	456.38
Bauer Built Inc.	Repairs, District #2	1,913.17
BC Pit Stop LLC	Fuel, District #3	17.30
Carquest Auto of Norfolk	Supplies, Parts, District #1, #2, #3	481.10
Central Parts and Machine	Parts, District #1	6.64
Central Sand & Gravel	Gravel, District #1	7,302.61
Colonial Life and Accident Insurance	Insurance Premiums	90.11
D & M Machinery	Parts, District #3	38.49
D.W. Kohlhof Truck Repair	Repairs, District #2	761.60
Elkhorn Valley Sand & Gravel	Gravel, District #2	1,849.39
Field's Hardware	Supplies, District #1	27.12
Filter Care of Nebraska	Services, District #1, #2	99.65
First Concord Benefits Group	Flexible Benefits Plan	570.73
Hartford Life Insurance Company	Deferred Compensation	40.00
Hegemann Sunflower Sales & Repair	Parts, District #1	65.38
Hotsy Equipment Company	Repairs, District #3	292.08
Johnson Engineering Company	Engineering, Bookkeeping Services, District #1, #2, #3	850.00
Johnson's Inc.	Equipment, District #1	120.75
Kimball Midwest	Repairs, District #3	54.24
Linweld Inc.	Supplies, District #1, #3	819.75
Loup Power District	Utilities, District #1	144.49
M & M Farm Supply	Parts, District #1	48.50
Madison Ampride Inc.	Fuel, District #1	636.75
Madison County Clerk	Federal Tax Deposit	7,615.61
Matteo Sand & Gravel Co. Inc.	Gravel, District #2	150.29
Mead Lumber & Rental	Supplies, District #2	27.98
Meisinger Oil Co. Inc.	Fuel, District #1, #3	16,947.97
NAPA Auto Parts of Norfolk	Supplies, District #2, #3	622.02
Nebraska Child Support Payment Center	Garnish of Wages	230.77
Nebraska Department of Revenue	State Income Tax	907.52
Nebraska Machinery Company	Repairs, District #2, #3	686.15
Norfolk Auto Supply Inc.	Supplies, District #3	121.29
Norfolk Office Equipment	Supplies, District #3	10.14
Progas LLC	Fuel, District #3	869.00
Quick Serve Oil Company Inc.	Repairs, Supplies, District #3	67.50
RF Machine Works	Repairs, District #2	50.00
Red Bud Inc.	Supplies, District #3	275.74
Reigle Implement Co. Inc.	Parts, District #1	68.85
Scheer's Ace Hardware	Supplies, District #1, #2, #3	595.52
Snap-On Tools	Tools, District #2	42.60
Steffen	Parts, District #3	65.76
The Grove	Fuel, District #1	146.01
Truck Center of Norfolk	Repairs, District #1, #2, #3	576.29
Van Diest Supply Company	Supplies, District #1, #2, #3	1,162.50
Weldon Industries Inc.	Repairs, District #3	344.48

#### LAW ENFORCEMENT OPERATING FUND

Madison County Sheriff	Supplies	385.87
------------------------	----------	--------

DRUG COURT FUND

Connecting Point	Repairs	35.00
Correctional Counseling Inc.	Supplies	16.00
Redwood Toxicology Laboratory Inc.	Drug Testing	48.40
Mark Stortvedt	Mileage	126.25
Pamela Wells	Supplies	103.23
Western Office Plus	Supplies	75.84

NOXIOUS WEED FUND

Total Net Payroll		2,588.22
Ameritas Life Insurance Corporation	Employee Share Retirement	145.87
Ameritas Life Insurance Corporation	Employer Share Retirement	218.81
Madison County Clerk	Federal Tax Deposit	685.00
Nebraska Department of Revenue	State Income Tax	70.49

911 EMERGENCY FUND

Geocomm Inc.	Services, Training	683.32
--------------	--------------------	--------

Motion made by Uhlir and seconded by Klein that the claims be approved as audited and that checks be drawn for payment. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

The Board adjourned at 11:00 A.M. to Tuesday, April 1, 2008 at 9:30 A.M.

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Chairman