



# Hall County Regional Planning Commission

Wednesday, September 03, 2008  
Regular Meeting

## Item E2

### August Meeting Minutes

*Insert a narrative here*

Staff Contact:



The motion carried with 10 members present and 8 voting in favor (O'Neill, Ruge, Hayes, Monter, Haskins, Eriksen, Bredthauer, and Snodgrass) and 2 members present abstaining (Amick, Reynolds).

No vote was taken at the July meeting regarding those minutes.

### **3. Minutes of July 2, 2008 meeting.**

A motion was made by Bredthauer, and seconded by Haskins, to approve the Minutes of the July 2, 2008 meeting as mailed.

The motion carried with 10 members present and 6 voting in favor (O'Neill, Reynold, Haskins, Eriksen, Bredthauer, and Snodgrass) and 4 members present abstaining (Amick, Ruge, Hayes, and Monter).

### **4. Request time to speak.**

Jim Kube, David Varva, Tom Musgrave, Greg Robb, Carol McWhirter and Dan McWhirter requested time to speak on item #8; Bob Dodendorf requested time to speak on item #5.

### **5. Council Referral**

Nabity explained council has been working on create this, they created a board back in March, and the board has been meeting for the Business Improvement District 6, the area includes Garfield Street to Eddy Street along Second Street. This is the area where they are working on Second Street; some of the local businesses suggested a BID district similar to the one on South Locust, for landscaping purposes. The board has been working with the Nebraska Arboretum for landscaping design; the CRA has already funded the money for the conduit for sprinklers and pedestrian lighting along this area. The purpose of the district is for landscaping. This will be similar to the South Locust district. Council did refer this to the Planning Commission for the recommendation. This will help them move forward with the creation of the district.

No comments or questions were made.

O'Neill asked for a motion. A motion was made by Ruge, and seconded by Eriksen, to recommend referral as submitted.

A roll call vote was taken and the motion passed with 10 members present (Amick, O'Neill, Ruge, Reynolds, Hayes, Eriksen, Heineman, Haskins, Bredthauer, Snodgrass) all voting in favor.

### **6. Council Referral**

Nabity explained this is a replacement district for BID 3; the BID 3 will expire in October of this year, with the creation of the BID 7 this would take care of the

landscaping that is already in place. They have a budget there are no new projects this is just a continuation of what has been done previously. Council needs a recommendation before they can act.

O'Neill asked if there were any questions or changes. Haskins asked if the amount per foot would change. Nabity stated not substantially, but does cost to maintain it.

O'Neill asked for a motion. A motion was made by Haskins and seconded by Reynolds to recommend referral as submitted.

A roll call vote was taken and the motion passed with 10 members present (Amick, O'Neill, Ruge, Reynolds, Hayes, Eriksen, Heineman, Haskins, Bredthauer, Snodgrass) all voting in favor.

## **7. Final Plat**

Nabity stated Powell 4<sup>th</sup> Subdivision – HC was an existing farmstead they are making the lot bigger. They are taking unplatted land adjacent to it and adding it to the lot that the house is on. It meets all the regulations for a legal subdivision in Hall County and Alda.

O'Neill asked if there were any questions or changes.

O'Neill asked for a motion. A motion was made by Hayes and seconded by Eriksen to recommend plat as submitted.

A roll call vote was taken and the motion passed with 10 members present (Amick, O'Neill, Ruge, Reynolds, Hayes, Eriksen, Heineman, Haskins, Bredthauer, Snodgrass) all voting in favor.

## **8. Public Hearing**

During the public hearing Chad Nabity, AICP Regional Planning Director, presented the Text Amendment Change to the Doniphan Zoning Regulations to the Commission along with his recommendations regarding the change. The Amendments to be considered pertain to the relocation of livestock waste control facilities in the Transitional Agriculture TA district to allow greater separation between these facilities and the more intensive or higher density residential uses.

Dan and Carol McWhirter along with their attorney Jim Kube spoke against the change. Mr. Kube said they believe that Greg Robb's offer to move the facility is a ploy to expand his cattle operation. He contends that by placing the livestock waste control facility (LCF) in the location currently approved by the Nebraska Department of Environmental Quality the LCF would take up space currently used for pens and therefore would reduce the number of animals at this location. Mr. Kube said "It's about money, not about doing the right thing and getting the stink away from Doniphan." Mr. Kube entered into the record a listing of recent violations that have been recorded either by the Nebraska Department of Environmental Quality or the

U.S. Fish and Wildlife Agency against Mr. Robb at these operations. Chairman Pat O'Neill accepted the entry but specified that the item before the commission pertained to the text amendment not to any specific operation. Mr. Kube also stated in his opinion that this action could constitute spot zoning.

Also speaking against the Text Amendment Change was Tom Musgrave, representing the Mary Lanning Hospital Trust. Mr. Musgrave stated that he believes moving the waste facility north of Doniphan is not in the village's best interest. He pointed to the Envision Doniphan section of the Doniphan Comprehensive plan specifically sections dealing with economic development, quality of life, separation of uses, and environmental considerations.

Dave Vavra, a former member of the village board of Doniphan, confirmed the village addressed issues with Mr. Robb and these operations 10 years ago and with the passage of Ordinance of 367, this ordinance specifically limited the number of cattle on Mr. Robb's two feedlots and prevents expansion of the footprint of those operations by making them non-conforming uses within the zoning regulations. Moving the waste control facility to the north constitutes an expansion and is a violation of existing village law.

Greg Robb spoke to the Commission stating currently he has two feedlots; one that has 2,500 head of cattle and the other that has 1,750. He has a plan approved by the Department of Environmental Quality that would allow him to locate the required waste control facility about 300 feet from city limits. He has approval to build the LCF at that site and he stated that this placement would not force him to cut the number of animals at the facility. Mr. Robb is proposing to move the LCF about one mile north of the village limits if he can get approval from the Village. He believes this will help get the stink away from the village, another major reason is to get to drier land the current operation is on low ground that often floods.

Commissioner O'Neill closed the public hearing.

Commissioner Leslie Ruge asked Nabity if this action would constitute spot zoning. Nabity stated that the change applies to the entire zoning district. While it may impact the Robb property it would also impact all properties in that TA zone including any other feeding operations located there now or in the future as Doniphan would expand their extraterritorial jurisdiction. This is not a request to change the zoning on a specific piece of property as would normally be the case when spot zoning is alleged.

Commissioner John Amick spoke that this was a great plan to move the waste facility further away from town, however he wanted to know if what is proposed will work. Amick also wanted to add a fifth condition to the four already proposed.

The proposed Livestock Waste Control Facilities be reviewed and approved by the Nebraska Department of Environmental Quality, and the Livestock Waste Control

Facilities be maintained in operating condition by the owners of the Livestock Feeding Operation.

O'Neill asked for a motion. A motion was made by Amick, and seconded by Bredthauer, to amend the language that is being proposed to add the fifth condition to the text amendment language presented to the planning commission.

A roll call vote was taken and the motion passed with 10 members present (Amick, O'Neill, Ruge, Hayes, Reynolds, Monter, Haskins, Eriksen, Bredthauer, Snodgrass) all voting in favor to amend the language that is being proposed to add the fifth condition to the text amendment language as presented.

O'Neill asked for a motion. A motion was made by Hayes and seconded by Haskins, to approve the Text Amendment change to Doniphan Zoning Regulations as amended.

18. Livestock Waste Control Facilities: if such facilities are required to bring an existing Livestock Feeding Operation (LFO) into compliance with state or federal regulations pertaining to livestock waste regulations and if such facilities are located further from the corporate boundaries of the Village of Doniphan and further from established residential subdivisions of 5 or more houses on 10 acres or less than alternative locations. Such approval by conditional use permit for the construction of livestock waste control facilities shall have no impact on the status of an LFO as an existing non-conforming use and shall be considered a separate use of such property, as long as any future approval of said conditional use permit is conditioned upon (1) said livestock waste control facility shall only be allowed to accept livestock waste from the subject LFO needing to comply with state or federal livestock waste regulations, (2) the subject LFO, needing to comply with state or federal livestock waste regulations, shall not be allowed to increase its then-current permitted or grandfathered livestock numbers, at that specific facility location, (3) this permit shall be null and void if the existing LFO expands in size or number of animals, (4) this livestock waste control facility and the associated LFO shall operate within the bounds of state and federal regulation, (5) The proposed Livestock Waste Control Facilities be reviewed and approved by the Nebraska Department of Environmental Quality, and the Livestock Waste Control Facilities be maintained in operating condition by the owners of the Livestock Feeding Operation.

Nabity asked the commission to consider making a finding of fact regarding the issue and suggested that points from the staff memo could be used a basis for those findings. Mr. Amick stated that this has been a contentious issue for the last 10 years, for the Doniphan community. What the Commissioners have before them is a proposal that would provide the Village of Doniphan a means by which to address the feedlot issues, in a manner that would be perhaps in the best interest of the feed lot owner and the Village of Doniphan and its residents. This is a tool, if they so chose to use it, that will allow Mr. Robb and others to place LCF's in a spot that may have less impact on the community than other spots. Approval of this would give the Village board the option of considering other locations. No other discussion was held on findings.

Chairman O'Neill called for a roll call vote on the motion. A roll call vote was taken and the motion passed with 9 members present (Amick, O'Neill, Ruge, Hayes, Monter, Reynolds, Haskins, Bredthauer, Snodgrass) voting in favor and one member present (Ericksen) voting no.

## **9. Planning Director's Report**

Community Beautification Award, Naby stated he needed nominations by this Friday. Also those who volunteered to be on the Beautification Committee will need to meet next week to make a decision on the award winner so the plaques could be made and ready to go for the September meeting.

Naby also explained there is a meeting scheduled for next week regarding the Hazard Mitigation Plan some of the smaller communities have already adopted those or are in the process. This will have to be done by the end of September; Planning Commission will see the whole plan at the September meeting, then hold the Public Hearing and send to County board for their approval. There are no major plans for changes from FEMA.

Deb Reynolds, Bill Hayes and Don Snodgrass said they would like to be reappointed to the Planning Commission for another term.

## **10. Next Meeting September 3, 2008**

Chairman O'Neill adjourned the meeting at 7:30 p.m.

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Leslie Ruge, Secretary

by Rose Woods