

MINUTES OF THE KNOX COUNTY PLANNING COMMISSION

February 11, 2020

Call to order: The February 11, 2020 meeting of the Knox County Planning Commission was called to order by Chairman Dean Wilken at 7:30 p.m. at the Knox County Courthouse Board of Supervisors meeting room.

Announcement of Open Meeting Act: Announcement was made where the Open Meetings Act information is in the meeting room and that it is available to the public.

Roll Call: Members present: Rob Ganz, Doug DeShazer, Jim Kotrous, Robert Larsen, Neil Clausen, Keith Nielsen, and Dean Wilken. (Fred Steffen position is vacant.) Absent: Greg Kuhlman. Also present were Zoning Administrator Liz Doerr, Supervisor Dan Schlote, Keith Marvin with Marvin Planning Consultants, and several members of the public.

Approve Agenda & Public Notice in the Wausa Gazette and Niobrara Tribune. Notice of the meeting was given in advance thereof by publication in the Wausa Gazette and Niobrara Tribune. Kotrous moved, Ganz seconded, to approve the agenda and public notice. Roll call vote showed all present in favor. Absent: Kuhlman.

Approve the Minutes from the December 10, 2019 Meeting. It was noted that a correction was needed in that DeShazer was absent. Ganz moved, DeShazer seconded the motion, to approve the corrected minutes from December 10, 2019. Roll call vote showed all present in favor. Absent: Kuhlman.

Ex Parte Communications: Nielson had a few people contact him to discuss the new business.

Old Business: Public Hearing for Comprehensive Plan Update. Kotrous moved to open the public hearing at 7:34 p.m., seconded by DeShazer. Roll call vote showed all present in favor. Absent: Kuhlman. Keith Marvin reviewed the corrected draft. Doerr pointed out some minor corrections that were made. Kotrous pointed out a typo on Page 66 that referred to Iowa. Keith Marvin will make the correction. The date of the Hazard Mitigation Plan will need to be corrected. Wilken asked for comments from the public but there were none. Ganz moved to close the public hearing at 7:40 p.m., seconded by Clausen. Roll call vote showed all present in favor. Absent: Kuhlman. Ganz moved to recommend approval of the Comprehensive Plan to the Board of Supervisors with the noted changes, seconded by Kotrous. Wilken clarified that the only changes were the ones discussed. Roll call vote showed all present in favor. Absent: Kuhlman. Marvin explained that the Lake Area and Commercial Corridor regulations will be worked on to match the sub-area plan and that we should create an overlay district to add special criteria. We'll have a couple of meetings to work on it. March 12 is the tentative date for the public hearing with the County Board to approve the Comprehensive Plan.

New Business: John Thomas to discuss the Impact Easements and Livestock Setbacks: John Thomas, Knox County Attorney, explained a recent lawsuit case about an old Impact Easement that had been signed in 2003 and in 2015 it was relied upon to grant an expansion to a livestock feeding operation. The Impact Easement had been prepared by Attorney Patrick Birmingham. It was contested later in that the widow did not have 100% interest and the Impact Easement should not be valid because the children were not signers of the Impact Easement. The District Court ruled that the Impact Easement was invalid and the expansion is unapproved. The Planning Commission and Zoning Administrator have not relied on title commitments to research the validity of Impact Easements. The feeding operation could be made to supply a title search for validity of Impact Easements. In this case, the party that applied for the expansion relied on the Impact Easements that were drafted by his attorney, but it was done in error. There is an appeal but in trying to resolve this other than litigation, it was discovered that the value is hundreds of thousands of dollars. They were designed to help a neighbor to allow another neighbor to expand. Our Zoning Regulations have created an asset to extract value in order to get an Impact Easement signed. Thomas felt that it is something to think about. This could change the parameters of development. It may make it difficult for a livestock operation to be able to afford to expand and pay for an Impact Easement. He strongly asks the board to consider shortening the setbacks and removing the Impact Easements to put everybody on the same playing field. Keith Marvin said that it could not be done with a variance because there would be no hardship according to the state statutes. Thomas said that with no easements, you would have more uniform development and it would be easier to enforce and administer. Reverse easements may also be taken away after giving it some thought. Thomas felt that the more that will eliminate the

ability of the neighbor to control the neighbor, the better. Marvin said that Impact Easements are a common tool to keep the County out of it. If the two owners negotiate cash, it is not our business. The Administrator only needs to make sure that there is an agreement. Impact Easements have only been tried once in Otoe County but the District Court upheld the concept of Impact Easements. Marvin suggested putting a moratorium on granting Impact Easements while we consider this. If we do away with Impact Easements, he does suggest that we shorten up the setbacks. The consensus was to wait to see the result of the court case. Thomas said the timeline is about two years to hear the case result and he wanted to clarify that he is asking the Planning Commission to think about it. Thomas will talk to the County Board also.

Zoning Administrator's Report: The December and January Permit Reports were reviewed. Doerr asked the Planning Commission if they would like to have the new Deputy County Attorney attend the meetings. The consensus was that it would be useful especially during certain meetings. Schlote felt that it would be good to utilize the Deputy County Attorney. Marvin said that it would be a useful thing. Tentative agenda items are the Lake Area regulations and Lazy River Acres plat.

Next Meeting: The next meeting is tentatively scheduled for Tuesday March 10, 2020 at 7:30 p.m.

Adjournment: The meeting was adjourned at 8:44 p.m. by Chairman Wilken.

Liz Doerr, Zoning Administrator

Approved by Planning Commission: 7-14-20

Placed on File with Board of Supervisors: 7-30-20