

Minutes

July 11, 2022

Planning Commission Meeting

The agenda for this meeting was posted in the legal paper of record, the Plattsmouth Journal, on July 7, 2022.

The Chairman, Alan Mueller, opened the public meeting at 7 pm & stated that the open meetings act is posted on the wall. Planning Commission Members Althouse, Tesar, Staben, Mueller, Oehlerking, Felthousen and Widick met as advertised. Sullivan & Dennis was not present.

Mueller asked for additions or corrections to last month's minutes. Since nobody had any, Althouse made a motion to approve the June 13, 2022 minutes as read. Seconded by Widick. A voice vote followed with all present voting aye. Mueller stated that the first item on the agenda – Rick Yoder, an OPPD Board Member wished to speak on his view of the Solar Project. Yoder came up and introduced himself. His prospective on solar projects are unique and he thought they might like to hear his views. He shared his work and community background and stated that his view are his own. He appreciates the work and time put into the regulations for future solar projects. He believes the demand for electric has gone up. His worry is we may miss a very real opportunity to benefit this county with solar. He's concerned that if this doesn't pass, that OPPD would have to develop solar on its own. His hope is that we are making decisions in the county that benefits the landowners and the county as a whole. He believes that the approval for solar in Cass County would provide an economic benefit, an environmental benefit, a quality of life benefit, a power and reliability benefit and will protect landowner rights. He then asked if anyone had any questions or comments. Felthousen stated when he said he was concerned about power – and the future of Cass County – what's changed? What's different than 2 – 5 years ago? Yoder stated that he's been watching closely since 2017 and a lot has changed. Ft. Calhoun generation was to close down in 2016, units in Omaha were to be either refueled or closed down, Sarpy County has seen a lot of increase in load including the data centers – but also manufacturing concerns. It's a growing, diverse economic base. OPPD has a requirement to serve that load. Felthousen asked if OPPD was doing any other projects. Yoder stated that they were – two gas fire plants were added – one in Sarpy and one in Douglas counties. However, gas fire is not intended to replace nuclear or coal fire power – it acts more like a battery for storage. Felthousen asked if there were any other counties in NE/IA that were doing any other projects in this element. Yoder stated that they serve 13 counties in NE – none in IA. This is the only big solar opportunity that is going on in those 13 counties. He stated that the solar was a perfect opportunity for counties to diversify their lands. Mueller asked about Texas experiencing record heats and they were asking people to conserve – are we part of that Southwest Alliance? He said we are independent of the Southwest Alliance power for electric. Widick asked about small nuclear reactors. He stated the small nuclear reactors are not far away. Felthousen asked if the solar passed, where would that put the county? Yoder stated that according to the 2019 Power with Purpose we would require up to 600 megawatts of solar and 600 megawatts of gas. He stated that if we are at 300 megawatts for each – depending on where we are with putting solar in TA or AG – if it generates only 300 megawatts then we are half way where we need to be. Mueller asked if there were any more questions. Since there were none, he moved on to item two on the agenda.

The second item on the agenda is the Regulations update – as an action item. Mueller asked if he had received anything from Jeff Ray from JEO Consulting on that. Jensen stated that he received something on Friday but he was going through it and making changes and revisions before he shares it with the Planning Commission. Mueller asked Jensen to please send it out to everybody – Tesar in particular so they can review it. Mueller then asked for a date that they can get together on one of the County Commissioner's meeting to discuss TA commercial solar and setbacks for both AG and TA and density in AG and TA.

Discussion continued about 1 per 40 in AG with no density requirements and the 1 per 20 in TA. Tesar stated that we need to come up with some ideas on how we can subdivide this land yet not create a subdivision. Mueller asked if they even need to have an administrative lot split in a quarter – his concern is that if you have 2 80-acre parcels in a quarter in AG and one owner wants to do 3 lots in that 80 acres, then the owner of the other 80 will never be able to subdivide his. Tesar stated this is why they kept the 1 split per 40 rule. Jensen stated that the only exception would be on a homestead. If there is an existing homestead that needed to be split out, they would have a provision for that. Althouse asked why that would be their 1 per 40? Felthousen stated that would be their 1 per 40. Mueller stated that would be in addition to their 1 per 40. Althouse stated that it should be part of it. They all decided that there would be no exceptions. Discussion followed. Jensen stated that he can split off three lot administratively in TA. Since they are looking at changing the 1 per 20 in TA, Tesar stated they could possibly do three 3.3 acre lots in a 10 acre parcel administratively. Over three lots will have to come in for a Conditional Use permit. They would also have to decide what they want to require in these subdivisions. Roads, rural water, wells, access, easements would be some of the possible

requirements. Jensen requested a meeting with Tesar sometime within the next couple week to go over the 1 per 20 in TA. Mueller then asked for any public comments on AG or TA. Since there were none, they moved onto MUD. Jensen stated that the discussion last month about deleting the MUD's. He stated Ray had a system worked out for allowing some activities in residential with a "C" in the Matrix. Jensen stated that he went through and deleted some of those out of there that he didn't feel was needed. Things like daycares, church, schools should be left in there. The compatible use categories were removed from each section. With regard to the solar – the CSCS and neighborhood solar were combined in the Matrix. Jensen believes that this is where the error came about with the "C" in the Matrix. In the August Board of Commissioners meeting, they voted to allow this in AG but not in TA. He believes there needs to be more discussion about putting this in TA - His recommendation is to allow it in TA but with additional setbacks as discussed in the last meeting. The 300 foot number came up to any other residential use. Althouse asked if that would be variable if it's not visible to an area because of topography. Screening barriers are 500 feet either direction from a residential use. In TA, it's 300 feet. In AG, it's 30 feet from the property line. Mueller then asked if there was anyone to speak on the Solar in TA. 3 people came up and spoke. Their comments included:

- Kindly consider adding Solar to help expand the Conestoga School district.
- As a participating landowner, they have no problem with the 300-foot setback or the possibility of a waiver for the setbacks and is in support of the project.
- Took the tour at the Ft. Calhoun plant – sound could not be heard outside the fence.

Lee Greenwald with Baird Holm Law firm came up to speak, supporting the discussion on solar in the TA districts. He believes the proposal to authorize it in the TA district with additional setbacks of 300 feet is an excellent proposal. It involves common sense development while providing extra protection in that district. It also allows for the County, its landowners, the schools and other taxing jurisdictions therein to realize the benefits that they discussed. He believes that when it comes to Zoning Regulations, private property rights are paramount. Legally the Zoning Regulations must infringe on those private property rights only as minimally necessary to protect public health, safety and welfare. Tesar stated that he would like some definitive answers about the ability to farm on the remaining land. Greenwald stated that this is the land owners' decision. Tesar asked if they would be able to farm it. Matthew Jones with NextEra came up to answer this question about the 35% GTR (ground coverage ratio). He stated if you were to put all the panels side by side - and put them on as few acres as you could – you would only cover 35% GTR – but at the end of the day it is they are spread out a little bit more than that. So more than 50% of the land would be covered with infrastructure. He stated that any land not used outside of the fenced area can be farmed. Mueller asked if the farmers decide to not farm what is outside of the fence, will they provide ground cover for these areas. Jones stated that they wouldn't excavate that area so it will stay as is. He stated that they are trying to disturb as little land as possible. It will be mowed and maintained within the fenced areas – locally hired people to maintain the land. Althouse asked how much noise comes off of the transformers. He said that it does make some sound, but once outside of the fenced area, it sounds like a fan running. The buffers will also assist in keeping the noise down. Mueller asked if there was anyone else that had comments or wished to speak on this. Mueller mentioned the transmission lines and the capability of transferring the power to get it on the grid is generally in TA. If they had to build it in AG in a more remote area and place the lines in easements would basically take this out of the economic impact to make it a successful project. That would explain why you see these in Saunders and Lancaster counties in TA. Jones stated that they would try to be as close to the highway of energy as possible because it's expensive to build transfer lines. The unique situation here with the peaker plant is that there's infrastructure that's there that can be used and being close by - along with some of the land owners being close to that area - it's the perfect opportunity to build a project around that peaker plant. If moved away from that peaker plant it will increase the cost of the project. Felthousen asked what the general public benefit by this project. Michaela Valentin, Government & Community Relations Manager with OPPD came up to respond to this question. She stated that the general public get reliability and resilience on their electrical grid by having a diversified energy portfolio. They don't have to deal with brownouts or blackouts. Felthousen asked how to communicate that – how do you guarantee that? She stated that they are letting the general public know that – they have a strategic initiative that's called "Power with Purpose" – they have talked about it over the last year and it is on their website. They hold community events and meetings to communicate this to the general public. They are also doing a battery project in Weeping Water. They do have Conditional Use permits in other counties that have been approved. Jensen asked about the battery project in Weeping Water. He stated that he believes that project will have one megawatt of storage which will provide one hour of cushion on that part of the grid. Valentin stated that the Weeping Water battery project is a very small battery backup that will provide up to two megawatts of storage. She stated they want to test the technology to see how long it will provide backup. She said they would keep us informed on that. Mueller then asked if anyone else would like to speak. He then asked Jensen for the next item.

Jensen stated that they discussed Storage Facilities last month – they were going to limit them to the TA areas. He stated that they may still be viable in the AG areas also. So the “C” for Conditional Use for Storage Facilities can be put back in the Matrix under AG. Mueller had one more question for Jones – he asked about Site Line Analysis video showing what you would see from the road with a solar facility. Jones stated he is working with a company that is producing a video of what that would look like. Jensen stated that the Site Line Analysis at each residence would be critical for Commissioners to do any variance on the 300 foot setback. Greenwald came up to clarify the screening requirements. He stated – as written – it states if the house is within 500 feet then you screen the area perpendicular to the residence. You don’t screen 500 feet on either side. You only screen if you are within the 500 feet along the property. Mueller asked if there were any more questions or comments. Since there was none, Mueller made a motion to get on the *July 26th (see note below) Commissioner’s meeting agenda to discuss TA and Commercial Solar and the density of AG and TA for minor subdivisions or lot splits. Seconded by Felthousen. A roll call vote followed with the following votes: Althouse – aye; Widick – aye; Oehlerking – aye; Mueller – aye; Staben – aye; Felthousen – aye; Tesar – aye. Motion carried with a 7 to 0 vote. Mueller then ask Jensen if he had anything else. Short term rentals was brought up. Jensen stated the general concession was to have them in the Regulations and let the Homeowner Associations decide whether they want them there or not. He stated that not having them in the Regulations at all it basically says that they aren’t allowed at all. Felthousen asked if it’s not in the regulations, then it’s not allowed at all? Jensen stated that there are no provisions for them. Jensen stated that the short term rentals addresses the Airbnb’s and the Bed and Breakfasts. He stated that he doesn’t want to regulate them necessarily, but he doesn’t think they can be restricted either. Althouse asked how many we have in the county now. Jensen stated he couldn’t tell him. Historically, Airbnb’s have not been regulated by local authorities – it’s strictly been one of those things that’s allowed in somebody’s home – if you want to let somebody else stay there overnight –that’s your right. He stated that in the neighborhoods that have HOA they can be a problem because people want to know who their neighbors are. His opinion is it should be up to the HOA to regulate or decide if they want them. All Planning Commissioners agreed on adding the short term rentals to the regulations. Mueller suggested adding it to the list of items to discuss with the Board of Commissioner’s at the meeting. Mueller asked Jensen if he had anything else. Jensen stated that the errors and inconsistency in the regulations that Ray submitted were time consuming things that he’s editing and Tesar would be a part of that also. He just wants to end up with a quality document in the end. Since there was nothing else on the agenda, Mueller made a motion to adjourn. Seconded by Tesar. A voice vote followed with all voting aye.

Meeting adjourned at 8:25 pm.

Linda Brouhard
Recording Secretary

***NOTE* The July 26 meeting date was an error. The actual meeting date will be August 2, 2022.**

***The August 8, 2022 Planning Commission meeting will be at the Courthouse in the Commissioner’s Room due to the Cass County Fair dates.**

*These minutes will not be approved until the next Planning Commission Meeting and are subject to change.