

MINUTES OF PLANNING & ZONING COMMISSION
FEBRUARY 21, 2008
BUFFALO COUNTY EXTENSION CENTER MEETING ROOM
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:07 o'clock P.M. with a quorum present on February 21, 2008 at the Buffalo County Extension Center meeting room located at 1400 E 34th St., Kearney, NE.

Agenda for such meeting was regularly posted as required by law. Present were: Francis "Buss" Biehl, Karin Covalt, Marlin Heiden, Willie Keep, Rick Pope, Leonard Skov, Paul Steinbrink Sr., Craig Wietjes and Loye Wolfe. Absent: none. Also attending were Deputy County Attorney Andrew Hoffmeister, Deputy County Attorney Melodie Bellamy, Zoning Administrator LeAnn Klein and 61 members of the public.

Chairperson Pope announced there was a copy of the open meetings act posted and we do abide by the open meetings act.

The public forum was opened at 7:09 P.M. There was no one that spoke at this time. The public forum closed at 7:09 P.M.

Ron Bishop, Manager from the Central Platte Natural Resources District, was present to explain conservation easements to the Commission. Central Platte is to develop plans to address water issues along the Platte River. This is the first conservation easement we have had filed in this County since zoning was implemented. According to Nebraska Rev. Stat. 76-2 112 (3) the local planning commission has 60 days to provide comments regarding the conformity of the proposed acquisition to comprehensive planning for the area. If such comments are not received within sixty days, the proposed acquisition shall be deemed approved by the local planning commission. When the owner of the land agrees to a conservation easement they agree not to irrigate, not to plant crops and not to open it up to sand pits. The property does stay on the tax rolls and still belongs to the owner of the land. The agreement is filed against the real estate.

It was moved by Biehl, seconded by Wietjes to forward the conservation easement between Robert W. and LaNette L. Bendix (Grantor) and the Central Platte Natural Resources District, a political subdivision of the State of Nebraska (Grantee) to the County Board with a favorable recommendation on approximately 110.4 acres contained in a tract of land being part of Government Lot One (1), Government Lot (2), Government Lot (3), and Government Lot (4) and accretions abutting said lots on the south located in Section Twelve (12), Township Eight (8) North, Range Seventeen (17) West of the 6th P.M., Buffalo County, Nebraska, and all more particularly described as follows, to-wit:

Beginning at the Northwest corner of Government Lot One (1) and assuming the West line of said Lot as bearing South and all bearings contained herein are relative thereto; thence South on the West line of said Government Lot One (1), a distance of 1971.4 feet; thence North 58° 00' East a distance of 937.58 feet; thence North 00° 37' 59" West a distance of 124.79 feet; thence North 85° 35' 38" East a distance of 1797.55 feet; thence North 77° 10' 57" East a distance of

120.76 feet' thence North 02° 12' 41" East a distance of 73.16 feet; thence North 87° 44' 27" East a distance of 1399.5 feet; thence North 01° 13' 16" East a distance of 1062.13 feet to a point on the North line of Government Lot Four (4) in said Section Twelve (12); thence South 89° 55' 30" West and on the aforesaid North line of said Section Twelve (12) a distance of 4127.59 feet to the place of beginning.

Voting yes were Biehl, Wietjes, Covalt, Heiden, Keep, Pope, Skov, Steinbrink and Wolfe.
Voting no: none. Absent: none. Motion passed.

Chairperson Pope told the audience there would be no power point presentations allowed due to the number of hearings we have tonight and for everyone to limit their comments tonight to 2-3 minutes each.

Chairperson Pope opened the public hearing at 7:30 P.M. for a zoning map amendment filed by Gary Lingle, Rick Yendra and Rae Ellen Syverson for property described as part of the South Half of Section 3 and part of the North Half of Section 10, all in Township 8 North, Range 14 West of the 6th p.m., Buffalo County, Nebraska. Gary Lingle and Rick Yendra were present. Gary told the Commission this property was sold at public auction in December by the previous owner. There were three tracts that were sold and they each plan to build a home on their respective pieces of property. Because of the 1000' rule they are not able to do this unless this property is rezoned.

Hoffmeister asked if they were only looking at building three homes. Yendra told him they are not planning on subdividing. The access to this property will be by private easement off of Kilgore Road. The closest paved road is the Gibbon Road approximately 2 miles east.

Klein told the Commission the exact legal descriptions still have not been completed by the surveyor and the County Board will not be able to hear this until the legal descriptions have been completed.

Hoffmeister explained Section 11.3 and 11.4 of the zoning regulations.

11.3 AMENDMENT CONSIDERATION AND ADOPTION

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the resolution except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half (½) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend. When amending zoning district boundaries, the Planning Commission and County Board where applicable and authorized may place conditions upon property sought to be re-zoned. (Resolution 9-14-04)

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the County Board, if it approves such recommendation, may either adopt such recommendation by resolution or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the County Board may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the County Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the resolution shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the resolution incorporating the same and reincorporate such Map as amended.

11.4 PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the County Clerk within seven (7) days after the date of the conclusion of the Planning Commission's public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the County Board. (Resolution 10-10-03)

Biehl asked the location of the private road. This private road is on the north side of Kilgore Road.

Keep questioned if this land was advertised as being agricultural land. There are approximately 40 acres in Tract 5, approximately 28 acres in Tract 6 and approximately 65 acres in Tract 7.

Heiden asked if any of this was in the floodplain. All of the property north of Kilgore Road is located in the floodplain.

Klein told the Commission adjoining property owners within 300' had been notified of this hearing.

There was no one else present to speak.

Pope closed the public hearing at 7:40 P.M.

Pope expressed concern that the Commission was being brought into this after a fact. All of this property also is in the old channel of the Platte River. The realtor should have had to have this area rezoned before the sale was made.

Wolfe asked the applicants if they realized this property was located in the floodplain.

Heiden asked how the owners arrived at the size of these three plots.

The Commission asked Hoffmeister if they could limit the number of homes, which he replied they could list that as a condition.

Moved by Skov, seconded by Heiden to forward this application to the County Board with a recommendation that this application for a zoning map amendment from Agricultural to Agricultural-Residential be approved for property described as a tract of land being part of the South Half of Section Three and part of the North Half of Section Ten, all in Township Eight (8) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska with the following conditions:

1. No more than one residence per tract.
2. A complete legal description of all three tracts.
3. A complete legal description of the easement.

Keep has a problem that this rezoning was not done before the sales were made. Now we are being asked to correct a problem. We need to send a message to the realtors this needs to be addressed before the property is placed up for sale.

Voting yes were Skov, Heiden, Biehl, Covalt, Steinbrink and Wolfe. Voting no: Keep, Pope and Wietjes. Absent: none. Motion passed.

Klein said this application will be forwarded to the County Board at their March 25 meeting, time to be determined by the County Clerk. Notices again will be sent to adjoining property owners.

Chairperson Pope opened the public hearing at 7:50 P.M. for a special use permit filed by RCOM, LLC for property described as Lot 4, H R Subdivision, being part of the North Half of the Southwest Quarter of Section 10, Township 9 North, Range 15 West of the 6th p.m., Buffalo County, Nebraska.

Jan Parker with Parker Engineering and Tammy Chamberlin on behalf of RCOM, LLC were present and told the Commission they want to put up a 100 foot tower for rural wireless internet. They have a lease agreement with the owners of the property, Helen and Richard Burkey.

Jan Parker with Parker Engineering brought pictures of the 100' self supporting tower on a concrete pad. They are required to have form 7460 approved by the FAA which has not been done as of this time.

Hoffmeister asked how far back from the property lines this tower would be located. Tammy thought they would be back 100' from property lines. He also said there is a feedlot located south of this property.

Klein asked if the tower would be located northwest of the existing Burkey home and if it would be located on Lot 1 or Lot 4 of H R Subdivision. Tammy said the tower would be located on Lot 4 and would be 100' from property lines.

City Airport Manager Jim Lynaugh was also present and he didn't have any further comment at this time.

The Commission felt this tower should be located at least 100' from property lines.

Hoffmeister referred to Section 6.2

6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the County Board, within thirty (30) days. Upon hearing, the County Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. In making any decision granting a special use permit, the County Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required protecting adjoining property. Unless otherwise specifically stated, construction requested on such special permit shall commence within 120 days after authorization and shall be substantially completed two years after commencement. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the County Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the County and in the local newspaper of any county/village/city which has territory within three miles of the property affected by such action of the County Board, one time at least ten days prior to such hearing. (Ref. 23-164 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing. The sign shall state in conspicuous writing visible from the traveled surface of the nearest public road: the purpose, time, and place of hearing. A notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of the County Board, or Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a Planning Commission, such notice

shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action. A written notice of such hearing shall be distributed to record title owners of property located within three hundred (300) feet of the property line of the property requesting the special use permit.

Except as otherwise provided herein, no special use permit shall be granted by the County Board, without an affirmative vote of a majority of all members of the County Board and providing the proposed use is found to comply with the following guidelines:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

Biehl asked if there would be any guide wires which Chamberlin replied no.

There was no one present in opposition.

Pope closed the public hearing at 8:00 P.M.

Motion was made by Wolfe, seconded by Biehl to forward this application for a special use permit to the County Board with approval on Lot 4, H R Subdivision, being part of the North Half of the Southwest Quarter of Section 10, Township 9 North, Range 15 West of the 6th p.m., Buffalo County, Nebraska with a provision that the tower be set back equal to the height of the tower from property lines. Voting yes were Wolfe, Biehl, Covalt, Heiden, Keep, Pope, Skov, Steinbrink and Wietjes. Voting no: none. Absent: none. Motion carried.

Klein said this application would be heard before the County Board on March 25, 2008 and notices would be sent out to adjoining property owners.

Any changes in height would require coming back before this Commission.

Hoffmeister explained the needed changes in the Buffalo County Zoning Regulations previously adopted by Buffalo County.

Chairperson Pope opened the public hearing at 8:04 P.M. for consideration of general amendment of Section 8.41 to the Buffalo County Zoning Regulations.

There was no one present to speak in favor or opposition.

Pope closed the public hearing at 8:06 P.M.

Motion made by Covalt, seconded by Steinbrink that Section 8.4 and 8.41 be added to read as follows and forward this to the County Board:

8.4 YARD REGULATIONS:

8.41 FRONT YARDS: The front yards heretofore established shall be adjusted in the following cases:

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest building on the block.

Voting yes were Covalt, Steinbrink, Biehl, Heiden, Keep, Pope, Skov, Wietjes and Wolfe.
Voting no: none. Absent: none. Motion carried.

Chairperson Pope opened the public hearing at 8:10 P.M. for consideration of general amendment of Section 5.34 #11 to the Buffalo County Zoning Regulations.

Hoffmeister discussed the definition of a mini storage facility.

There was no one present to speak in favor or opposition.

Pope closed the public hearing at 8:10 P.M.

Moved by Steinbrink, seconded by Heiden to amend Section 5.34 #11 as previously adopted and forward this to the County Board as follows:

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

9. Animal clinics, animal hospitals and veterinarian services; and
10. Mobile home parks.
11. Mini storage facilities (Resolution 5-27-03) with all item(s) enclosed within a building or buildings.

Voting yes were Steinbrink, Heiden, Biehl, Covalt, Keep, Pope, Skov, Wietjes and Wolfe.
Voting no: none. Absent: none. Motion carried.

Chairperson Pope opened the next public hearing at 8:25 P.M. for consideration of general amendment of Section 5.32, Section 5.34, Section 5.12 and Section 5.34.

Hoffmeister discussed the definition of private and public schools and harmonious schools in the AG and AGR districts.

There was no one present to speak in favor or opposition.

Pope closed the public hearing at 8:26 P.M.

Moved by Wietjes, seconded by Covalt to amend the following sections and add the definition of a public school, private school and schools of special instruction as follows:

5.32 PERMITTED PRINCIPLES USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming, including hobby farming or animal raising, excluding any expansion of existing or development of Class III or larger livestock confinement facilities/operations as defined in Section 3.46 and classified in Section 6.4.
2. Single family, ranch, and farm dwellings adjacent to improved road, meaning a road above county minimum maintenance road classification or public street within approved subdivision, including ranch and farm dwellings; (Resolution 8-10-04) in addition single family dwellings must be located minimum distances from a livestock confinement facility/operation in conformance with Section 6.4 not of the same property;
3. Irrigation and flood control projects;
4. Child care homes;
5. Parks and recreational areas owned and/or occupied by public agencies; (Resolution 10-10-03)
6. Community buildings and/or facilities owned and/or occupied by public agencies;
7. Public ~~and/or private~~ schools;
8. Churches, places of worship, and cemeteries; and
9. Bed and Breakfast.

Suggested partial amendment to 5.34:

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Cemeteries, crematories, mausoleums and columbarium;

3. Child care center;
4. Radio and television towers and transmitters;
5. Camp grounds;
6. Wind generating systems;
7. Commercial kennels;
- ~~Public and private charitable institutions;~~ (12-04-07 Board)
8. Greenhouses and nurseries;
9. Animal clinics, animal hospitals and veterinarian services; and
10. Mobile home parks.
11. Mini storage facilities (Resolution 5-27-03)
12. Parks and recreational areas owned and/or occupied by private agencies. (Resolution 10-10-03)
13. Airports (Resolution 10-10-03)
14. Public utilities and utility distribution systems (Resolution 8-10-04)
15. Private schools.
16. Schools of special instruction in business, cultural, or dramatic subjects or schools of special instruction
17. Private schools for instruction and training of the physically, mentally, and/or functionally impaired.

Suggested partial amendment to add the following as definitions, renumbering as appropriate:

SCHOOL, PUBLIC shall mean public institutions that have the power to condemn conducting regular academic instruction at kindergarten, elementary, junior high, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education.

SCHOOL, PRIVATE shall mean an institution conducting regular academic instruction at kindergarten, elementary, junior high, or secondary levels operated by a non-governmental organization in conformance with the Section 79-1701 through 79-1707, Nebraska R. R. S., 1943.

SCHOOLS OF SPECIAL INSTRUCTION: A school giving instruction in business, cultural or dramatic subjects.

Suggested partial amendment to 5.11 to harmonize with definitions:

5.1 AG AGRICULTURE DISTRICT

5.11 INTENT: This district is designated for general agriculture use and is intended to preserve and protect agriculture production from encroachment by incompatible uses.

5.12 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming and ranching activities, excluding any expansion of existing or

development of Class III or larger livestock confinement facilities/ operations as defined in Section 3.46 and classified in Sec. 6.4.

2. Public Uses: Including fire stations, public ~~elementary and high~~ schools, public utilities and utility distribution systems;

Suggested partial amendment to 5.14 to harmonize with definitions:

5.14 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the "AG" Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

10. Private pre-school or day-care centers, ~~elementary and high schools~~;

And add as #11 to 5.14 as a permitted special use in AGR District:

11. Private schools.

and renumber subsequent sections

Voting yes were Wietjes, Covalt, Biehl, Heiden, Keep, Pope, Skov, Steinbrink and Wolfe.
Voting no: none. Absent: none. Motion carried.

Hoffmeister clarified daycare, pre-school and childcare meanings. Six residents become a center, less than six is a home.

Chairperson Pope opened the next public hearing at 8:31 P.M.

There was no one present to speak in favor or opposition.

Pope closed the public hearing at 8:31 P.M.

Motion by Wolfe, seconded by Biehl to amend the zoning regulations as previously adopted.

That Section 5.14 , in part, be amended to read as follows:

5.14 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the "AG" Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

10. Private ~~pre-school or~~ day-care centers, ~~elementary and high schools~~;

And that Section 5.32, in part, be amended to read as follows:

5.32 PERMITTED PRINCIPLES USES AND STRUCTURES: The following shall be permitted as uses by right:

4. ~~Child~~ Day care homes;

And that Section 5.34, in part, be amended to read as follows:

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Cemeteries, crematories, mausoleums and columbarium;
3. ~~Child~~ Day care center;

and the following added as definitions with subsequent sections renumbered:

Day Care homes . All classifications of day care facilities regulated by the State of Nebraska that operate providing care for not more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

Day Care Center. All classifications of day care facilities regulated by the State of Nebraska that operate providing care for more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

Voting yes were Wolfe, Biehl, Covalt, Heiden, Keep, Pope, Skov, Steinbrink and Wietjes.
Voting no: none. Absent: none. Motion carried.

E. W. Skala spoke on behalf of the Woitaszewski Brothers for the next hearing for a Class V dairy for part of the North Half of Section 13, Township 12 North, Range 14 West of the 6th p.m. He also introduced Dave Bailey with Dawson Public Power District, Danny Kluthe, owner/operator of a 8,000 head swine production in Dodge, NE who also operates an anaerobic digester and sits on the Planning & Zoning Commission for Colfax County, Wayne Goedken, executive director with the Weihs Group from Harlan Iowa, Terry Landes with the Dairy Farmers of America, Ron and Ken Woitaszewski and their legal counsel Galen Stehlik. These people have the expertise to answer any questions the Commission might have.

Skala told the Commission that included in their packets were the management plans, a plan of disposal of dead animals, diagrams of the proposed site, dry liquid waste disposal, copy of the resolution from Buffalo County Board of Supervisors, letter of intent from neighboring industries and a letter from DEQ.

Hoffmeister referred to past exhibits and any new exhibits would start with Exhibit #38. The website for the Comprehensive Plan also needs to include the Resolution 2001-01 dated January 23, 2001. All of the past exhibits are at the meeting tonight.

Exhibits #38 through #51 are as follows:

Exhibit # 38	*	New Application permit #2008-006
Exhibit #39	*	Changes Comp plan Res #2001-01
Exhibit #40	*	Packet of laws for DEQ
Exhibit #41	*	1/22/08 Co Bd Resolution 2008-04
Exhibit #42	*	1/23/08 Stehlik letter to DEQ
Exhibit #43	*	1/25/08 letter from DEQ to Stehlik
Exhibit #44	*	1/29/08 letter from Stehlik to L Klein
Exhibit #45	*	1/31/08 letter to L Klein from Andy
Exhibit #46	*	Article re: Anaerobic Digester
Exhibit #47	*	UNL website sludge management
Exhibit #48	*	2/18/08 letter from Greg Barton for Arrow C Ranch
Exhibit #49	*	2/20/08 letter NE Games & Parks
Exhibit #50	*	DEQ Regulations chapter 5 117 Cold water stream classification
Exhibit #51	*	2/19/08 Letter Cottonwood Group-Sierra Club

John Shiers was present to read the letter into the record.

Exhibit #52	*	2/21/08 John Shiers letter on behalf of Farm Bureau
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Wayne Goedken from the Weihs Group from Harlan Iowa and a partner in a 6000 head dairy at Harlan Iowa spoke to the Commission. He has assisted the developers to put a site plan together with a waste treatment plan as well as storage of solid waste as well as a letter of intent with the ethanol plant and a joint energy project to produce energy for a renewable energy project. This letter of intent would also relax the set backs from the ethanol plant. He submitted Exhibit #53

Exhibit #53	*	Letter from Campbell-Zech-Sherbeck-Sherbeck
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Wolfe asked how many pivots would be used to dispose of the liquid waste. Goedken said it would depend on what type of system is used. They would run it through a minimum of three pivots if a digester is used and if they separate the solids from the liquids. Goedken said they have 4500 acres under easements for their 6000 head dairy but they don't use an anaerobic digester.

Kluthe said the anaerobic digester does digest the manure and it is very good for the soil.

The presenters asked that Exhibit #27, presented in CD form be considered by the Commission without need of representation.

Goedken said the liquid would go through pipes to the pivots. Eleven pivots would be readily accessible to dispose of the liquid. The dry would be trucked in spreader trucks.

Wolfe also asked what happens to the bacteria and if it is environmentally friendly. Kluthe replied he does not add any bacteria since it forms its own bacteria when it is heated to 100°-102°.

Wolfe also asked if local feed stuff would be purchased locally.

Goedken said they would be purchasing locally.

Pope asked if the heifer receiving station would be in an open lot which Skala replied it would.

Hoffmeister referred to the new map prepared by Dawson Public Power District.

Exhibit #54	*	New map from DPP 246 acres
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Hoffmeister also asked if Pawnee Road would be used to gain access to the site. Skala replied Pawnee Road would be used. Hoffmeister referred to Exhibit #14 an aerial map previously prepared by DPP for prior applications and noted that the 246 acres were inside the “gray” area of Exhibit #14.

Pope also asked what site they would be using. Skala replied the site closest to the ethanol plant would be the best site. They would have a private drive from the end of Pawnee Road to the site.

Pope opened the public hearing at 9:12 P.M. for comments from the audience.

Laura Kresbach from WPF Consulting spoke on behalf of certain people from the Ravenna area. There is a lack of information because there is no plan. We shouldn't even be here tonight since there is no plan. DEQ cannot make a decision in a vacuum. She gave the Commission the following exhibits:

Exhibit #55	*	Waste management plan Aspen Dairy
Exhibit #56	*	Aspen Dairy site plan dated 7/1/07
Exhibit #57	*	Aspen Dairy sheet #3 6/28/07
Exhibit #58	*	Calculating nitrogen generated by 10,001 head dairy

She told the Commission they don't have enough plans to show how the waste will be handled or the exact spot of the buildings. She spent hours with someone from DEQ and Laura said the digesters don't work. She also questioned the location of the 9 pivots and how are they going to

get the liquid to these pivots. She also told the Commission they don't have the easements to handle the waste.

Dewey Bullis has concerns of water issues and the polluting of the waters.

Rob Urwiller asked if they would be getting easements under public roads for the pivots.

Gilbert Muhlbach had questions on permits and asked what the green zone is and asked if the 7 questions in Section 6.2 had been addressed.

Dr. Keith Koupal from the Games and Parks Commission has concerns with the number of cattle and location of the proposed site in proximity to the Loup River. He presented the following exhibit:

Exhibit #59	*	Letter from NE American Fishery Society
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What type of foot print will be left by these facilities? They have been finding pharmaceuticals in the water from the feed that is being fed to these animals in confined feeding areas.

Keep asked why he hadn't attended the first hearing. He was not aware of the first hearings. Games and Parks need to be more pro-active. Keep also asked if Nebraska Games and Parks works with DEQ and some of these issues need to be brought to DEQ's attention.

Keep said they are both State agencies and they need to work together.

Ron Urwiller lives within 2 1/2 miles of the proposed site and submitted Exhibit #60 which shows the water pathway. He has concerns with property values and groundwater concerns. He questioned where is the plan?

Exhibit #60	*	2/21/08 facts & information from Ron Urwiller
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Marc Vacek submitted Exhibit #61 from 540 people who have signed the petition.

Exhibit #61	*	Petition
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Exhibit #61 was a different Exhibit than #17 previously used and Exhibit #16 is to be considered an entirely new protest statement.

Sue Russell told the Commission the special use permits must not be detrimental to adjacent lands.

Deb Stickney read a letter from the U.S. Department of Interior as Exhibit #62

Exhibit #62	*	US Department of Interior 12/3/07
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Ken Miller told the Commission that all the beef that has been recently recalled came from a dairy in California.

Ken Erickson questioned if DEQ's approval isn't required first before the County makes their decision.

Bellamy replied that any permit that the County approves is subject to the Nebraska Department of Environmental Quality's approval.

Laura Kresbach said DEQ only deals with regulations and the site is approved by the local control. She said DEQ doesn't have any interaction with the local government. Kresbach said DEQ has never turned down a permit for a livestock facility.

Skov said the Nebraska Department of Environmental Quality has the expertise in the field of waste management and how it should be handled.

Joyce Sears lives 1 1/2 mile north of the proposed dairy. There are a lot of ifs with the disposal of the gray water through the pivots. She has concerns with the health issues and presented documents of the health of Broken Bow area residents. They have an organic garden and who's going to protect their interest.

Exhibit #63	*	Health records from Broken Bow
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Dick Prascher from Riverdale was present and voiced his support of this dairy.

Paul Sears submitted an exhibit for CAFO's from surrounding States.

Exhibit #64	*	CAFO'S
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Terry Landes representing the Dairy Industry submitted the following exhibits that shows the loss of dairy farmers in both the United States and Nebraska.

Exhibit #65	*	Dairy's New World of Opportunity
Exhibit #66	*	Economics of Dairy Farming

Keith Ripp said you can't drive along Highway 2 at Broken Bow because of the dust.

Lori Mues agreed we are an agricultural community but money shouldn't shut people up. She questioned the water issues and also how the schools will be affected by all the families coming into the Community. This Section 13 is in a red zone for water issues, exhibit #67.

Exhibit #67	*	From Lori Mues
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Pope asked how the ethanol plant affected the school system. Mues replied that most of the people that work at the ethanol plant already live in Ravenna. She didn't think people really would want to work at a dairy.

Bea Urwiller said there is a shuttle bus available to employees that work at existing companies in Ravenna.

Christie Urwiller asked why there is a lot of dried milk stored between Gibbon and Shelton and questioned the shortage of milk. She asked if the County would require a bond for spills or clean up.

Fred Roth lives northeast of the proposed site and questioned the drainage in this area.

Doug Nuttelman represents the Dairy Farmers of America and 45% of the milk to Leprino is hauled from other States. They have to keep powdered milk on hand when milk is not available for the Ravenna plant. Transportation cost is a big factor. Leprino plant is building a plant in the Greeley Colorado area and when that plant is done, the milk will not be coming from Eastern Colorado area anymore. The 6000 head dairy in the Shelby area did not affect the school system in that area.

Liz Lockhorn asked if the Commission knew 29 waste lagoons in Nebraska are leaking. Is DEQ doing their job? She said the Manager of the Leprino plant said the plant would be here with or without this dairy.

Hoffmeister referred to Exhibit 20 regarding the decrease in dairy farmers.

Steve Wolfe commented management at Leprino does not decide whether or not a plant stays open. We have everything here for livestock facilities. We need to make the livestock industry stronger. He operates a dairy in Kearney County and they have 600 milking cows currently. They do not have an anaerobic digester and they have three pivots to dispose of the liquid. They separate the liquids from the solids and they re-use the dry material as bedding. They sell their milk to Leprino and it is vital to them that the Ravenna plant stays open.

Heiden asked what type of soil is in his area. Wolfe replied it is sandy.

Hoffmeister also asked if DEQ checks their facility. Wolfe replied they see DEQ about every three months and they have to supply a management plan.

John Shiers is a corn and soybean producer and he spoke in favor of agricultural production.

Rob Urwiller said health factors should also be a factor in this decision.

Gilbert Muhlbach questioned zoning regulations.

Lori Mues said there are many other areas in Nebraska this dairy could go that are not just outside a town.

Ron Urwiller said larger livestock facilities do have an impact on water issues and the environment and the community. The people in this area do have valid concerns and we are not anti-agricultural. This is an industrial use and no one wants it next door to them.

Skala said the Woitaszewski Brothers own 6000 acres and they farm 8000 acres and they have ample acres to take care of this dry waste material.

Danny Kluthe says Laura Kresbach is miss-informed because digesters are currently operating and are working very well. They are used in Europe and are very efficient. They are environmentally friendly.

Skala replied the water issues should be addressed by the Lower Loup.

Wayne Goedken uses sand for cows to lie on. The cattle are not always on concrete. They do the typical vaccinations that boost their immune system.

Skala said the de-valuation of property is questionable. He also questioned how the signatures of the protests were obtained.

Attorney Galen Stehlik referred to the letters that were received from the head of the Nebraska Department of Environmental Quality. The permit needs the permission from the County before it goes to DEQ.

Hoffmeister referred to Section 2 of the Comprehensive Plan that lists goals and policies. He also referred to Section 2.7 which lists job creations as the #1 goal for low to moderate income and Section 3.1 that supports expansion of agricultural business.

Pope closed the public hearing at 10:53 P.M.

Biehl said this application fits the zoning regulations for Buffalo County.

Wolfe feels we don't have a sufficient management plan for the waste.

Wietjes commended he wouldn't know how to read the management plan if he had it in front of him. He feels we have addressed the seven points under Section 6.2.

Pope agrees this is the most difficult issue he has faced in ten years. His address is Ravenna and he shares some of the concerns. Agricultural is changing but we need to look at the zoning regulations and he feels the requirements do meet the legal requirement as set forth in our zoning regulations.

Skov said the management plan has been a point of discussion for some time. The management plan must be acceptable to DEQ and that is their expertise. The management plan is clearly their responsibility.

Motion was made by Keep, seconded by Wietjes to approve the following special use permit to the Woitaszewski Brothers and forward this to the County Board for a Class V dairy for part of the North Half of Section 13, Township 12 North, Range 14 West of the 6th p.m., Buffalo County, Nebraska, containing 246.08 acres. Voting yes were Keep, Wietjes, Biehl, Heiden, Pope, Skov and Steinbrink. Voting no: Covalt and Wolfe. Motion carried.

This will be heard before the County Board on March 25, time to be determined later.

Old Business: Moved by Skov, seconded by Steinbrink to approve the minutes of the January 17, 2008 as mailed. Voting yes were Skov, Steinbrink, Biehl, Covalt, Heiden, Keep, Pope, Wietjes and Wolfe. Voting no: none. Absent: none. Motion passed.

The next regular meeting of the Planning & Zoning Commission will be March 20, 2008 at 7:00 P.M.

Motion was made by Heiden to adjourn at 11:13 P.M.