

COMMISSIONERS PROCEEDINGS

Madison, Nebraska

July 22, 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, July 17, 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 Jerry 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 was joined the meeting at 10:03 A.M. Planning and Zoning Administrator John Johnson was present from 9:59 A.M. to 11:08 A.M.

Motion was made by Uhlir and seconded by Klein to remove the following items from the consent agenda for discussion:

- 1) Approval of preliminary and final plats of Evergreen Hill 2nd Addition, Phase I located in Pt. NW¼ 19-23-2
 - 2) Authorization to advertise for Request for Proposals (RFP) for District Two Probation Office and set August 19, 2008 as the date for receipt of proposals
- Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

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

- 1) Approval of minutes of the July 8, 2008 meeting
- 2)

RESOLUTION #2008-44

BE IT RESOLVED, that the following securities held in safekeeping by Midwest Independent Bancshares, Inc., Jefferson City, Missouri, to secure deposits of this county in Midwest Bank, Pierce, Nebraska, be and the same hereby are approved:

FMAR 1J2920 G	Midwest Independent Bancshares, Inc.
Receipt Date: 7/1/2008	Jefferson City, Missouri
Par Value: \$600,000.00	Cusip 3128NKG59
Receipt Number: JC44474C	Maturity Date: 8/1/2037

- 3) Authorization for County Board Chairman to execute the program income report for CDBG Grant #99-ED-008 for the period ending June 30, 2008

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

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

The County Board reviewed the following reports:

- 1) County Clerk June fee report
- 2) County Treasurer fund balance report
- 3) Register of Deeds June fee report
- 4) 2nd Quarter Veterans' Aid Fund financial report
- 5) Sale of surplus property report
- 6) Minutes of the June 17, 2008 meeting of PrairieLand RC&D and July newsletter

Pursuant to published legal notice in the Saturday, July 12, 2008 edition of The Norfolk Daily News, Chairman McCallum opened a public hearing at 10:03 A.M. to receive citizens' comments regarding an amendment to the Madison County Zoning and Subdivision Regulations to allow for a lot split of an existing livestock operation of less than 300 head equivalent to less than 40 acres. Planning and Zoning Administrator John Johnson reported that the Planning Commission approved the changes requested by the County Commissioners at the hearing held on May 28, 2008. He explained that the Planning Commission originally approved the amendment with a minimum split from 10 acres and the Commissioners wanted the split to be made from a minimum of 80 or 160 acres. He stated that this proposed amendment would allow for a split on a minimum of 10 acres without a conditional use permit as long as the farmstead is included and the number of animal units is less than 300. Mr. Johnson also reported that one telephone call was received from Orin Rinkel who was concerned because there is a small animal feeding operation upstream from his pond and he was also concerned that the owner could split it off without obtaining a conditional use permit.

No comments were received from the public supporting or opposing the proposed amendment. Chairman McCallum closed the public hearing at 10:05 A.M.

After discussion, the following resolution was introduced:

RESOLUTION #2008-45

A RESOLUTION AMENDING BY REFERENCE CERTAIN LANGUAGE IN THE MADISON COUNTY ZONING AND SUBDIVISION RESOLUTIONS UNDER THE AUTHORITY GRANTED BY SECTIONS 23-114.01 THROUGH 223-114.05 AND 23-165 OF THE REVISED STATUTES OF NEBRASKA, 1943.

WHEREAS, having received a recommendation for approval from the Madison County Joint Planning Commission and proper notice been given and public hearing held as provided by law.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Madison County, Nebraska, hereby amends the Madison County Zoning and Subdivision Resolution by replacing the part of the original Sections 402 and 403 with the language in *Italics* and Underlined below.

402: AG1 Intensive Agriculture

Permitted Principal Uses

The following principal uses are permitted in the AG1 Intensive Agriculture District.

1. Agricultural operations, and the usual agricultural and farm buildings and structures, including the residences of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises.
 - a. All use of farm chemicals, including application of pesticides and herbicides, shall be governed by State Agencies and applicants using restricted-use pesticides shall be required to be certified as required by law.
 - b. The spreading of manure by a "Farming" Operation. (as defined in Article 2 of this Resolution)
 - c. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations. All mobile homes require a special one (1) year permit which must be renewed annually and which shall be subject to the conditions of the permit.
 - d. Small animal feeding operations and small confined animal feeding operations.
 - e. *Small animal feeding operations and small confined animal feeding operations existing prior to the adoption of these regulations locating on a parcel of at least ten acres from a minimum of an 80 acre tract including the original farmstead, of less than 40 acres.*

403: AG2 General Agriculture

Permitted Principal Uses

The following principal uses are permitted in the AG2 General Agriculture District.

1. Agricultural operations, and the usual agricultural and farm buildings and structures, including the residences of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises.
 - a. All use of farm chemicals, including application of pesticides and herbicides, shall be governed by State Agencies and applicants using restricted-use pesticides shall be required to be certified as required by law.
 - b. The spreading of manure by a "Farming" Operation. (as defined in Article 2 of this Resolution)
 - c. Agricultural operations having up to three hundred (300) animal units are considered a farm and are permitted by right, provided other requirements in this district are met and submission of a no-fee livestock registration permit to the Zoning Administrator Small animal feeding operations and small confined animal feeding operations.
 - d. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations. All mobile homes require a special one (1) year permit which must be renewed annually and which shall be subject to the conditions of the permit.
 - e. *Small animal feeding operations and small confined animal feeding operations existing prior to the adoption of these regulations locating on a parcel of at least ten acres from a minimum of an 80 acre tract including the original farmstead, of less than 40 acres.*

A duly advertised hearing has been held by the Madison County Joint Planning Commission and the Madison County Board of Commissioners after a recommendation for approval by the said Joint Planning Commission.

NOW, THEREFORE, LET IT BE FURTHER RESOLVED, that this Resolution shall take effect and be in force no sooner than the 22nd day of July, 2008.

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

Pursuant to published legal notice in the Saturday, July 12, 2008 edition of The Norfolk Daily News, Chairman McCallum opened a public hearing at 10:18 A.M. to receive citizens' comments regarding an amendment to the Madison County Zoning and Subdivision Regulations to establish a Wellhead Protection Overlay District in Madison County.

Planning and Zoning Administrator John Johnson pointed out that this proposed amendment would create an overlay district, but the underlying zoning district stays intact. He reported that a new zoning map would be printed that reflects both districts. He explained that only two zoning districts are permitted in the overlay, which are Agricultural-Transitional and Rural-Residential. Mr. Johnson stated that currently there is no property zoned Rural-Residential in this area; however, there are AG-2 and Agricultural-Transitional. He explained that when a new map is approved, everything in this area would be zoned Agricultural-Transitional. He explained that the main difference with Agricultural-Transitional zoning is a change from four houses plus a farmstead per quarter to seven houses plus a farmstead per quarter without issuance of a conditional use permit. He reported that the only operation that is larger than 300 animal units in this area is Matt Winkelbauer's dairy and this permit is good for another 18 years.

Gary Lund, Norfolk City Solid Waste Manager, stated that the City of Norfolk would appreciate adoption of the amendment to the Madison County Zoning and Subdivision Regulations for protection of the city's drinking water source. He explained that the map was drawn by the State of Nebraska and is based on actual water elevations, wells in this area, pumping rates of the City's wells, and that the 20-year time of travel establishes the limits of the maps. He explained that the program is a computer model that determines where the water is located that the City of Norfolk would be drinking 20 years from the current time and the city wants to protect that area. He stated that the computer model reflects that the water will move approximately three miles within 20 years. Mr. Lund stated that the City of Norfolk is trying to zone activities in this area that would not risk the quality of the water. He explained that heavy industry, manure storage sites, and junkyards that may have a tendency for an unexpected release of pollutants into the soil and groundwater would not be permissible in this area.

Gary Lund stated that one of the issues is diesel fuel storage adjacent to irrigation systems and the city doesn't want the farmers to discontinue their operations. He explained that the City of Norfolk would like the irrigators in this area to switch to electric and the City of Norfolk has provided a 5-year moratorium on the fuel storage tanks, hoping that by this time everyone who wants to switch to electric could get that accomplished. He reported that after five years, there would be a requirement to add a double wall tank and under the zoning regulations individuals could continue to be noncompliant until the tank fails. Mr. Lund explained that the City of Norfolk tried to be as flexible as possible on this stipulation recognizing that this would be a hardship and additional cost for the irrigators. Mr. Lund stated that the county's septic tank density is not changing significantly and the City of Norfolk is restricting this to residential septic systems. He stated that the City of Norfolk wants orderly growth along the Highway 275 corridor and they would like industries locating in this area to be within reach of Norfolk City sewer. He reported that the City of Norfolk would partner with the Natural Resources District for public education and closing abandoned wells. In addition, he explained that the City of Norfolk doesn't want chemical and fertilizer storage in this area, except for individuals storing for their own operations. Mr. Lund reported that City of Norfolk zoning document for Wellhead Protection and the proposed county are almost identical except that the documents are numbered differently and use a little different terminology.

Commissioner Klein questioned how many irrigation wells would be impacted in this area and Dennis Watts responded that 14 irrigation wells are located in this area.

Dennis Watts, City of Norfolk Water and Sewer Director, explained that the city wells had some contamination with the city wells at the east water treatment plant had some contamination in 1997 and 1998. He stated that it was very expensive to clean up and they currently have some contamination from a gas station located by the west water treatment plant. He stated that once the groundwater is contaminated it is very expensive to clean up. He reported that the City of Norfolk has a large investment in this area and they want to protect the drinking water. He further explained that the City of Norfolk is trying to be as user friendly as possible and they are trying to do a lot through education.

Charles Henkel stated that he supports the proposed amendment which establishes the Wellhead Protection Overlay District, but he has some objections to the proposal. He stated that the City of Norfolk must protect the supply of water. He explained that the Nebraska Department of Environmental Quality (NDEQ) advocates that wells for a municipal water supply be located so that the lifetime zone of contribution of that well underlies land owned by that municipality and/or land on which the municipality owns an easement giving it the right to control all usage affecting water quality. He explained that if the City of Norfolk had abided by this there would be no need for a wellhead protection area or plan. Mr. Henkel stated that the Nebraska Department of Environmental Quality sees three facets to a wellhead protection plan including educating the landowners on topics of concern, compensating landowners, and legislation. He reported that in the informational meeting for individual landowners that he attended there was mention of connecting landowners to existing Natural Resources Districts and other programs that may pay a portion of some expenses, but there was no mention of the city compensating the landowner. He stated that at the most recent public meeting at the Lifelong Learning Center, a citizen asked how much the city was budgeting for compensating the landowners and he was ridiculed for not wanting to pay for environmentally sound measures, but it is part of what NDEQ advocates. Mr. Henkel suggested that the Board members call NDEQ or read the enabling legislation. He stated that the wellhead protection area is situated such that no one who lives in it can vote for Norfolk City officials. He stated that there was a tea party in the country about taxation without representation and there are 20,000 plus people to benefit from protecting the water supply and 100 landowners to pay the costs thereof. Mr. Henkel stated that in the formulation of this county resolution the city changed their three-year compliance date to a five-year compliance date to lessen resistance of farming interests. He said that appears to him that it is of higher priority to the city to get the landowners to pay for protection of the water supply than it is a priority to get the water protected. He stated that, in view of the east well field and the contamination by Henkel Oil Company, the water supply must get protected because it can't be cleaned up as easily as it can be protected. Mr. Henkel requested approval of the wellhead protection overlay resolution with two conditions: 1) That the City of Norfolk abide by some system of compensation to landowners for value lost and expenses incurred solely because of inclusion in the wellhead protection area. 2) That the City of Norfolk begin now planning the next additional city water well location, to be coordinated with their ownership of land or purchase of easements from willing sellers to cover the 20-year zone of contribution of that well. Mr. Henkel stated that it is in the best interest of the City of Norfolk to have the good will of the people in the well protection area. He explained that a simple example is that last year he had a well driller properly decommission six of the wells on his property and when he went to get the GPS readings on each one to complete forms for the Natural Resources District it took nearly ten minutes to find one of the wells even though he knew the approximate location. He stated that there is no way with a search warrant and ten people that the city would have found the well because it wasn't located in a illogical place; so, the city needs the landowners' good will.

Mr. Henkel pointed out the following specific items in the proposed wellhead protection regulations:

- 1) Page 3 "Permitted Conditional Uses" – Mr. Henkel stated that the city added a second subheading under this topic: "b" In addition to the conditional uses authorized above, non-residential, septic and/or on-site wastewater treatment systems may be granted as a conditional use within the Wellhead Protection Overlay District". He explained that this then fits in better with item 9 where is talks about the prohibition of non-residential septic systems.
- 2) Page 2 Prohibited Uses – 1. Prohibits all animal feeding operations and all concentrated animal feeding operations. Mr. Henkel stated that it refers to a definition of AFO and CAFO in article Four. He explained that he couldn't find any such definition in article Four of the county regulations. He stated that the state defines an animal feeding operation as one or more animals kept on a surface that in not vegetated during the growing season for an aggregate of 45 days in any 12-month period. He stated that it comes under capital legislation as soon as water runs off of that area into waters of the state, which could be the ditch along side of the road. He explained that the city's version for the same item in Section 27-277 is: "a. Medium or Large Concentrated Animal Feeding Operations as defined in Nebraska Title 130 (Livestock Waste Control Regulations), and associated waste handling facility uses." He requested the Board to please consider adopting the city wording and thus permit small feeding operations.
- 3) Page 3 Prohibited Uses 8. Mr. Henkel explained that if the Board looks at the county definitions, keeping a piece of old iron material for 30 days constitutes being a junkyard, which is very strict for a farm. He requested the Board to specify that it could be a junkyard that is operating as a business or is unsightly and visible from neighboring property.
- 4) Page 5 Wellhead Are Protection Requirements 6. Mr. Henkel explained that this paragraph is confusing and that Title 178, Chapter 12 is titled "Regulations governing water well construction, pump installation and water well decommissioning standards." He questioned if this is what was intended rather than the stated "on-site Wastewater Treatment Systems". He reported that it is also confusing because in Section 002 of Chapter 12 it indicates that by definition a well is not "abandoned" until it has been properly decommissioned per title 178 requirements. He stated that the county regulations definition of the word "abandonment" is at odds with the state definition in regards to a well.
- 5) Page 5, Item 8 – Mr. Henkel stated that the wording of this paragraph prohibits all existing domestic wells. He stated that this is a mistake – because it allows any existing lot, not yet developed, to put in one well and allows irrigation wells. He explained that the city has changed some of the wording of this section, but it is not corrected in the county regulations.

Mr. Henkel also reported that he had six wells decommissioned and the Natural Resources District (NRD) does not pay for any of the above groundwork, which is the most expensive part, but they do pay for a part of the underground work. He stated that there was discussion regarding fuel storage for irrigators; however, the regulations apply to all fuel storage, not just irrigators.

Planning and Zoning Administrator John Johnson recommended that on Page 3 for the definition of AFO and CAFO the wording be changed from Article Four to Article Two. He stated that the wording has already been changed to Medium or Large Concentrated Animal Feeding Operations.

Chairman McCallum questioned the wording on Page 5, Item 8 that prohibits all existing domestic wells. Gary Lund stated that the language is confusing and it does not mean that a domestic well is prohibited. Planning and Zoning Administrator John Johnson explained that a zoning consultant prepared this language.

Chairman McCallum questioned Mr. Henkel's point on the Wellhead Area Protection Requirements on Page 5. Planning and Zoning Administrator John Johnson responded that the county always tried to match the county's definitions with the state's definitions when applicable. He recommended removing the word "abandoned" from the regulations.

Chairman McCallum requested clarification on Mr. Henkel's concern regarding junkyard. Planning and Zoning Administrator John Johnson read the county's definition of junkyard and explained that the key word is "junkyard". He explained that the Planning Administrator makes interpretations of the zoning regulations until it is appealed to a court.

Commissioner Klein stated that many of the items pointed out by Mr. Henkel are language changes. He stated that the other issue that has not been addressed was compensation by the City of Norfolk to irrigators who had to provide containment units for their diesel fuel storage tanks. He questioned if the City of Norfolk had plans to assist with the costs and Dennis Watts responded that he spoke to Stanley Petroleum who advised that the estimated cost of a 1,000-gallon single wall containment unit is \$1,000 and that the cost for a double wall containment unit is \$3,000. He explained that with the price of fuel farmers wouldn't want to have their diesel tanks leaking into their well or into a neighbor's well. He stated that the city understands that there is a cost for providing containment units; however, the city has not developed a plan for compensation. Mr. Watts reported that many of the farmers that they have spoken with are looking at transitioning their irrigation wells from diesel engines to electrical. He reported that he spoke to Elkhorn Rural Public Power District and requested that these irrigators be moved to the top of the list for converting to electric; however, the city does not have any leverage on moving these irrigators to the top of the waiting list.

Charles Henkel stated that the concern for fuel storage is not only with the irrigators, but also with all fuel storage. Gary Lund stated that fuel storage units must be moved 250 feet away from a well and it is no longer an issue.

Chairman McCallum closed the public hearing at 10:57 A.M.

After discussion, the following resolution was introduced:

#2008 - 46

A RESOLUTION AMENDING BY REFERENCE CERTAIN LANGUAGE IN THE MADISON COUNTY ZONING AND SUBDIVISION RESOLUTIONS UNDER THE AUTHORITY GRANTED BY SECTIONS 23-114.01 THROUGH 223-114.05 AND 23-165 OF THE REVISED STATUTES OF NEBRASKA, 1943.

WHEREAS, having received a recommendation for approval from the Madison County Joint Planning Commission and proper notice been given and public hearing held as provided by law.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Madison County, Nebraska, hereby amends the Madison County Zoning and Subdivision Resolution by inserting the following language into Article 4, Article 2 and the Land Use Matrix as described in detail below.

~~WELLHEAD PROTECTION OVERLAY DISTRICT
DRAFT - MARCH 19, 2008~~

~~Madison County, Nebraska~~

~~AMEND MADISON COUNTY, NEBRASKA ZONING REGULATIONS BY AMENDING ARTICLE 4: DISTRICTS AND INTERPRETATION OF DISTRICTS - TO INCLUDE THE FOLLOWING:~~

~~SECTION 410 WPO WELLHEAD PROTECTION OVERLAY DISTRICT~~

~~410: WPO Wellhead Protection Overlay~~

~~The intent of this Wellhead Protection Overlay District is to overlay any of the primary zoning districts herein established and described in Sections 402 through 409 of the Madison County Zoning Regulations in order to assist Norfolk's publicly owned water supply systems, as defined in Title 179, Nebraska Department of Health, Chapter 2, within Madison County, Nebraska which operates water wells in the County in providing protection from contamination of such wells through regulation of land uses which have the potential for contamination of the groundwater source(s) from which said wells derive water. The intent of this District is also to protect existing and future agricultural uses, which are in balance with the natural environment, which are compatible with existing agricultural uses and which will not present unacceptable potential for contamination of the publicly owned water supply system wells.~~

~~Prerequisite Requirements for Application of this Overlay District~~

~~Prior to the application of this District to any lands in the zoning jurisdiction of Madison County, the City of Norfolk, which maintains and operates water supply wells within the County shall make application to the Madison County Planning Commission and Madison County Board of Commissioners seeking application of this District to specified lands within the County. Prior to making such application and prior to approval of any application of this District to any lands within the County, the City of Norfolk shall have first complied with all other requirements of the Wellhead Protection Area Act (Neb. Rev. Stat. 46-1501 through 45-1509 and the additional requirements listed as follows:~~

- ~~1. Delineation of the wellhead protection area(s) based upon a twenty (20) year time of travel recharge zone, as defined by the Nebraska Department of Environmental Quality.~~
- ~~2. Completion and mapping of an inventory of potential contamination sources within the _____ wellhead protection area(s), including identification of known abandoned wells and/or wells not in use.~~
- ~~3. Formulation, adoption and enforcement of land use control regulations for those portions of the wellhead area within the corporate limits and zoning jurisdiction area of the City of Norfolk which are appropriate to minimize the potential for contamination to the water supply of the Municipality~~
- ~~4. Formulation of emergency / contingency / long-range plans in the event of disruption of the supply of water from wells in the wellhead protection area(s).~~
- ~~4.5. Formulation and implementation of an on-going public involvement / education program to permit public comment in the establishment of a Wellhead Protection Plan (WHPP), including a plan to provide public information regarding the (WHPP) and voluntary cooperation with the same.~~

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~~5.6.~~ Development of a program to install and maintain Wellhead Protection Area signs on roadways around the wellhead protection area(s).

~~7. The City of Norfolk shall execute an interlocal agreement with Madison County for the administration of the regulations within the land areas to be included in this District. The City of Norfolk shall agree to accept the wellhead protection regulations set forth in this District, and agree to hold Madison County harmless from any liability related to the requirements of this District, except for proper administration and enforcement of the requirements of this District by Madison County, together with other terms and conditions which are acceptable to the parties.~~

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Limitation on Application of this Overlay District

This District may only be applied to lands within wellhead protection areas based upon a twenty (20) year time of travel recharge zone, as defined by the Nebraska Department of Environmental Quality. In the event the boundaries of any such wellhead protection area(s) do not follow easily identifiable boundaries such as roads, rivers, creeks, section, quarter section or quarter-quarter section lines, the boundaries of such areas shall be expanded to, but not beyond, the nearest such lines to avoid confusion and added administrative costs associated with in-the-field determination of such boundaries.

Amendment of Official County Zoning Map

Whenever the requirements of Article 9 of the Madison County Zoning Regulations have been complied with, and the County Planning Commission and County Board of Commissioners have conducted public hearings regarding application of this District and the County Board of Commissioners has acted to approve the application of a Wellhead Protection Overlay District, the boundaries of such District, defined in accordance with the limitations set forth immediately above, shall be indicated on the Madison County, Nebraska Official Zoning Map and such map shall be signed in accordance with the requirements of Article 9 of the Madison County Zoning Regulations.

Primary Zoning Districts

To remain consistent with the Madison County Comprehensive Development Plan of 2003, the primary zoning districts to be allowed in the Wellhead Protection Area are AT – Agricultural Transition District and RR - Rural Residential District. The MUDD Overlay District may be applied to the base zoning district in addition to the Wellhead Protection Overlay District. The Wellhead Protection Overlay District shall assign a housing density in AT District as no more than seven (7) non-farm houses and one (1) farmstead per quarter. This overlay district shall also affix a housing density in the RR District as no more than fourteen (14) non-farm houses and one (1) farmstead per quarter. The minimum lot size of forty (40) acres and three (3) acres with a Conditional Use Permit is changed only in the overlay district to three (3) acres with no Conditional Use Permit being necessary in either underlying zoning district.

Permitted Uses and Accessory Uses

Any use or structure indicated as a permitted use or accessory use in the primary zoning district(s) on which this District is overlain, shall be permitted in accordance with the zoning permit requirements set forth in such primary zoning district(s), except when specifically prohibited in Prohibited Uses in this District as set forth below and except when an otherwise permitted or accessory use is listed as a conditional use in the Permitted Conditional Uses in this District as set forth below. All such permitted and accessory uses shall comply with the additional wellhead protection restrictions set forth in Wellhead Area Protection Requirements set forth below and be consistent the land use matrix of these regulations.

Permitted Conditional Uses

Any use listed as a conditional use in the primary zoning district(s) and consistent with the land use matrix of these regulations on which this District is overlain, except the uses specifically prohibited in Prohibited Uses in this District set forth below, may be authorized as a conditional use in accordance with the requirements and procedures specified in Article 5 of this Madison County Zoning Regulations, provided the authorization of any conditional use shall include at least the condition that any use so authorized shall comply with all applicable requirements and restrictions of Wellhead Area Protection Requirements as set forth below.

Prohibited Uses

Uses and structures, which are prohibited in the primary zoning district(s) on which this District is overlain, shall be prohibited and, regardless of whether prohibited in the primary zoning district(s), the following uses and structures shall be specifically prohibited on any land area on which this District is applied:

Medium or Large

- ~~2.1.~~ Animal Feeding Operations and Concentrated Animal Feeding Operations as defined in ~~Nebraska Title 130~~Article Two of these regulations, and associated waste handling facility uses,
- ~~3.2.~~ Stockpiling of livestock manure, paunch, or sludge.
- ~~4.3.~~ Containment of liquid livestock waste, manure, paunch, or sludge.
- ~~5.4.~~ Landfills and refuse recycling centers.
- ~~6.5.~~ Sand, gravel, or limestone mining operations.
- ~~7.6.~~ Chemical reclamation facilities.
- ~~8.7.~~ Hazardous waste impoundment facilities.
- ~~8.~~ Salvage (junk) yards of all types.
- ~~9.~~ Non-residential septic and/or On-Site Wastewater Treatment systems without a Conditional Use Permit.

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Any of the above Prohibited Uses currently operating under a valid Conditional Use Permit or as a permitted use under current regulations may continue the use until the expiration of the Conditional Use Permit. All other prohibited uses shall cease within 30 days of the adoption of these regulations.

Wellhead Area Protection Requirements

The following restrictions shall apply to all uses within any land areas on which this District is applied:

- ~~4.~~ Storage of gasoline, diesel fuel, fuel oil or other similar fuels, whether on a farm or ranch or in association with any other use, shall comply with the rules and regulations of Titles 126 (Rules and Regulations Pertaining to the Management of

Waste), Title 159 (Underground Fuel Storage Tanks), and the National Fire Prevention Association Code 30, administered by the Nebraska Department of Environmental Quality or other responsible agency or department. In addition, storage of gasoline, diesel fuel, fuel oil or other similar fuels in excess of one hundred forty (140) gallons within two hundred (200) feet of any well, whether on a farm or ranch or in association with another land use and whether or not such fuels or stored on, above or below ground, shall include an impervious liner or shall include double wall construction. Non-approved storage containers shall become non-compliant five (5) years following the date of approval of this WHPP by the Board of County Commissioners. ~~Non-approved storage containers shall be removed and/or replaced with acceptable containers within three (3) years of the date of approval of this WHPP by the Board of County Commissioners~~

~~3.~~

~~1.~~

~~2.~~ Fuel storage associated with any irrigation engine, including any portable fuel storage tanks shall be equipped with a containment area in accordance with Chapter 34 of the International Fire Code, 2006 edition, the National Fire Protection Association Code 30 and with Title 126 (Rules and Regulations Pertaining to the Management of Waste), administered by the Nebraska Department of Environmental Quality, in the event of a release. Non-approved storage containers shall become non-compliant five (5) years following the date of approval of this WHPP by the Board of County Commissioners.

~~Non-approved storage containers shall be removed and/or replaced with acceptable containers within three (3) years of the date of approval of this WHPP by the Board of County Commissioners.~~

~~6-3.~~ Fuel storage in excess of one hundred forty (140) gallons shall not be permitted within one thousand (1,000) feet of any municipal well.

~~8-4.~~ Bulk storage of fertilizers, herbicides, pesticides and other materials other than fuels, determined by the United States Environmental Protection Agency to be hazardous materials, shall be prohibited, except when a conditional use for such use is authorized and such authorization includes a condition that all such uses shall comply with the applicable rules and regulations of Title 118 (Groundwater Quality Standards and Use Classification), Title 119 (NPDS Permits), Title 126 (Rules and Regulations Pertaining to the Management of Waste), Title 128 (Nebraska Hazardous Waste Regulations), Title 159 (Underground Fuel Storage Tanks) and Title 198 (Rules and Regulations pertaining to Agricultural Chemical Containment), administered by the Nebraska Department of Environmental Quality and other agencies.

~~10-5.~~ Any industrial and commercial process that includes more than 1,000 lb. of materials, determined by the United States Environmental Protection Agency to be hazardous materials, shall be prohibited, except when a conditional use for such use is authorized and such authorization includes a condition that all such uses shall comply with the applicable rules and regulations of Title 118 (Groundwater Quality Standards), Title 119 (NPDS Permits), Title 126 (Rules and Regulations Pertaining to the Management of Waste), Title 128 (Hazardous Waste Regulations), Title 159 (Underground Fuel Storage Tanks) and Title 198 (Rules and Regulations pertaining to Agricultural Chemical Containment), administered by the Nebraska Department of Environmental Quality and other agencies.

~~12-6.~~ Prior to the development of any permitted land use, any well that has not been closed and sealed in accordance with the requirements Title 178. Chapter 12 and the requirements of the applicable Natural Resource District(s) guidelines shall be so closed and sealed.

~~14-7.~~ No septic tank, tile field or other On-Site Wastewater Treatment system, associated with any residential, commercial, or other type of land use, shall be located within one thousand (1,000) feet of any Municipal well protected under this District, provided that if an undeveloped lot of record, as defined in Article 2 of these Zoning Regulations, exists as of the effective date of application of this District and the entirety of said lot of record lies within the land area on which this District is applied, and provided said lot does not exceed a density limit of 4 lots/homes including non-farm homes and a farmstead per 40 acres, and a public sewer is not available to serve such lot of record, one septic tank and tile field or other On-Site Wastewater Treatment system may be established, provided such tank, tile field or other system complies with the requirements of Title 124 (On-site Wastewater Treatment Systems) of the Nebraska Department of Environmental Quality.

~~15.~~ ~~The design and location of such septic tank, tile field or other On-Site Wastewater Treatment system shall be subject to review and approval by County Board of Commissioners in consultation with the City of Norfolk.~~

~~16.~~

~~17-8.~~ ~~DD~~ Domestic, irrigation and any other water wells, other than Municipal water wells shall be prohibited within a wellhead protection area on which this District has been applied. Any existing irrigation well may be replaced with the same capacity well if said existing well no longer functions. A new irrigation well may be established on a non-irrigated parcel of land eighty (80) acres in area or larger provided such well shall not be located closer than one thousand (1,000) feet of any well protected under this District. Further that if a parcel to be developed complies with the density regulations of the underlying zoning district and lies within the land area on which this District is applied and a public water supply is not available to serve such parcel, one (1) four (4) inch domestic well may be established, provided such well shall be constructed in accordance with the rules and requirements of Title 178.

~~19-9.~~ Any application of agricultural crop fertilizers, livestock manure, pesticides, or herbicides to the land or crops through an irrigation system (chemigation) shall comply with the rules and requirements of Title 195 (Rules and Regulations Pertaining to Chemigation). Further, when such fertilizers and/or livestock manure is applied, the amount of such fertilizers and / or livestock manure shall be at agronomic rates. Written verification of amounts of such fertilizers and / or livestock manure shall be provided upon request, to the County Zoning Administrator or the County Board of Commissioners by the owner of any land within this District. The County Zoning Administrator or the County Board of Commissioners shall provide copies of said verifications to the City of Norfolk.

~~24-10.~~ If any land area contained within a Wellhead Protection Overlay District is also part of a special protection area or ground water management area, established under the Groundwater Management Protection Act, all uses within such

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areas, including agricultural uses, shall comply with the action plan and best management practices established for such areas by the applicable Natural Resource District(s).

Minimum Lot Development Requirements.

The minimum lot area, width, yard / setback, building height and other requirements for any ~~lot~~-parcel in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

AMEND ARTICLE 2 OF THE MADISON COUNTY ZONING REGULATIONS TO INCLUDE THE FOLLOWING DEFINITIONS:

Agronomic Rates: The application of plant nutrients, from all sources, to meet, but not exceed, the estimated annual nutrient needs of the crop being produced, based upon past or projected yields, so as to avoid build-up of nutrients including, but not limited to, nitrate, chloride, ammonia and phosphorus. Determination of the agronomic rate shall include the available nutrients in the soil, the nitrogen content of any irrigation water, and the nutrient content of any animal wastes, sludges and commercial fertilizer to be applied.

Bulk Storage: ~~Is it~~The storage of materials for distribution to other locations and not for use or consumption of such materials on the premises.

Fuel Storage: The storage of fuel including propane, gasoline, diesel, kerosene, or derivatives there of stored on-site or in portable containers with said containers equipped to deliver fuel to vehicle fuel tank. Fuel Storage does not include primary fuel tanks on board tractors, combines, semi-tractor or other farm or road legal vehicles.

Water Well: Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, obtaining hydrogeologic information, or extracting water from the underground water reservoir. Water well includes any excavation made for any purpose if groundwater flows into the excavation under natural pressure and a pump or other device is placed in the excavation for the purpose of withdrawing water from the excavation for irrigation (commonly called 'Pit' wells). For such excavations, construction means placing a pump or other device into the excavation for the purpose of withdrawing water for irrigation. Water well does not include;

1. any excavation made for obtaining or prospecting for oil or natural gas or for inserting media to re-pressure oil or natural gas bearing formations regulated by the Nebraska Oil and Gas Conservation Commission
2. any excavation that is used to inject fluid as defined in Nebraska Revised Statutes §81-1502 into the underground water reservoir, or
3. any structure requiring a permit by the Department of Natural Resources used to exercise surface water appropriation. [Neb. Rev. Stat. §46-601.01(1)]

Zoning Matrix

<u>Use Types</u>	<u>AG1</u>	<u>AG2</u>	<u>AT</u>	<u>R</u> <u>R</u>	<u>M</u> <u>H</u>	<u>C</u> <u>3</u>	<u>I</u>	<u>WHP</u> <u>P*</u>	<u>E</u> <u>C</u>
<u>Agricultural Uses</u>									
<u>Horticulture</u> <u>(Greenhouses)</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>C</u>		<u>C</u>	
<u>Feed Mills</u>	<u>P</u>	<u>P</u>				<u>C</u>	<u>P</u>		
<u>Crop Production</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Livestock (<300 HE)</u>	<u>P/L</u>	<u>P/L</u>	<u>P/L</u>					<u>P/L</u>	
<u>Livestock (> 300 HE</u> <u><5,000)</u>	<u>C</u>	<u>C</u>							
<u>Livestock (> 5,000)</u>	<u>C</u>								
<u>Livestock Sales</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>C</u>		<u>No</u>	
<u>Produce Stands</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>		<u>P</u>	
<u>Seed and Feed Sales</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>P</u>		<u>C</u>	
<u>Residential Uses</u>									
<u>Single-Family Detached</u> <u>(Farm)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>	
<u>Single-Family Detached</u> <u>(Non-Farm)</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>			<u>P</u>	
<u>Single-Family Attached</u>				<u>C</u>	<u>C</u>			<u>CLNo</u>	
<u>Duplex</u>				<u>C</u>	<u>C</u>			<u>CL</u>	
<u>Two-Family</u>				<u>C</u>	<u>C</u>			<u>CL</u>	
<u>Townhouse</u>				<u>C</u>	<u>C</u>			<u>CP/L</u>	
<u>Multiple Family</u> <u>Residential</u>				<u>C</u>	<u>C</u>			<u>CP/L</u>	
<u>Group Residential</u>			<u>C</u>	<u>C</u>				<u>P/LN</u> <u>oNo</u>	
<u>Manufactured Home Res</u>	<u>P/L</u>	<u>P/L</u>	<u>P/L</u>		<u>P</u>			<u>P/LP/</u> <u>LC</u>	
<u>Mobile Home Park</u>					<u>C</u>				
<u>Mobile Home Subdivision</u>				<u>C</u>	<u>C</u>			<u>C</u>	
<u>Retirement Residential</u>			<u>C</u>	<u>C</u>	<u>C</u>			<u>NoGN</u>	

								e	
Civic Use Types									
Administration	P	P	P	C	P	P	P	P/LG No	
Cemetery	C	C	P	C	C	C	C	C	
College and Universities			C	C		C		CNoC	
Convalescent Services			C	C				No	
Cultural Services			C	C				NoCN e	
Day Care Services Limited	P	P	P	P	P	P	C	P	
Day Care Services General	C	C	C	C	C	C	P	C	
Detention Facilities			C			C	C	NoGN e	
Emergency Residential Services	C	C	C	C				CCNo	
Group Care Facility			C	C				NoCN e	
Group Home			C	C				NoGN e	
Guidance Services			C	C				CCNo	
Health Care			C	C		P		CCNo	
Hospital			C	C		P		NoGN e	
Maintenance Facilities	C	C	C			C	P	NoGN e	
Parks and Recreation	P	P	P	P	P	P	P	P/L	P/ L
Postal Facilities			C	P	P	P	P	CCNo	
Primary Education Facilities	C	C	C	P	P	C		NoP/ L	
Public Assembly	C	C	C	P	C	C		NoP/ LG	
Religious Assembly	C	C	P	P	P	P	C	CP/L C	
Safety Services			C	C	C	P		CNe	
Secondary Education Facilities	C	C	C	P	P	C		NoP/ LNe	
Utilities	P	P	P	C	C	P	P	No	P/ L
Office Use Types									
General Offices			C	C	C	P	C	C	
Financial Services						P		P/LN e	
Medical Offices			C	C	C	P		C	
Commercial Use Types									
Adult Entertainment						C		CNe	
Agricultural Sales & Services	C	C	C			P	P	No	
Auction Yards and Barns	P	P	P			C	P	No	
Auto Rental/Sales Services						C		C	
Auto Services						C	C	C	
Bed & Breakfast	C	C	C	P/ L				C	
Body Repair						C	C	CNe	
Business Support Services	C	C	C	C		C		C	
Equipment Rental/Sales	C	C	C			C		No	
Equipment Repair Services	C	C				C			

*The WHPP column only applies when public water/sewer is not available.

Use Types	AG1	AG2	AT	R R	M H	C 3	I	WHP P*	EC
Commercial Use Types Cont'd									
Business or Trade Schools	C	C				P		CNe	
Campground	C	C	C		C			CNe	C
Cocktail Lounge						P		CNe	
Commercial Recreation Indoor						C		CNe	
Commercial Recreation			C			C		C	P/ L

Outdoor									<u>L</u>
Communications Services	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
Construction Sales & Services	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>	<u>C</u>	<u>C</u>	
Consumer Services						<u>P</u>	<u>C</u>	<u>E</u>	
Convenience Storage						<u>C</u>	<u>P</u>	<u>E</u>	
Convenience Stores						<u>P/L</u>		<u>E</u>	
Dry Cleaning						<u>C</u>	<u>C</u>		
Food Sales (Grocery Stores)						<u>P</u>		<u>E</u>	
Funeral & Mortuaries Services	<u>C</u>	<u>C</u>	<u>P</u>			<u>P</u>		<u>CNe</u>	
Gaming Facilities						<u>P</u>		<u>CNe</u>	
Golf Courses	<u>C</u>	<u>C</u>	<u>C</u>	<u>P/L</u>				<u>No</u>	
Industrial Equipment Sales	<u>C</u>	<u>C</u>				<u>P</u>	<u>P</u>	<u>CNe</u>	
Kennels	<u>C</u>	<u>C</u>	<u>C</u>					<u>C</u>	
Laundry Services						<u>C</u>	<u>P</u>	<u>E</u>	
Liquor Sales						<u>P</u>		<u>C</u>	
Lodging (Not Bed & Breakfast)						<u>P</u>		<u>C</u>	
Mobile Home/RV Sales and Service			<u>C</u>		<u>P</u>	<u>P</u>		<u>C</u>	
Pet Services	<u>P/L</u>	<u>P/L</u>	<u>P/L</u>			<u>P/L</u>		<u>C</u>	
Research Services	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>	<u>C</u>	<u>CNe</u>	
Restaurants Fast Food						<u>P</u>		<u>C</u>	
Restaurants General						<u>P</u>		<u>C</u>	
Retail Services						<u>P</u>		<u>C</u>	
Stables or Riding Schools	<u>P/L</u>	<u>P/L</u>						<u>E</u>	
Surplus Sales						<u>P</u>	<u>P</u>		
Trade Services						<u>P</u>	<u>P</u>		
Vehicle Storage (short-term)	<u>C</u>	<u>C</u>				<u>P</u>	<u>C</u>	<u>E</u>	
Vehicle Storage (long-term)	<u>C</u>	<u>C</u>				<u>C</u>	<u>C</u>	<u>E</u>	
Veterinary Services	<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>	<u>C</u>	<u>C</u>	
Parking Use Types									
Off-Street Parking						<u>P</u>	<u>P</u>	<u>CNe</u>	
Industrial Use Types									
Agricultural Industries	<u>P/L</u>	<u>P/L</u>	<u>P/L</u>				<u>P/L</u>	<u>C</u>	
Construction Yards							<u>C</u>		
Custom Manufacturing	<u>C</u>	<u>C</u>					<u>P</u>		
Light Industry	<u>C</u>	<u>C</u>					<u>P</u>	<u>E</u>	
General Industry							<u>C</u>	<u>E</u>	
Heavy Industry							<u>C</u>		
Recycling Collection	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>	<u>P</u>	<u>C</u>	
Recycling Processing	<u>C</u>	<u>C</u>	<u>C</u>				<u>P</u>	<u>CNe</u>	
Resource Extraction	<u>C</u>	<u>C</u>	<u>C</u>					<u>C</u>	<u>C</u>
Salvage Services	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>	<u>C</u>		
Warehousing (Enclosed)	<u>C</u>	<u>C</u>	<u>C</u>			<u>P/L</u>	<u>P/L</u>	<u>CNe</u>	
Warehousing (Open)	<u>C</u>	<u>C</u>	<u>C</u>			<u>P/L</u>	<u>P/L</u>	<u>No</u>	
Transportation Use Types									
Aviation Facilities (Airports)	<u>C</u>	<u>C</u>	<u>C</u>					<u>No</u>	
Railroad Facilities	<u>C</u>	<u>C</u>				<u>P/L</u>	<u>P</u>		
Passenger Transportation	<u>C</u>	<u>C</u>				<u>P</u>			
Truck Terminal	<u>C</u>	<u>C</u>				<u>C</u>	<u>P</u>	<u>No</u>	
Miscellaneous Types Uses									
Alternative Energy Production	<u>C</u>	<u>C</u>	<u>C</u>				<u>C</u>	<u>C</u>	
Amateur Radio Tower	<u>P/L</u>	<u>P/L</u>	<u>P/L</u>	<u>P/L</u>	<u>P/L</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
Broadcasting Tower	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
Construction Batch Plant	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>No</u>	<u>C</u>
Home Occupations	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>	
Landfill (non-putrescible)	<u>C</u>	<u>C</u>	<u>C</u>					<u>No</u>	
Landfill (putrescible)	<u>C</u>	<u>C</u>	<u>C</u>					<u>No</u>	
Wind Energy Conservation	<u>C</u>	<u>C</u>	<u>C</u>	<u>P/L</u>		<u>C</u>	<u>P</u>	<u>C</u>	<u>C</u>

<u>Wireless Communication Tower</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
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P = Permitted Use

C = Conditional Use Permit Required

L = Allowed with some Limitations

*The WHPP column only applies when public water/sewer is not available.

A duly advertised hearing has been held by the Madison County Joint Planning Commission and the Madison County Board of Commissioners after a recommendation for approval by the said Joint Planning Commission.

NOW, THEREFORE, LET IT BE FURTHER RESOLVED, that this Resolution shall take effect and be in force no sooner than the 22nd day of July, 2008.

Motion was 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.

Chief Probation Officer Kathryn Liebers and Deputy Director Bob Loewe were present to discuss future office space for the District Two Probation Office. Kathryn Liebers stated that she reviewed the Request for Proposals document prepared by Richard Johnson and her only concern is the requirement that the tenant is responsible for lawn care and snow removal because, in her opinion, the owner should pay these costs. Commissioner Klein responded that other counties share the operating costs including lawn maintenance and snow removal. Kathryn Liebers stated that when she was investigating rental properties, some owners charged \$65 per hour for snow removal and some owners charged \$475 per snow event.

Kathryn Liebers reported that she and Commissioner Klein completed another inspection of the Behavioral Health Specialists building. She explained that a contractor looked at remodeling the building and he couldn't provide a cost estimate because some of the walls in the building are concrete, so it would be difficult to determine if it was suitable for remodeling until a contractor starting on the project. She stated that the prior tenant reported electrical costs of \$11,000, gas costs of \$8,000, water costs of \$600, and termite control costs of \$800 and those costs are a concern. In addition, she reported that replacement of floor coverings would cost between \$18,000 and \$20,000, and painting costs would be between \$12,000 and \$20,000. Ms. Liebers expressed concerns of security, lack of energy efficient windows, rotting doors, rotting wood on the outside of the building, and a courtyard in the middle of the building which has wood rot. She stated that the owner has the listing price at \$490,000 and is offering a triple net lease.

Chairman McCallum stated that Ms. Liebers has spent considerable time investigating various buildings and none of them fit the needs of the Probation Office; therefore, in his opinion, the direction to proceed would be lease or lease/purchase of a new building. Ms. Liebers stated that her concern is that she wants the citizens of the community to understand that this issue is not taken lightly and that she has diligently researched available office spaces in the City of Norfolk. Chairman McCallum stated that the required size of 6,500 square feet is difficult to find and location must also be considered.

Chairman McCallum questioned how long the main Probation Office would be located in Norfolk since it was recently relocated from Wayne. Ms. Liebers responded that the Probation Office has consistently grown in Norfolk during the past 22 years. She stated that Norfolk is the population hub of northeast Nebraska and this is the reason that the main office was relocated.

County Highway Superintendent Richard Johnson reported that he discontinued working on the Request for Proposal document when the Board members told him that they were looking at additional office space. He requested an opportunity to meet with Kathryn Liebers to review the Request for Proposal documents. He explained that the deadline for submission of the proposals is August 19, 2008 and at this time the Board will review and evaluate the proposals and select up to three firms to interview. In addition, he suggested that a special meeting be held on August 26, 2008 to interview the selected firms and that a contract be awarded on September 3, 2008. Mr. Johnson explained that if the building must be completed by June 30, 2009, the groundwork and concrete must be completed before the end of the year.

After discussion, it was moved by Uhlir and seconded by Klein to authorize advertisement for Request for Proposals for District Two Probation Office and set August 19, 2008 as the date for receipt of proposals. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

County Highway Superintendent Richard Johnson reported that he completed additional research on the Spring Branch Drainage project and looked at the possibility of draining the majority of the water north by picking it up one-half mile east of Victory Road and going north with the water through Nucor's property and then over to Spring Branch, which would be shorter route. He stated that this could be done, but one drawback would be a requirement to make a 25 to 30 foot cut through a hill, which is a very big cut to make so the water could flow. He explained that he was looking at taking the water through land owned by J. Paul McIntosh and then taking the water through Nucor's property. In addition, he reported that if the county follows Kirkham Michaels study, a structure will be required similar in size to the one recommended under Victory Road and the Nucor Road. Mr. Johnson reported that there would be between four and seven sets of rails to cross north of the ethanol plant to take the water from the east side of the railroad to the west side of the railroad. He stated that Kirkham Michaels is proposing to go under two rails and this plan would increase that number between four and seven depending upon the final route and at \$500 per foot, this would be very expensive. He reported that, in addition to all this, smaller structures would be required under Victory Road or the existing railroad to carry the run-off of approximately 150 to 160 acres that wouldn't get into this ditch. He explained that he couldn't see any good reason that Nucor would want the water.

Chairman McCallum questioned what was the natural flow of the water and County Highway Superintendent Richard Johnson responded that the natural flow of the water is from east to west. He reported that there have been improvements made in this area that would not allow the exact flow of the water to be followed. Chairman McCallum questioned where the water flowed before the ethanol plant was constructed and County Highway Superintendent Richard Johnson responded that most of the water would sit until it soaked away and some came under Victory Road through a 24" culvert. He stated that there is also a 24" culvert under the north driveway into the gas station and then the water would wander north to the railroad and then back southwest to a 48" culvert under the railroad. Chairman McCallum questioned if there is more drainage now that it takes larger drainage structures to take care of the water flow and County Highway Superintendent Richard Johnson responded that Kirkham Michaels is looking at what is required when the entire area is developed. He explained that the water in this area comes from east of Woodland Park and comes through Woodland Park. He reported that there is still a lot of sand in the area that will allow the water to soak away, but concrete and rooftops will not allow the water to drain away as quickly. He reported that the ethanol plant stated that they provided their own drainage, but in doing this, they took away some of the storage capacity and consequently the water tends to go over the top of their road and Victory Road more often.

Chairman McCallum stated that when you take away from the natural flow of the water there would be fights because people don't want water draining onto their property. Commissioner Klein questioned if a 36" culvert was placed under Victory Road and a 36" culvert under the north driveway of the station, would a 48" culvert under the railroad tracks handle the water flow. County Highway Superintendent Richard Johnson responded that a 48" culvert would handle the current water flow, but as additional development occurs, it may not handle the water flow. He explained that part of the problem is that if additional capacity would be required ten years into the future, the county would be required to pay for the upgrades. Commissioner Klein stated that the county must start at the bottom and obtain easements. He questioned if the property would be in the city limits by the time future development occurs and County Highway Superintendent Richard Johnson responded that he doubted that it would because, in his opinion, the city doesn't have any great desire to run water and sewer to this location. Commissioner Uhlir questioned if anything is designed in the road itself for drainage and County Highway Superintendent Richard Johnson responded that the plans include a triple 10 x 6 box culvert. He reported that the initial Kirkham Michael plans included fourteen 48" pipes to be bored under the railroad.

County Highway Superintendent Richard Johnson requested the Board to recess into executive session for discussion on contract negotiations on the Spring Branch drainage project.

Motion was made by Uhlir and seconded by Klein to recess into executive session for the purpose of contract negotiations. Roll call vote: Ayes, McCallum, Uhlir and Klein. Nays, none. Motion carried. The Board recessed into executive session at 11:29 A.M. with County Highway Superintendent Richard Johnson and County Clerk Nancy Scheer present.

Motion was made by Uhlir and seconded by Klein to recess from executive session. Roll call vote: McCallum, Uhlir and Klein. Nays, none. Motion carried. The Board recessed from executive session at 11:35 A.M.

After discussion, motion was made by Uhlir and seconded by Klein to direct County Highway Superintendent Richard Johnson to continue negotiations with property owners and explore alternative options on the Spring Branch Drainage Project as discussed in executive session. Roll call vote: Ayes, McCallum, Uhlir and Klein. Nays, none. Motion carried.

Planning and Zoning Administrator John Johnson presented the preliminary and final plats of Evergreen Hill 2nd Addition, Phase I, located in Pt. NW¼ Section 19-23-2. He reported that the Planning Commission approved the plats provided that a road would be constructed; however, no decision was made on who would build the road. He explained that the developer would construct any internal roads. He also reported that lots 1 through 5 would be approved with this plat and any lots south of lots 1 through 5 would meet the density requirements; so, if the developer wants to continue with the development of Phase II as shown on the plat, it would need to be developed as a Mixed Unit Development.

County Highway Superintendent Richard Johnson stated that he spoke to the County Commissioners and they indicated that they would build the road because it is a minimum maintenance section line road. He explained that the County Board could decide if the county should build the road or have the developer build the road. He explained that this is a section line road and it would need to be graded and graveled. He stated that if the developer wants to develop a road south of the hill, it would need to be constructed by the developer because it is an interior road within a subdivision. Mr. Johnson stated that the county adopted a resolution approximately 30 years ago that stipulates that if a developer wants to hard surface a road the county would maintain it.

Planning and Zoning Administrator John Johnson questioned if the road located on the south side of the golf course is a county road. Commissioner Klein responded that the road located on the south side of the golf course is deeded to Madison County to the half-mile line; however, the east half is not deeded to the county. County Highway Superintendent Richard Johnson stated that if the county tells the developer to build the road, the decision should be made before the plats are approved.

After discussion, it was moved by Uhlir and seconded by Klein to approve the preliminary and final plats of Evergreen Hill 2nd Addition, Phase I located in Pt. NW¼ Section 19-23-2 with the county to build a gravel road approximately 2,000 feet in length when construction of houses begin. Roll call vote: Ayes, McCallum, Uhlir, and Klein. Nays, none. Motion carried.

The following claims were audited:

GENERAL FUND

Total Net Payroll		105,346.59
Adams County Sheriff	Service Fees, County Court	38.50
Ronald Albin	Legal Services, County Court	220.92
Alegent Health	Medical Services, County Relief	64.53
Alltel	Telephone Services, Planning and Zoning	58.84
Ken Altstadt	Rent, County Relief	250.00
American Family Life Assurance Co.	Insurance Premiums	575.66
Ameritas Life Insurance Corporation	Employee Share Retirement	6,606.32
Ameritas Life Insurance Corporation	Employer Share Retirement	9,699.99
Ameritas Life Insurance Corporation	Insurance Premiums	313.34

Appeara	Mat Service, Public Defender	29.22
Appeara	Mat Service, Courthouse	178.70
Aquila	Gas Service, Courthouse	57.49
Aquila	Gas Service, County Jail	93.12
Aspen Publishing	Publication, Public Defender	121.80
Associated Fire Protection	Inspection, County Jail	161.00
AT & T	Telephone Service, Public Defender	105.92
Tracey Baker	Jury Fees, County Court	51.16
Bankers United Life Assurance Company	Insurance Premiums	9.00
Battle Creek Farmers Coop	Supplies, Fuel, County Sheriff	114.69
Linda Baumann	Jury Fees, County Court	51.16
Dale Beckman	Jury Fees, County Court	51.16
Ryan Beed	Jury Fees, County Court	51.16
Ronald Beyer	Jury Fees, County Court	51.16
BHS	Services, Juvenile Diversion	179.04
BI Incorporated	Monitoring Services, Juvenile Diversion	212.39
Fern Bledsoe	Jury Fees, County Court	51.16
Roman Borer	Jury Fees, County Court	51.16
Brandl Electric	Services, County Jail	655.80
Brogan & Gray, P.C., L.L.O.	Legal Services, County Court	212.17
Brogan & Stafford, P.C.	Legal Services, District Court	1,904.48
Brogan & Stafford, P.C.	Legal Services, County Court	716.70
Cableone	Internet Services, Public Defender	4.95
Carney Law, P.C.	Legal Services, District Court	690.38
Carney Law, P.C.	Legal Services, County Court	2,604.01
Carquest Auto of Norfolk	Repairs, Planning and Zoning	12.41
Central Restaurant Products	Repairs, County Jail	51.50
Central United Life Insurance Company	Insurance Premiums	56.70
Charles Balsiger	Legal Services, District Court	666.38
Melissa Cherington	Jury Fees, County Court	36.01
City of Madison	Utilities, Public Defender	362.39
City of Madison	Utilities, Courthouse	1,499.38
City of Madison	Utilities, County Jail	3,012.49
Marsha Kay Cleveland	Jury Fees, County Court	51.16
Colonial Life and Accident Insurance	Insurance Premiums	92.79
Complete Pest Elimination, Inc.	Services, County Jail	125.00
Connecting Point	Equipment, County Treasurer	338.99
Connecting Point	Equipment, Register of Deeds	374.99
Yawni Conrad	Jury Fees, County Court	51.16
Constellation NewEnergy Gas Division	Utilities, Courthouse	187.72
Constellation NewEnergy Gas Division	Utilities, County Jail	438.02
Copple, Rockey & McKeever, P.C., L.L.O.	Legal Services, County Court	1,652.56
Credit Management Services, Inc.	Garnish of Wages	102.61
Creighton University Medical Center	Forensic Services, Law Enforcement	138.00
Culligan	Repairs, County Jail	96.00
Julie Dahn	Jury Fees, County Court	48.13
DDSS Inc.	Services, County Sheriff	349.08
DDSS Inc.	Services, County Attorney	589.72
DDSS Inc.	Services, County Jail	349.08
DDSS Inc.	Services, Courthouse	228.40
Dent Specialists	Repairs, County Sheriff	148.32
Department of Motor Vehicles	Copies, Law Enforcement	4.00
Richard Drummond	Uniforms, County Sheriff	44.32
Becky Dunlap	Jury Fees, County Court	61.26
Eakes Office Products Center	Supplies, County Attorney	10.68
Eakes Office Products Center	Supplies, Juvenile Diversion	287.00
Eakes Office Products Center	Supplies, County Jail	236.71
David Eckert	Rent, County Relief	250.00
Elkhorn Logan Valley Public Health Department	Administrative Expense	6,346.72
Brian Ellis	Jury Fees, County Court	51.16
Enviromaster, Inc.	Supplies, County Jail	42.00
Faith Regional Health Services	Medical Services, County Relief	154.00
Field's Hardware	Supplies, County Sheriff	35.98
First Concord Benefits Group	Flexible Benefit Plan	1,895.60
Fleet Services	Fuel, County Sheriff	1,630.61
Floor Maintenance & Paper Supply	Supplies, Courthouse	202.43
Floor Maintenance & Paper Supply	Supplies, County Jail	541.87
Frontier	Telephone Services, Public Defender	275.59
Gall's Inc.	Equipment, County Sheriff	146.95
Gall's Inc.	Equipment, County Jail	48.98
GI Trailer	Equipment, County Sheriff	500.00
Gillette Printing	Supplies, County Sheriff	152.00
Gordy's Towing & Repair	Repairs, County Sheriff	32.84
Hartford Life Insurance Company	Deferred Compensation	280.00
Hauge Associates Inc.	Garnish of Wages	128.50
Carolyn Hayes	Jury Fees, County Court	51.16
Jeanette Hintz	Jury Fees, County Court	51.16
Marci Hjorth	Mileage, County Attorney	8.07
IBM Corporation	Equipment Maintenance, County Treasurer	696.00
IBM Corporation	Equipment Maintenance, County Clerk	696.00

Jerry's Standard	Fuel, Repairs, County Sheriff	706.76
Johnson, Morland, Easland, & Lohrberg, P.C.	Legal Services, County Court	2,684.88
Kensington Apartments	Rent, County Relief	365.00
Cynthia Lichliter	Jury Fees, County Court	51.16
Vickie Lorenz	Jury Fees, County Court	51.16
Louderback Drug	Prescriptions, County Jail	4,236.93
Louderback Drug	Prescriptions, Juvenile Detention	17.36
Robert Ludemann	Jury Fees, County Court	59.24
Lon Lura	Jury Fees, County Court	51.16
Madison Ampride Inc.	Fuel, County Sheriff	845.89
Madison County Clerk	Tax Deposit	37,824.46
Madison County Sheriff	Court Costs, Mental Health	151.60
Madison County Sheriff	Court Costs, County Court	526.66
Madison County Veterinary Clinic	Services, County Sheriff	40.00
Catherine Maly	Jury Fees, County Court	51.16
Beverly Mauch	Jury Fees, County Court	51.16
Maximus Inc.	Consulting Fees, Courthouse	1,634.79
Christal McDonald	Court Reporting, Mental Health	50.00
Mel's Repair	Repairs, County Jail	2,559.78
Microfilm Imaging Systems Inc.	Supplies, Register of Deeds	28.50
Mid-Nebraska Communications	Repairs, District Court	275.00
Midwest Plumbing & Heating	Repairs, County Jail	295.58
MIPS	Computer Support, County Treasurer	855.13
Morrissey Motor Company	Repairs, Reappraisal	28.15
Nebraska Child Support Payment Center	Garnish of Wages	505.84
Nebraska Health & Human Services	State Institutions Funding	1,095.00
Nebraska Public Power District	Utilities, Planning and Zoning	99.87
Nebraska Public Power District	Utilities, County Relief	164.00
Nebraska State Treasurer	Transcript, District Court	81.25
David Negus	Jury Fees, County Court	69.34
Newman Grove Memorial Funeral Home	Burial, County Relief	1,200.00
NMG, LLC	Medical Services, County Jail	1,667.00
Norfolk Daily News	Publication Costs, Courthouse	283.25
Northeast Medical Imaging	Medical Services, County Relief	32.00
Northeast Nebraska Cardiology	Medical Services, County Jail	576.00
Matthew Nykodym	Jury Fees, County Court	51.16
Norm Nykodym	Lawn Services, Public Defender	153.00
Mary Kathleen O'Brien	Jury Fees, County Court	51.16
Vicki O'Banion	Jury Fees, County Court	51.16
Valorie Olson	Transcript, Law Enforcement	89.40
Valorie Olson	Court Reporting, Mental Health	100.00
PS Repair	Repairs, County Sheriff	150.48
William Dean Petersen	Jury Fees, County Court	51.16
Puppy Love	Impound Fees, County Sheriff	100.00
Qwest	Telephone Service, County Jail	17.66
Racom Corp	Equipment, County Sheriff	3,410.50
Region 4 Behavioral Health System	Quarterly Funding	14,187.50
Kimberly Reinke	Jury Fees, County Court	51.16
Renner's Cleaning Service	Services, Planning and Zoning	271.22
Salt Lake County Sheriff	Service Fees, District Court	57.50
Marsha Schilousky	Jury Fees, County Court	51.16
Schroeder Land Surveying	Services, County Surveyor	2,384.00
Shell Fleet Plus	Fuel, Reappraisal	248.55
Shoppers Express	Supplies, County Relief	45.00
Short Stop	Fuel, County Sheriff	812.43
Joseph Smith	Mileage, Law Enforcement	228.46
Stanton County Court	Copies, Law Enforcement	2.75
State of Nebraska DAS IMServices	Data Processing Costs, County Sheriff	1.88
State of Nebraska HHS Laboratory	Services, Law Enforcement	39.21
Michelle Sullivan	Mileage, Juvenile Diversion	247.82
Dale Taylor	Interpreting Services, Public Defender	67.50
Todd Timmerman	Jury Fees, County Court	51.16
Trane US Inc.	Service Agreement, Courthouse	435.78
David Uher	Legal Services, County Court	4,866.49
Brian VanDiest	Jury Fees, County Court	51.16
Lynne Volker	Jury Fees, County Court	48.13
Walgreens Pharmacy	Prescriptions, County Relief	502.99
Walmart Community	Supplies, Reappraisal	114.15
Melissa Wentling	Software, Public Defender	99.98
Western Office Plus	Supplies, County Clerk	16.68
Western Office Plus	Supplies, County Assessor	17.34
Western Office Plus	Supplies, County Sheriff	374.90
Western Office Plus	Supplies, County Attorney	53.07
Western Office Plus	Supplies, Law Enforcement	981.96
Ron Westlake	Equipment, County Sheriff	250.37
Steven Wind	Jury Fees, County Court	51.16
WJAG/KEXL	Rent, County Jail	1,000.00
Joseph Wragge	Jury Fees, County Court	51.16
Zee Medical Service	Supplies, County Sheriff	19.90

ROAD/BRIDGE FUND

Total Net Payroll		25,389.20
Alltel	Telephone Services, District #2	83.13
American Family Life Assurance Company	Insurance Premiums	258.12
Ameritas Life Insurance Corporation	Employee Share Retirement	1,540.65
Ameritas Life Insurance Corporation	Employer Share Retirement	2,311.00
Ameritas Life Insurance Corporation	Insurance Premiums	81.92
Appeara	Towel Service, District #1, #2	167.33
Aquila	Gas Service, District #1	39.56
Asphalt and Concrete Materials Company	Asphaltic Materials, District #1	273.28
Bankers United Life Assurance Company	Insurance Premiums	44.57
Battle Creek Farmers Coop	Fuel, Repairs, District #1, #2, #3	22,799.01
Bauer Built Inc.	Repairs, District #2, #3	2,035.43
BC Pit Stop LLC	Repairs, District #3	39.00
Carquest Auto of Norfolk	Repairs, District #2	13.59
Central Sand & Gravel Company	Gravel, District #1	4,651.25
Colonial Life and Accident Insurance	Insurance Premiums	90.11
Computer Doctors	Services, District #1	65.00
Constellation NewEnergy Gas Division	Gas Service, District #1	23.83
D.W. Kohlhof Truck Repair	Repairs, District #2	1,197.17
Dell Marketing LP	Software, District #3	147.90
Elkhorn Valley Sand & Gravel	Gravel, District #2	2,150.00
Farm Plan	Repairs, District #3	422.95
First Concord Benefits Group	Flexible Benefits Plan	492.27
Hartford Life Insurance Company	Deferred Compensation	40.00
Heartland Fire Protection	Inspection, District #2	214.50
Husker Steel Inc.	Bridge Materials, District #3	6,312.00
Johnson Engineering Company	Engineering, Bookkeeping Services, District #1, #2, #3	12,625.00
K & C Grain	Gravel, District #2	763.71
Kayton International, Inc.	Repairs, District #3	49.52
Linweld Inc.	Supplies, District #3	73.90
Loup Power District	Utilities, District #1	70.38
M & M Farm Supply	Repairs, District #1	54.34
Madison County Clerk	Tax Deposit	8,637.70
Matteo Sand & Gravel Co. Inc.	Gravel, District #1, #2, #3	13,309.79
Meisinger Oil Co. Inc.	Fuel, District #1	11,998.67
Nebraska Child Support Payment Center	Garnish of Wages	230.77
Nebraska Harvestore System	Repairs, District #1	142.85
Nebraska Machinery Company	Repairs, District #3	32.86
Nebraska Public Power District	Utilities, District #2	115.44
Norfolk Office Equipment	Supplies, District #3	26.51
Norfolk Specialties Inc.	Repairs, District #2	10.00
Norfolk Winair Company	Repairs, District #2	164.75
Powerplan	Equipment Rental, Repairs, District #2	2,051.36
Red Bud Inc.	Supplies, District #3	127.30
Rose Equipment Inc.	Repairs, District #2	169.12
Swarco-Reflex, Inc.	Paint, District #1, #2, #3	4,456.00
The Grove	Fuel, District #1	279.19
Truck Center of Norfolk	Repairs, District #2	305.20
WJAG/KEXL	Radio Tower Rental, District #1, #2, #3	198.00

FEDERAL AID SECONDARY FUND

Central Sand & Gravel Company	Gravel	2,425.12
K Porter Construction, Inc.	Grading	91,735.52
Meisinger Oil Co. Inc.	Fuel	12,675.32

VISITORS PROMOTION FUND

Norfolk Area Chamber of Commerce	Administrative Expense	11,147.49
Shell Creek Valley Days	Grant	500.00

VISITORS IMPROVEMENT FUND

Clear Channel Radio-Omaha	Advertising	1,500.00
Cumulus Broadcasting	Advertising	900.00
Norfolk Daily News	Advertising	1,654.11
NRG Media	Advertising	1,485.00
Three Eagles Communications	Advertising	1,224.00

CDBG #2 FUND

Northeast Nebraska Economic Development District	Loan Proceeds	32,275.00
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LAW ENFORCEMENT OPERATING FUND

AAA Midwest Equipment Co.	Repairs	8,577.00
Madison County Sheriff	Supplies	176.05
T-Netix	Telephone Services	5,250.00

NOXIOUS WEED FUND

Total Net Payroll		1,991.96
Ameritas Life Insurance Corporation	Employee Share Retirement	75.38
Ameritas Life Insurance Corporation	Employer Share Retirement	113.09
Cableone	Internet Services	49.00
DAS Central Finance	Telephone Services	45.47
Eudell Feldman	Mileage	57.36
Graham Tire Norfolk	Repairs	15.90
HSBC Business Solutions	Supplies	130.48
John's Disposal	Garbage Service	26.00
August Klug	Mileage	4.10
Madison County Clerk	Tax Deposit	580.79
Nebraska Public Power District	Utilities	40.88
Norfolk Daily News	Publication Costs	7.20
Earl Reeves	Mileage	26.85
Orin Rinkel	Mileage	11.70
C.J. Rudnick	Meals	47.34
Van Diest Supply Company	Chemicals	746.24

911 EMERGENCY FUND

Geocomm Inc.	Services, Training	683.32
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Motion was made by Uhlir and seconded by Uhlir to approve the claims as audited and to authorize that checks be drawn for payment. Roll call vote: Ayes, McCallum, Klein and Uhlir. Nays, none. Motion carried.

The Board adjourned at 11:50 P.M. to Tuesday, August 5, 2008 at 9:30 A.M.

County Clerk

Chairman