

NANCE COUNTY PLANNING AND ZONING COMMISSION

Meeting Minutes January 20, 2015

Agenda Item 1 – Call to Order

A meeting of the Nance County Planning & Zoning Commission was called to order by Chairperson Chuck Delancey at the Nance County Courthouse in Fullerton, Nebraska on Tuesday, January 20, 2015 at 6:00 p.m. Meeting notice was given by publication in the January 7, 2015 editions of *The Nance County Journal* and *The Genoa Leader-Times*, and an agenda was made available at the office of the Zoning Administrator and on the Zoning website. Delancey acknowledged the posted Open Meetings Act.

Agenda Item 2 – Roll Call

The following quorum of Commission members was present and answered roll call: Chuck Delancey, John Cieloha, Dennis McCoig, Lynn Belitz, and Delmer Wondercheck. Arriving after the minutes were approved was Pat Connelly. Absent were Roy Guisinger (excused), Brett Houtby, and Galen Frenzen.

Present from the public were Mr. and Mrs. Jack Dailey, Jim Knopik, Bob Small, Emil Dubas, and Al Wemhoff.

Agenda Item 3 – Minutes

Minutes from the August 18, 2014 meeting had been mailed in advance and were briefly reviewed. McCoig made a motion to approve the minutes as presented. Seconded by Wondercheck. Ayes by roll call: 5. Nays: 0. Absent: 4. Motion carried.

Agenda Item 4 – Public Hearing

Application for a Conditional Use Permit by JSMM Farms to stockpile and apply manure and compost from Boone County to parts of sections 2-16-8, 1-16-8, 6-16-7, and 13-16-8 in Cottonwood Township, Nance County. Present on behalf of JSMM Farms (aka Niewohner Farms) was Jack Dailey.

The application for a CUP had been mailed to the Commissioners in advance of the meeting. Delancey asked if “compost” could be removed from the application, given recent issues in Nance County with the Chamness compost. Dailey explained that the composting will be done at their plant in Boone County and brought to Nance County fully cooked, therefore odorless. He also described the process and benefits of composting, and passed around a photo of the machine used to turn the compost pile for proper aeration.

During discussion, Baldrige clarified for the Commission and guests that this application did not involve Chamness’ Soil Builder products -- that this was strictly about feedlot manure, for which we’ve never had any issues or complaints. Dailey added that their compost contained manure and cornstalks, nothing else.

Knopik said that he was sold on the compost, but that he objected to leaving manure stockpiled. Delancey pointed out that Highland Feeders is in Nance County and can haul/stockpile manure without even getting a permit, adding that the JSMM application was for the same product. After some back and forth, Dubas said that the applicant was a “good neighbor” and that he trusted them. Delancey proposed an annual review of the CUP, and discussion was held on the merits of annual review vs. perpetual permitting unless a complaint was brought before the Commission.

Wondercheck made a motion to approve the CUP as perpetual with no conditions. McCoig seconded. Ayes: 6. Nays: 0. Absent: 3. Motion carried.

Agenda Item 5 – Old Business

- a. Report on Supervisors’ decision regarding Soil Builder CUPs



Nance County Planning and Zoning Minutes



Baldrige reported that the Supervisors agreed with all of the terms and conditions recommended by the Zoning Commission for future CUP applications for Soil Builder I and II.

b. Report on research re. regulating noise from airboats

Baldrige reported that her research revealed that the Zoning Commission has no authority to regulate airboat noise on the Loup River, either within or without Fullerton's ETJ. Citizens concerned with the noise should take the matter up with the Fullerton City Council.

c. Report on zoning inserts in tax statements

Baldrige reported that the new zoning inserts were sent to every person who owns property in Nance County, and that there has already been an increase in zoning inquiries and applications, even from people who have never applied for a permit before. The Commissioners felt that this was a good and positive move that should be continued annually.

d. Update on Preferred Sands' compliance with visual/aural barrier regulation

Baldrige reported that she is working with new people at Preferred who seem committed to bringing the plant into compliance with the zoning regulation that requires a visual/aural barrier for extractive operations. Connelly expressed concern that a tree line to the north of the plant, between Highway 22 and Preferred's new truck holding lane, might not be able to meet our 83' setback, and additionally, may cause problems with visibility for truckers turning onto Highway 22 from the plant. Baldrige will bring both concerns to the attention of her contacts at Preferred when they begin developing their plans.

e. Discuss LFC designation / Steven Martin (Dept. of Ag) comments on our regs

Baldrige told the Commission about Steve Martin's review of our LFO regulations. While the Dept. of Ag maintains that they neither could nor would require that the county change its regulations to qualify for LFC designation, they *would* ask that we justify various elements of our regulations that are inconsistent with what they consider to be Livestock Friendly. Those things to be justified include:

- making a distinction between Open Lot ops and ECH ops, including having a greater setback distance for ECH ops
- having no cap on the 1.5' setback per AU for ops over 5,000 AUs
- prohibiting LFOs south of the Loup River

Everyone that spoke, including members of the public, felt that: LFC designation just opens the county up to mega hog producers; that we're already livestock friendly in Nance County (Dailey said "actions speak louder than words" and that what the Commission did tonight in approving the JSMM CUP demonstrates that we're livestock friendly); that Nebraska is already #1 in cattle production; and that LFC designation was just cosmetic and would achieve nothing.

Connelly made a motion that we neither seek LFC designation from the state nor self-designate as some other counties have done -- that we leave things as they are. Seconded by Wondercheck. Ayes: 6. Nays: 0. Absent: 3. Motion carried. Baldrige will tell the Supervisors, whose decision this really is, about the Commission's feeling on the matter.

Knopik thanked the Commissioners for their years of participation on this board, and for their protection of the public. He said the Commissioners put in a lot of time and demonstrated commitment to this board, and that it means a lot to the public.



On January 13, 2015, the Board of Supervisors made the following zoning re-appointments for 3-year terms (2015 - 2018):

- Chuck Delancey
- Galen Frenzen
- Delmer Wondercheck

Agenda Item 7 – Other

State statute requires adoption of a Comprehensive Plan that contains an Energy element by January 1, 2015. We have an updated Comp Plan that was prepared by Hannah:Keelan but never adopted. Baldrige asked the Commission to review the Comp Plan in advance of the next meeting so that in February we can make revisions if necessary and send a recommendation to the Supervisors for adoption of the Comp Plan.

Agenda Item 8 – Next Meeting

The next meeting is scheduled for Tuesday, February 17, 2015 at 6:00 p.m.

Agenda Item 9 – Adjournment

Cieloha made a motion to adjourn the meeting at about 7:30 p.m. Seconded by Connelly. There were no objections.

SUBMITTED BY:

AFFIRMED BY:

Commission Secretary

Commission Chairperson

NANCE COUNTY PLANNING AND ZONING COMMISSION

Meeting Minutes February 17, 2015

Agenda Item 1 – Call to Order

A meeting of the Nance County Planning & Zoning Commission was called to order by Chairperson Chuck Delancey at the Nance County Courthouse in Fullerton, Nebraska on Tuesday, February 17, 2015 at 6:00 p.m. Meeting notice was given by publication in the February 4, 2015 editions of *The Nance County Journal* and *The Genoa Leader-Times*, and an agenda was made available at the office of the Zoning Administrator and on the Zoning website. Delancey acknowledged the posted Open Meetings Act.

Agenda Item 2 – Roll Call

The following quorum of Commission members was present and answered roll call: Chuck Delancey, John Cieloha, Delmer Wondercheck, Roy Guisinger, and Brett Houtby. Arriving after the minutes were approved was Lynn Belitz and Galen Frenzen. Excused from the meeting was Dennis McCoig. Absent was Pat Connelly.

Three members of the public were present.

Agenda Item 3 – Minutes

Minutes from the January 20, 2015 meeting had been mailed in advance and were briefly reviewed. Cieloha made a motion to approve the minutes as presented. Seconded by Wondercheck. Ayes by roll call: 5. Nays: 0. Absent: 4. Motion carried.

Agenda Item 4 – Old Business

Wrap-up of LFC designation discussion. (Note: This had been agenda item 5 but was moved up on the agenda because of interest from members of the public.)

Baldrige advised the Commission that the Board of Supervisors decided that Nance County will not seek Livestock Friendly County designation.

Agenda Item 5 – New Business

LB 106 - "Livestock Operation Siting and Expansion Act." (Note: This had been agenda item 6 but was moved up on the agenda because of interest from members of the public.)

Baldrige told the Commission about LB 106. This bill was crafted by members of the Nebraska Cattleman's Association, the Nebraska Farm Bureau, the Nebraska Association of County Officials, some county board members, and some zoning administrators.

If passed, this bill would give the governor the authority to appoint a committee to create a siting matrix that all counties must use when considering applications for CUPs for LFOs/CAFOs. If a county denied a CUP, the applicant could appeal the decision to an appointed state review board that would consider the application. That board would have the authority to overrule a county's decision, and that board's decision would be binding. Counties could appeal the board's decision to District Court, where they would have to provide evidence that their decision to deny the permit was not "unreasonable, arbitrary, or an abuse of discretion." Many zoning administrators feel that this bill would render county regulations irrelevant and give control of LFO/CAFO siting to the state.

Baldrige and Guisinger watched the first legislative hearing on LB 106 on February 12. Baldrige described some of the testimony both in favor of and in opposition to the bill.

Frenzen spoke in favor of LB 106, citing a Nebraska Cattleman's Assn. synopsis of the bill. He said that the Center for Rural Affairs and the Nebraska Farmer's Union were the only organizations opposed to the legislation. He said that it's not all about mega hog units; it's about creating opportunity for future farmers to return to the family operation and have a prospect for success. LB 106 would create a uniform structure for livestock siting operations and let producers know what to expect before they spend the time and money applying for a permit.

The commissioners discussed our livestock regulations, noting that perhaps we should make some changes: maybe 300 AUs isn't big enough anymore for livestock operations that can exist without obtaining a permit; maybe having different regulations for ECH vs. Open Lot operations is no longer necessary; maybe we shouldn't be prohibiting LFOs/CAFOs south of the river and instead leave that matter to NDEQ to regulate; maybe our setbacks should be revisited. The commission will discuss these things further when it prepares the new zoning regulations for adoption.

Baldrige told the commission that the Board of Supervisors at their February 10 meeting decided that they would remain impartial on this legislation and just see what happens. Wondercheck moved that the Nance County Zoning Commission send a letter to the senate committee that is reviewing this bill to express the commission's opposition to the legislation. Guisinger seconded, noting that we want to keep local control and not be required to defer to the state's guidelines. Ayes: Delancey, Cieloha, Belitz, Houtby, Wondercheck, and Guisinger. Nays: Frenzen. Absent: two. Motion carried. Baldrige will craft a letter and send it to the commission for approval before she sends it to the senators.

Agenda Item 6 – Public Hearing

Comprehensive Plan review / recommendation for adoption. The commission discussed proposed revisions to the Comprehensive Plan that was prepared by Hanna:Keelan in 2012. After discussing the various changes, Frenzen made a motion to recommend to the Board of Supervisors that they adopt the Comp Plan with the proposed revisions. Seconded by Cieloha. Ayes: 7. Nays: 0. Absent: 2. Motion carried.

Agenda Item 7 – Other

None

Agenda Item 8 – Next Meeting

The next meeting is scheduled for Monday, April 20, 2015 at 6:00 p.m. unless otherwise notified.

Agenda Item 9 – Adjournment

Meeting adjourned without objections.

SUBMITTED BY:

AFFIRMED BY:

Commission Secretary

Commission Chairperson

NANCE COUNTY PLANNING AND ZONING COMMISSION

Meeting Minutes April 13, 2015

Agenda Item 1 – Call to Order

A meeting of the Nance County Planning & Zoning Commission was called to order by Chairperson Chuck Delancey at the Nance County Courthouse in Fullerton, Nebraska on Monday, April 13, 2015 at 6:00 p.m. Meeting notice was given by publication in the April 1, 2015 editions of *The Nance County Journal* and *The Genoa Leader-Times*, and an agenda was made available at the office of the Zoning Administrator and on the Zoning website. Delancey acknowledged the posted Open Meetings Act.

Agenda Item 2 – Roll Call

The following quorum of Commission members was present and answered roll call: Chuck Delancey, John Cieloha, Delmer Wondercheck, Roy Guisinger, Dennis McCoig, Galen Frenzen, and Pat Connelly. Arriving after the first public hearing was Brett Houtby. Absent was Lynn Belitz.

Also present were nine members of the public.

Agenda Item 3 – Minutes

Minutes from the February 17, 2015 meeting had been mailed in advance and were briefly reviewed. Guisinger made a motion to approve the minutes as presented. Seconded by Wondercheck. Ayes by roll call: 7. Nays: 0. Absent: 2. Motion carried.

Agenda Item 4 – Public Hearings

- a. Application by Mike Ridder for a Conditional Use Permit to spread manure from Merrick County at NW ¼ 22-16-5 in East Newman Township, Nance County

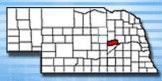
Baldrige told the Commission that Ridder's permit application was in order and was accompanied by all required documentation. Ridder answered questions from the Commission about his intentions regarding timeline, among other things. Baldrige told Ridder that this permit would be perpetual, and the Commission clarified that the permit applied only to the specific section indicated in the application.

Connelly made a motion to recommend approval of the CUP to the Board of Supervisors. Seconded by Frenzen. Ayes by roll call: 7. Nays: 0. Absent: 2. Motion carried.

- b. Proposed amendments to Nance County Zoning Regulations pertaining to Livestock Feeding Operations

Discussion included:

- Breeding operations vs. feedlots – make a distinction so that a different number of AUs triggers the need for a CUP?
- Increase the livestock holding period (currently 90 days) that triggers identification as an LFO?
- Implement the ability for the P&Z Commission to grant exceptions during times of drought?
- Why the distinction between setbacks for ECH operations and Open operations?
Odor with lagoons vs. manure piles
- If you have 299 AUs on one parcel and 299 AUs on an adjacent parcel, are they considered two separate operations or one larger operation? Answer: Under the definition of LFO, our regulations state: "Two (2) or more LFOs under common ownership are deemed to be a single LFO if they are adjacent (within 1,320 feet) to each other or if they utilize a common area or system for the disposal of livestock wastes."



Nance County Planning and Zoning Minutes



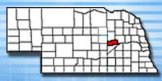
- Our regulations are 15 years old and need to be updated to reflect current reality: 300 AUs is no longer sustainable for a farmer; today 500 AUs is more common.
- If we're going to increase from 301 to 501 AUs to trigger the need for a CUP, keep in mind that 301 AUs put out the same amount of stink today that they did 15 years ago when we initially adopted regulations.
- We already have a mechanism in place for allowing a larger number of AUs in an area with insufficient setbacks as prescribed: Waiver of Distance forms.
- We could table this discussion until we see what the State comes up with for a matrix as required by LB 106, and then maybe use that tool as a guide in our decision making.
- Why are LFOs prevented south of the Loup River? Answer: probably because of the soil types and shallow water table south of the river. (Baldrige read the section of the Comprehensive Plan that describes Nance County's soil types south of the river.) Discussion included the role and expertise of NDEQ, and that they should be determining site suitability, not us.
- QOL and ECH vs. Open setbacks: If we make the setbacks the same for the 301-1,000 AU category, and if we follow the Open setback figure, that would mean 2,500 hogs could be confined just ¼ mile from existing residences. That is not fair to existing homeowners who could see a decrease in their property values and, potentially, be forced to abandon their homes because of destruction to their Quality of Life. That would have an adverse effect on the local economy, on future development in rural areas, and could lead to population decline.
- In Nance County, we are commodities producers. We need local producers using local products to feed their livestock. Changing our regulations to make it easier for local producers to expand would have a positive impact on our local economy.
- If we change our regulations with the intent of benefiting local producers, we need to be mindful that those changes would also apply to absentee producers.
- Cattle producers are getting clobbered because of regulations geared toward greater setbacks for hog producers. It would be nice to make a distinction between the two in our regulations.
- People report that ECH operations don't stink anymore because of technological advancements.
- Maybe we should break down the second category (1,001-5,000 AUs) into two sets, eg.:
 - 1,001 - 2,500 AUs ½ mi setback for ECH and Open
 - 2,501 - 5,000 AUs 1 mi setback for ECH and Open

Frenzen made a motion to recommend to the Board of Supervisors that we make the ECH setback the same as the Open setback (1/4 mile) for 301 - 1,000 AUs. Seconded by Connelly. Ayes by roll call: Delancey, Cieloha, Houtby, Connelly, Wondercheck, and Frenzen. Nays: McCoig and Guisinger. Absent: Belitz. Motion carried.

Connelly made a motion to recommend to the Board of Supervisors that we change 301 as the threshold that defines an LFO and requires a CUP to 501. Seconded by Houtby. Ayes by roll call: Delancey, Cieloha, Houtby, Connelly, Wondercheck, Frenzen, and McCoig. Nays: Guisinger. Absent: Belitz. Motion carried.

Frenzen made a motion to recommend to the Board of Supervisors that we designate the whole county as A-1/AG, which would remove the restriction against LFOs south of the Loup River. Seconded by Wondercheck. All ayes by roll call; no nays; 1 absent. Motion carried.

In summary, the recommended amendments are:



Nance County Planning and Zoning Minutes



TABLE 1: LFO SPACING AND DISTANCE

Size of Proposed LFO in Animal Units		Existing Non-Farm Residence, Other Residence, Park, Church, R-1, A-3, etc.
501-1,000	ECH	1,320 ft. (¼ mile)
	OPEN	1,320 ft. (¼ mile)
1,001-5,000	ECH	5,280 ft. (1 mile)
	OPEN	2,640 ft. (½ mile)
5,001+	ECH	1.5 ft./A.U.
	OPEN	1.5 ft./A.U.

ECH = Environmentally Controlled Housing Operations
OPEN = Open Lot Operations

Deleted: 301

Deleted: 2,640 ft. (½ mile)

And removing the restriction against LFOs south of the Loup River.

Agenda Item 5 – Old Business

LB 106 update: LB 106 was amended in its entirety by AM 1099. AM 1099 essentially gutted LB 106 and became the bill. It removes all mandates, removes all involvement from the state in local zoning, and simply directs the Dept. of Ag to create a matrix that counties may or may not use as a guide in developing their own regulations. The new LB 106 has advanced to Select File.

Agenda Item 6 – New Business

- Whether or not to keep detailed minutes: The Nebraska Planning & Zoning Association says yes, we should keep detailed minutes and should indicate who says what during open meetings and public hearings. This applies to the Commissioners, not to the general public – unless we're specifically asking people to identify themselves. This is the most secure way of defending ourselves if any of our decisions become subject to scrutiny and/or legal proceedings.
- Disclosing names of people who report violations: The Nebraska Planning & Zoning Association says no, we do not have to disclose these names. However, the people who report violations should be made aware that if the violation becomes a legal matter, they could be required to testify in court.

Agenda Item 7 – Other

None

Agenda Item 8 – Next Meeting

The next meeting is scheduled for Monday, May 11, 2015 at 6:00 p.m. unless otherwise notified.

Agenda Item 9 – Adjournment

Meeting adjourned at 8:20 without objections.

SUBMITTED BY:

AFFIRMED BY:

Commission Secretary

Commission Chairperson

NANCE COUNTY PLANNING AND ZONING COMMISSION

Special Meeting Minutes May 4, 2015

Agenda Item 1 – Call to Order

A meeting of the Nance County Planning & Zoning Commission was called to order by Chairperson Chuck Delancey at the Nance County Courthouse in Fullerton, Nebraska on Monday, May 4, 2015 at 7:00 p.m. Meeting notice was given by publication in the April 22, 2015 editions of *The Nance County Journal* and *The Genoa Leader-Times*, and an agenda was made available at the office of the Zoning Administrator and on the Zoning website. Delancey acknowledged the posted Open Meetings Act.

Agenda Item 2 – Roll Call

The following quorum of Commission members was present and answered roll call: Chuck Delancey, John Cieloha, Delmer Wondercheck, Roy Guisinger, Dennis McCoig, Brett Houtby, and Pat Connelly. Arriving after the minutes were read was Galen Frenzen. Absent was Lynn Belitz.

Also present were 31 members of the public. (A sign-in sheet is on file in the “Amendments -- Declined” folder in the Zoning office.)

Agenda Item 3 – Minutes

Minutes from the April 13, 2015 meeting had been mailed in advance and were briefly reviewed. Cieloha made a motion to approve the minutes as presented. Seconded by Wondercheck. Ayes by roll call: 7. Nays: 0. Absent: 2. Motion carried.

Agenda Item 4 – Public Hearing

Discussion of amendments to Nance County Zoning Regulations pertaining to Livestock Feeding Operations. The primary amendment under consideration is a reduction of the setback for Confined Animal Feeding Operations (CAFOs) of 1,001 - 2,500 Animal Units from 1 mile to ½ mile, which is the current setback for Open Lot Operations of the same size.

In advance of the hearing, Baldrige sent three letters to the Zoning Commissioners related to this hearing. They were from Jolene Andreasen, Joetta Lund, and Scotty Andreasen. (Those three letters are on file in the “Amendments -- Declined” folder in the Zoning office.) Scotty also sent an email with links to related information that Baldrige forwarded to the Commissioners.

Delancey opened the public hearing. Discussion included:

- Delancey: Instead of differentiating setbacks between ECH and Open operations (ie., the type of facility), what if we established setbacks based on the manure handling system for each independent operation?
- Connelly: Instead of changing the setbacks, let's rely on the Waiver of Distance forms that are already in place as an effective self-policing mechanism.
- Jaysen Melcher: Waivers of Distance are not necessarily a fair mechanism, because neighbors can refuse to sign them for any number of reasons. One person could shut down an entire operation plan. He'd like the Commissioners to consider the University of Nebraska's Odor Footprint Tool (<https://water.unl.edu/manure/odor-footprint-tool>), as it is scientifically based instead of emotionally based.
- Connelly: How an operator deals with manure makes a difference in the odor footprint.
- Guisinger: Could we specify how to deal with manure in the CUP approval process?
- Jim Knopik: We need to look beyond odor. This is about manure application and whether or not the environment can sustain it. He'd like the Commissioners to look at NDEQ's "Title 130 -- Livestock Waste Control Regulations." (They are on file in the “Amendments -- Declined” folder in the Zoning office.) He would like to see Nance County adopt



Nance County Planning and Zoning Minutes



those regulations, so that if people see evidence of environmental abuses by LFO operators, they can bring the problems to the attention of local government instead of going through state bureaucracy, where the process takes too long and often leads to no response or investigation.

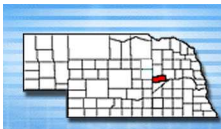
- John Zuker (sp?), environmental consultant: DEQ will respond. They recently hired more staff to do random inspections. We ought to rely on them as the experts.

On their website, DEQ has every permit, complaint, correspondence, etc. related to LFOs since 2011. A person can also request records that predate 2011. DEQ is making an effort to be very transparent.

Maybe we should base setbacks on manure handling systems instead of the number of AU.

In response to a question from a Commissioner, Zuker said that he believes the standard AU numbers are based around 1,000 pounds of weight. So 1 cow = approximately 2.5 hogs in weight.

- Scotty Andreasen: Summarized his letter, which is on file in the Zoning office. Setbacks should be determined by many factors, not just AU.
- Steve Lund: He can smell the hog units to his east and to his west, so he doesn't know how much stock to put in the Odor Footprint Tool. He'd like the Boards to leave the setback distances as they are.
- Don Kilday: Agrees with Lund to leave the setbacks alone.
- Darren Nelson: We need an outlet for our crops -- corn and hay -- that outlet being local livestock. Nance County Zoning has kept out LFO development, while neighboring counties allow it. We live in livestock country. These large setbacks for residences would be like moving next to a factory and not expecting there to be traffic. It doesn't make sense. He'd like to get rid of setback regulations altogether.
- John Oeltjen: Also agrees with Kilday that we should leave the regs as they are. Grain is and can be shipped. We don't need CAFOs where the grain is.
- Wondercheck: If operators want to build/expand CAFOs, they should have to live within a mile of them. (Delancey followed on by saying they should have to live within 200 yards of the operations.)
- Andy Ditter: Wants more information about LB 175 (the Livestock Growth Act); he heard that there is grant money available to communities to help with LFO siting.
- Jim Knopik: LB 175 allows only counties with LFC designation to apply for that funding, and he doesn't believe that is constitutional.
- Willow Holoubek of A-FAN (Alliance for the Future of Agriculture in Nebraska): LFC counties go to the top of the list, but any county can apply as long as it "votes for growth." The grant money is awarded in \$15,000 amounts (out of a \$400,000 total pool) and is designated to be used for infrastructure to assist new LFOs as they start up. Holoubek cautioned against over regulating, saying that we need livestock operations to keep people in the community.
- Bob Small: Maybe we should be determining setbacks based on whether pits are under confinement buildings or out in the open in lagoons.
- Jaysen Melcher: All cattle operations are exterior, and odor is derived from moisture. It is no different with lagoons, so the regulations should be the same. If you put a lagoon under a building, the waste (P&K) is far more concentrated because there is no evaporation, so DEQ requires 3x the acreage to apply the waste than it does with open lagoons.



Nance County Planning and Zoning Minutes



- Clair Jones: Just about everybody raised hogs to get their start in ag. Young people returning to the farm need that opportunity, too. Our population is declining because there is no opportunity.
- Wondercheck: People need an opportunity to get a start, but at whose expense? People who live near LFOs have rights, too.
- Connelly: Putting things in the right place is very important. People who are not involved in ag tend to have more pull than people who are.

Delancey closed the public hearing. Continued discussion among the Zoning Commissioners included:

- Guisinger: He is sympathetic to the LFO operators, but also to our rural residents. He wanted to acknowledge that this is a very difficult discussion for even the most reasonable people. He is leaning toward leaving the setback regulations alone until we have more data. He also mentioned that he isn't sure the Commissioners should have recommended last month's amendments to the LFO regulations that made the ECH and Open setbacks the same for 501 - 1,000 AU. Wondercheck echoed that sentiment.
- Connelly: Why break the 1,001 - 5,000 AU category into two categories? We haven't had problems thus far. Let the Waivers of Distance do their job.
- General discussion: Times are changing -- machinery, operation sizes, the numbers of absentee owners, etc. How much do we need to do, if anything, to change with the times?
- Frenzen: You can't regulate management. (In other words, no amount of regulations will guarantee that operators employ best practices.) This is a no-win deal.
- Cieloha: We need to go by the will of the people, and most people at the hearing have said that they want the regulations left as is.

Wondercheck made a motion to recommend to the Board of Supervisors that we leave our setback regulations and AU classifications as they currently stand. Seconded by Guisinger. Roll call vote: Ayes -- Delancey, Cieloha, Houtby, Connelly, Wondercheck, McCoig, Guisinger; Nays -- none; Abstention -- Frenzen; Absent -- Belitz. Motion carried.

Agenda Item 5 – Old Business

None

Agenda Item 6 – New Business

Amend regulations related to the setback for business signs?

After brief discussion, Guisinger made a motion to reduce our county-road setback for business signs to zero feet from the ROW. Seconded by Frenzen. During discussion, other considerations arose such as line-of-sight at intersections and sign dimensions. Guisinger withdrew the motion and the subject will be tabled until the next meeting. In the meantime, Baldrige will research the language that currently exists in our regulations and attempt to formulate a regulation for signage that makes sense.

Agenda Item 7 – Other

None

Agenda Item 8 – Next Meeting

The next meeting is scheduled for Monday, May 11, 2015 at 6:00 p.m.

Agenda Item 9 – Adjournment

Meeting adjourned at about 9:10 p.m. without objections.

SUBMITTED BY:

AFFIRMED BY:

Commission Secretary

Commission Chairperson

NANCE COUNTY PLANNING AND ZONING COMMISSION

Meeting Minutes May 11, 2015

Agenda Item 1 – Call to Order

A meeting of the Nance County Planning & Zoning Commission was called to order by Chairperson Chuck Delancey at the Nance County Courthouse in Fullerton, Nebraska on Monday, May 11, 2015 at 6:00 p.m. Meeting notice was given by publication in the April 29, 2015 editions of *The Nance County Journal* and *The Genoa Leader-Times*, and an agenda was made available at the office of the Zoning Administrator and on the Zoning website. Delancey acknowledged the posted Open Meetings Act.

Agenda Item 2 – Roll Call

The following quorum of Commission members was present and answered roll call: Chuck Delancey, Delmer Wondercheck, Roy Guisinger, Brett Houtby, and Galen Frenzen. Arriving after the minutes were approved was Lynn Belitz. Excused from the meeting were John Cieloha and Dennis McCoig. Absent was Pat Connelly.

Also present were five members of the public.

Agenda Item 3 – Minutes

Minutes from the May 4, 2015 special meeting had been mailed in advance and were briefly reviewed. Frenzen made a motion to approve the minutes as presented. Seconded by Guisinger. Ayes by roll call: 5. Nays: 0. Absent: 4. Motion carried.

Agenda Item 4 – Public Hearing

Clay Forbes' application for a Conditional Use Permit to build a confinement facility for his existing 2,000 head of cattle at NW ¼ NE ¼ 16-15-8W in Cottonwood Township, Nance County

Delancey opened the public hearing. Baldrige told the Commissioners that the CUP application was complete, save for documentation from EQIP (Environmental Quality Incentives Program), which won't be underway until October. In addition, there is one residence within one mile of the proposed building site, and Baldrige has a notarized Waiver of Distance on file from that homeowner.

In response to questions from the Commissioners, Forbes explained the proposed facility:

- All bedding -- no liquid manure, no pits, no lagoons
- Bedding will be stored inside and composted
- There will be four buildings, each 48' x 570'
- The buildings will be open on one side -- the south side, which is a long side
- There will be less odor than an open lot operation because the manure will be inside and won't get wet
- With bedding, there is less dust than outdoor lots

Forbes also provided the Commissioners with photographs of the type of facility he intends to build. (All CUP materials are in Forbes' folder in the Zoning office.)

Frenzen made a motion to close the public hearing. Seconded by Houtby. Ayes by roll call: 6. Nays: 0. Absent: 3. Motion carried.

After discussion, Frenzen made a motion to recommend to the Board of Supervisors approved of the CUP as presented. Seconded by Wondercheck. Ayes by roll call: 6. Nays: 0. Absent: 3. Motion carried.

Agenda Item 5 – Old Business

Amend regulations related to the setback for business signs?

In response to issues raised at the last meeting, Baldrige told the Commissioners about the signage regulations that already exist for Nance County in “Article 16: Supplementary District Regulations.”

“Section 16: Signs” reads, in part:

All signs adjacent to interstate and major highways must comply with the Rules and Regulations of the Department of Roads, in accordance with the provisions of Article 13, Chapter 39 of the Revised Statutes of Nebraska, 1943.

Signs shall not be erected or maintained in such a manner as to obscure, or otherwise physically interfere with an official traffic sign, signal or device, or in such a manner as to obstruct or interfere with a driver’s view of approaching, merging, or intersecting traffic. All signs shall be maintained in a neat and presentable condition. Signs shall be of a kind and character not unsightly or unduly conspicuous in the area in which they are erected.

In addition, Section 16.1 addresses the allowable size for signs in the A-1 and A-3 districts:

- E. Signs identifying a retailing and service establishment area: one (1) sign not exceeding fifty (50) square feet in area. Signs shall be limited to those identifying the establishment, except that no business sign shall be located within fifty (50) feet of a lot in a residential district, public park, historical site, school, or church and if illuminated shall cast no direct light on adjacent residential property or on streets/roads.

Those issues having already been satisfied by existing regulations, the Commission discussed the 15-foot setback from the property line or road ROW that is in our regulations. The consensus was that, if Dan Stankoski, superintendent of roads, doesn’t have a problem with a change (and he doesn’t), then there is no clear reason why signs need to be setback a distance from the road ROW.

Frenzen made a motion to recommend to the Board of Supervisors that the signage regulations be amended to read that sign posts and signs must be on private property with no overhang beyond the fence line or into the road ROW. Seconded by Belitz. Ayes by roll call: 6. Nays: 0. Absent: 3. Motion carried.

Agenda Item 6 – New Business

None

Agenda Item 7 – Other

None

Agenda Item 8 – Next Meeting

The next meeting is scheduled for Monday, July 20, 2015 at 7:00 p.m. unless otherwise notified. Well before that meeting, Baldrige will send the Commissioners recommended modifications to sections of the Zoning Regulations that were proposed by Hannah:Keelan a couple years ago. Baldrige would like to have the complete, new Zoning Regulations adopted by the end of the year.

Agenda Item 9 – Adjournment

Motion to adjourn made by Frenzen and seconded by Wondercheck. There were no objections.

SUBMITTED BY:

AFFIRMED BY:

Commission Secretary

Commission Chairperson

NANCE COUNTY PLANNING AND ZONING COMMISSION

Meeting Minutes July 20, 2015

Agenda Item 1 – Call to Order

A meeting of the Nance County Planning & Zoning Commission was called to order by Chairperson Chuck Delancey at the Nance County Courthouse in Fullerton, Nebraska on Monday, July 20, 2015 at 7:00 p.m. Meeting notice was given by publication in the July 8, 2015 editions of *The Nance County Journal* and *The Genoa Leader-Times*, and an agenda was made available at the office of the Zoning Administrator and on the Zoning website. Delancey acknowledged the posted Open Meetings Act.

Agenda Item 2 – Roll Call

The following quorum of Commission members was present and answered roll call: Chuck Delancey, Brett Houtby, Dennis McCoig, Pat Connelly, and Galen Frenzen. Excused from the meeting were John Cieloha and Roy Guisinger. Absent were Lynn Belitz and Delmer Wondercheck.

Agenda Item 3 – Minutes

Minutes from the May 11, 2015 meeting had been mailed in advance and were briefly reviewed. Frenzen made a motion to approve the minutes as presented. Seconded by Houtby. Ayes by roll call: 5. Nays: 0. Absent: 4. Motion carried.

Agenda Item 4 – Public Hearings

- a. Don Peregrine's application for a Conditional Use Permit to stockpile and spread manure from Merrick County on land in West Newman Township, Nance County at:

W½ SE¼ 33-16-6

E½ E½ 5-15-6

N½ and SW¼ 4-15-6

Pt. S½ and Pt. NE½ 3-15-6

N½ NW¼ 2-15-6

Don Peregrine was present to review his CUP application with the Board. He provided a Manure Analysis Report from Christensen Cattle for the product he'd like to spread in Nance County, and he provided an ACS Variable Rate Application estimate for the NW¼ of 4-15-6. He also provided a site plan that shows where he'd like to spread manure now and in the future.

Baldrige relayed messages she received from three neighboring landowners. All three expressed support for Peregrine's permit, but one added that she'd like to make sure that no stockpiling occurs near two home sites, one of which may be developed (NW¼ NW¼ 3-15-6) and the other which may be occupied (SE¼ SE¼ 33-16-6) in the future. If and when Peregrine does stockpile, he ensures that he will not do so near a residence.

Peregrine has taken the rye off NW¼ 4-15-6 and he'd like to spread manure there as soon as possible so he can put in a cover crop. He will not need to stockpile this spring for that application. This year, he may also get around to spreading manure at W½ SE¼ 33-16-6 and at 35 acres in Pt. S½ 3-15-6.

Frenzen made a motion to recommend to the Board of Supervisors approval of Peregrine's CUP for the application of manure from Merrick County at NW¼ 4-15-6 in Nance County, and for the future stockpiling and application of manure from Merrick County at all of the legal descriptions outlined in the site plan (legals noted above), contingent upon Peregrine's submission of Variable Rate Application reports for those sections before any stockpiling/application is done at those locations. Seconded by McCoig. Ayes by roll call: 5. Nays: 0. Absent: 4. Motion carried.

- b. Proposed updates to Nance County's Zoning and Subdivision Regulations (including setbacks/definitions for signage, additional regs for rural businesses, and new regs for rural events)

Updates tabled while Baldrige continues to collect additional information on signage regs and their justifications from other counties.

Agenda Item 5 – Old Business

None

Agenda Item 6 – New Business

Discuss recent issue re. personal insurance coverage for P&Z Commissioners

Baldrige informed the Commission that one of its members received a notice from his insurer of termination of his Umbrella Insurance Policy because of, “Unacceptable underwriting exposure due to [his] position on a zoning board.” Baldrige’s research into the matter indicated:

- the insurance company has the authority to take this action
- Nance County’s insurer, NIRMA, covers the county’s zoning commissioners under its liability insurance

Some of the Commissioners felt that this action was egregious and that the insurance company should be called-out in Letters to the Editor to a host of Nebraska newspapers. Baldrige will discuss the matter with the commissioner who received the notice.

Agenda Item 7 – Other

None

Agenda Item 8 – Next Meeting

The next meeting is scheduled for Monday, August 17, 2015 at 7:00 p.m. unless otherwise notified.

Agenda Item 9 – Adjournment

Motion to adjourn made by Frenzen and seconded by McCoig. There were no objections.

SUBMITTED BY:

AFFIRMED BY:

Commission Secretary

Commission Chairperson

NANCE COUNTY PLANNING AND ZONING COMMISSION

Meeting Minutes September 21, 2015

Agenda Item 1 – Call to Order

A meeting of the Nance County Planning & Zoning Commission was called to order by Chairperson Chuck Delancey at the Nance County Courthouse in Fullerton, Nebraska on Monday, September 21, 2015 at 7:00 p.m. Meeting notice was given by publication in the September 9, 2015 editions of *The Nance County Journal* and *The Genoa Leader-Times*, and an agenda was made available at the office of the Zoning Administrator and on the Zoning website. Delancey acknowledged the posted Open Meetings Act.

Agenda Item 2 – Roll Call

The following quorum of Commission members was present and answered roll call: Chuck Delancey, Dennis McCoig, Galen Frenzen, John Cieloha, Roy Guisinger, Lynn Belitz, and Delmer Wondercheck. Excused from the meeting was Brett Houtby. Absent was Pat Connelly.

Also present was Andrew Ekstein from Settje Agri-Services & Engineering.

Agenda Item 3 – Minutes

Minutes from the July 20, 2015 meeting had been mailed in advance and were briefly reviewed. Frenzen made a motion to approve the minutes as presented. Seconded by McCoig. Ayes: Delancey, Belitz, Wondercheck, Frenzen, McCoig, and Guisinger. Nays: 0. Abstention: Cieloha. Absent: Houtby and Connelly. Motion carried.

Agenda Item 4 – Public Hearing

Mike Rolf's application for a Conditional Use Permit to apply manure from Merrick County on land in Nance County at Pt. NW¼ 23-17-6 in Cedar Township.

Andrew Ekstein from Settje explained Rolf's application for a CUP. They will not be stockpiling the product, rather spreading it immediately upon delivery. NDEQ is supervising the manure analysis. Rolf will maintain a distance of at least 100', per NDEQ guidelines, from the dry riverbed (now just a canyon) running through the site.

Frenzen made a motion to recommend approval of the CUP to the Board of Supervisors; seconded by Wondercheck. Ayes by roll call: 7. Nays: 0. Absent: 2. Motion carried.

On a related note, Ekstein told the Commissioners that waiting a month or longer for manure CUPs can often be problematic for the feedlot and for the local applicant. He suggested that Nance County consider adoption of Howard County's model, which accepts NDEQ's approval of the manure application as ample, and allows the zoning administrator to approve the CUP without going through the public hearing process. Ekstein provided Baldrige with a copy of Howard County's regulations on the subject.

Agenda Item 5 – Old Business

Discuss updates to zoning regulations, including:

- a. Regulations for signage: Baldrige talked to the Commissioners about our regulations related to signage, asking if we could simplify those regs. For example, we currently have pages and pages of regs that differ depending on the content/type of sign, and we currently require that signs be a minimum of 15-feet from the ROW, which often means that producers who are advertising their rural ag businesses have to put their signs in the midst of their corn/bean fields, thereby taking portions of their farms out of production. Baldrige suggested that we simply require that signs not be in the ROW, not impede vision at intersections, and not be illuminated in such a manner as to blind motorists. She summarized how a dozen other counties treat signage, indicating that a precedent is already set for minimizing or removing sign regulations.

After discussion, Frenzen made a motion that we replace all of our existing sign regulations with simple language to the effect of: NDOR's regulations pertaining to signage must be followed; and signs adjacent to county roads may not encroach on the county ROW. (Note that Frenzen's motion deliberately excludes anything about line-of-sight, as that



Nance County Planning and Zoning Minutes



is already covered elsewhere in our regulations; and Frenzen's motion deliberately excludes the requirement that a county permit be obtained.) Seconded by Guisinger. All ayes, no nays, 2 absent, motion carried.

Baldrige will craft language reflecting Frenzen's motion, and the Commissioners will review it at the next meeting.

- b. Requirements for CUP applications for manure: Baldrige told the Commissioners that she felt the documentation we currently require for applications to spread manure in Nance County from feedlots outside of Nance County is unnecessary and burdensome. She suggested that we no longer require a Soil Suitability Analysis or a Manure Analysis because: the zoning admin does not have the ability to take soil samples and manure samples nor to monitor manure application rates; NDEQ is already involved in approving manure application plans; and the producer's agronomist or FSA is already involved in determining appropriate application sites.

Discussion included: regulating stockpile timeframes is problematic because of unpredictable weather and other farm duties; we adopted inter-county manure regulations because a producer in Boone County was pumping liquid manure across the county line; rubberstamping these types of permits is problematic because it precludes public hearings and cuts neighbors out of the opportunity to speak up.

After further discussion, Guisinger made a motion that Baldrige modify the CUP requirements in the manure regulations to reflect that all we will require is knowledge of the haul route and knowledge of the stockpile location. Additionally, the zoning administrator will have administrative authority to approve the permits only after having notified neighboring landowners within 1,000-feet and having allowed ample time for them to respond. Seconded by Frenzen. All ayes, no nays, 2 absent, motion carried.

Baldrige will bring the newly worded regulations to the next meeting for review.

Agenda Item 6 – New Business

Nance County Livestock Study overview: Baldrige gave the Commissioners copies of the Executive Summary of the study, as well as her one-page summary of the most pertinent data (in her eyes). She asked the Commissioners to review the document(s) and to send her any comments or questions so she can pose them to the study's author in advance of the next meeting.

Agenda Item 7 – Other

Administrative Report for December 3, 2014 through September 1, 2015:

- Submitted 2014 Zoning Census Data
- Discussed with Board of Supervisors how to handle unreported buildings once discovered
- Worked with VP of Corporate Development at Preferred Sands on records, compliance, and potential expansion
- Researched, discussed, and wrote a letter to nine senators re. LB 106 (Livestock Operation Siting and Expansion Act); Followed LB 106 legislative floor debates
- Proposed changes to the Comprehensive Plan before adoption
- Attended a KXL informational meeting
- Attended annual NPZA Conference
- Prepared Northeast District meeting minutes
- Sent four letters re. illegal manure spreading (two to distributors, two to farmers)
- Researched sign regulations and manure regulations
- Submitted LOMA request for Jason Swertzic
- Wrote an article about the need for manure permits and LFO permits
- Updated and uploaded amended Zoning Regulations
- Special meetings on LFO regulations
- Prepared annual budget
- Requested additional overlays in WebGIS: LFO mapping
- Attended Board Meeting of the Nebraska Planning and Zoning Association

- Worked with Chamness, Roads Department, and Township representative to resolve a road problem stemming from hauling Soil Builder

Compliance inspections: 22

Zoning permits: 30 (over \$2,363,600 in stated value)

Includes 5 new homes, 6 machine sheds, 12 grain bins, 1 cabin, 1 lodge, 1 garage,
1 fertilizer containment facility, and 1 temporary asphalt plant

CUPs: 5

JSMM Farms for manure from Boone County
Peregrine CUP for manure from Merrick County
Mike Ridder for manure from Merrick County
Clay Forbes for new CAFO for existing LFO
Monte Walker CUP time extension

Lot Split: 1 (Marty Milby)

Floodplain Development Permits: 2 (NDOR)

Agenda Item 8 – Next Meeting

The next meeting is scheduled for Monday, October 19, 2015 at 7:00 p.m. unless otherwise notified.

Agenda Item 9 – Adjournment

The meeting was adjourned shortly after 8:00 p.m.

SUBMITTED BY:

AFFIRMED BY:

Commission Secretary

Commission Chairperson