

**Scotts Bluff County
Planning Commission Meeting
January 11th 2022**

The Scotts Bluff County Planning Commission met on January 11th at 7:30 P.M. in the Scotts Bluff County Commissioner's Room, Administration Building, Gering, Nebraska.

Members Present: Bill Wineman, Dean Schaneman, Roger Beitel, Eric Wilcox, Dan Dickinson, Vern Groskopf, Jerry Thurman.

Members Absent: Terry Schank and Mick Lookabill

William Mabin: Building and Zoning Director

Cheri DeLong: Building and Zoning Assistant

Notice of the Nebraska Open Meetings Act was made by Eric Wilcox.

Vern Groskopf made the motion to approve the October 12, 2021 minutes as presented. Motion was seconded by Jerry Thurman.

Roll Call: Bill Wineman aye, Dean Schaneman aye, Roger Beitel aye, Eric Wilcox aye, Dan Dickinson aye, Vern Groskopf aye, Jerry Thurman aye

Motion carried

Item 1:

Reorganization – Appointment of Officers

Dan Dickinson made the motion to appoint Eric Wilcox to Chairman, Vern Groskopf to Vice Chairman, and Bill Wineman to Officer. Motion seconded by Dean Schaneman.

Roll call: Roll Call: Bill Wineman aye, Dean Schaneman aye, Roger Beitel aye, Eric Wilcox aye, Dan Dickinson aye, Vern Groskopf aye, Jerry Thurman aye

Motion carried.

Item 2: Cow Camp LLC
Conservation Easement
Pts of Sections 3, 4, 9 & 10 Twp 21N Rg 54W

Cow Camp LLC is operated by Mark Johnson, Michael (Mike) Hoehn, and Leo Hoehn. Cow Camp LLC is proposing to transfer a conservation easement to Wet Lands America Trust Inc which is an easement holder for Ducks Unlimited Inc.

Cow Camp LLC is represented by Waite & McWha, Attorneys at Law, 116 N. Dewey St., PO Box 38, North Platte NE 69103. Todd McWha, attorney, giving the talking points to have the easement transferred to Wet Lands America Trust Inc., a holding company of Ducks Unlimited Inc.

Testimony by Mr. McWha: Easement is 580 acres, 442 of which are cultivated, 57 acres of non-tillable agriculture ground, and 57 acres of wetlands located down along the river. Owners can still farm, cultivate, and run cattle on the property. Easement will restrict the ability to separate the designated 580 acres, and will not allow for any future structures. The Conservation Easement purpose is to provide habitat and preservation for water fowl which migrate through the area annually. Easement will not preclude property taxes. Improvements to property will actually increase the taxable value of the land. Municipalities and/or utilities can use the condemnation process if a road or infrastructure is needed to pass through the property. The comprehensive plan (attached) does not have any provisions for denying a conservation easement at this time. Page 66 of the comprehensive development plan is to “protect and conserve the unique natural and physical resource base of the county”.

Testimony by Mike Hoehn: The outfitting industry servicing out-of-state hunters has been an economic boon for the area, including the food service and lodging facilities. Having these hunting areas available to outside interests is of financial benefit to Scotts Bluff County.

Jerry Thurman made the motion to recommend approval to the Scotts Bluff County Board. Motion seconded by Roger Beitel.

Roll call: Roll Call: Bill Wineman aye, Dean Schaneman aye, Roger Beitel aye, Eric Wilcox aye, Dan Dickinson aye, Vern Groskopf aye, Jerry Thurman aye

Motion carried.

Item 3: Miscellaneous: None at this time.

Meeting adjourned at 7:45 PM.

Respectfully submitted,

Cheri DeLong

Evidence presented to the Planning Commission before and at the meeting:

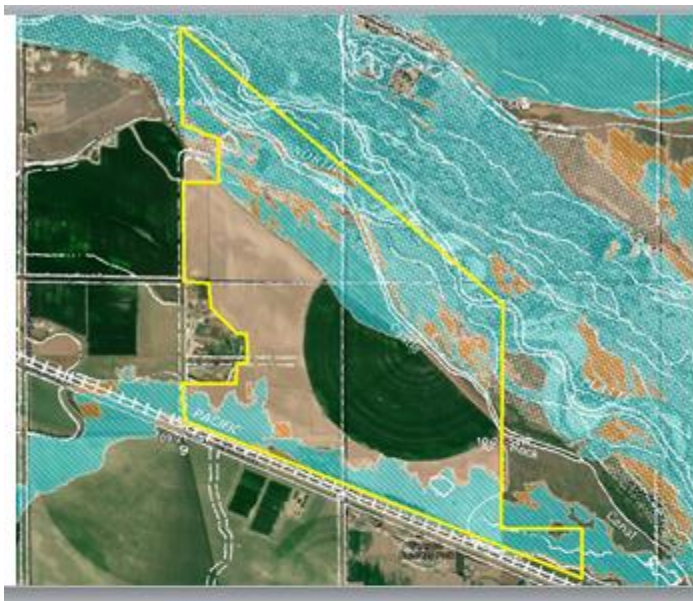
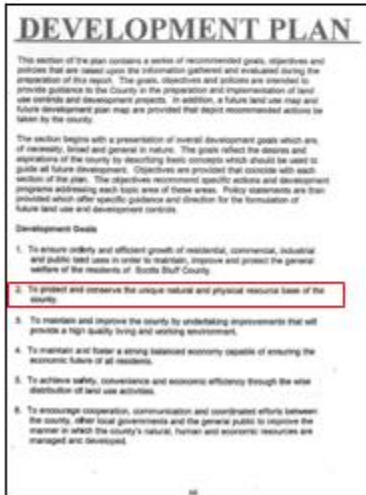


EXHIBIT 1
FIGURE 6: Habitat Types
 (Property Border - red, Wetlands, Watercourse and Waterbody Area, blue - 80.42 acres, Non-Cultivated Agriculture Area, green - 57 acres, Cultivated Agriculture Area, yellow - 442 acres)



Chapter 76

76-2.111.

Terms, defined.

As used in the Conservation and Preservation Easements Act, unless the context otherwise requires:

- (1) Conservation easement shall mean a right, whether or not stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural, scenic, or open condition, assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat, or open space use, protecting air quality, water quality, or other natural resources, or for such other historic preservation purpose as may qualify as a charitable contribution under the Internal Revenue Code; and
- (2) Preservation easement shall mean a right, whether stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of preserving the historical, architectural, archaeological, or cultural aspects of real property, or for such other historic preservation purpose as may qualify as a charitable contribution under the Internal Revenue Code; and
- (3) Holder shall mean anyone acquiring a conservation or preservation easement by purchase, exchange, gift, or devise and having the right to enforce it by its terms, which may be:
- (a) Any governmental body empowered to hold an interest in real property in this state under the laws of this state or the United States having among its purposes the subject matter of the easement;
- (b) In the case of a conservation easement, any charitable corporation or trust whose purposes include retaining or protecting the natural, scenic, or open condition of real property, assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat, or open space use or protecting air quality, water quality, or other natural resources; or
- (c) In the case of a preservation easement, any charitable corporation or trust whose purposes include the preservation of the historical, architectural, archaeological, or cultural aspects of real property.

Chapter 76

76-2.112.

Easement; creation; approval by governing body; when required.

- (1) A conservation or preservation easement shall be an interest in real property created by an instrument in which the purpose for the easement is clearly stated. The instrument shall be filed, duly recorded, and indexed in the office of the register of deeds of the county in which the real property subject to the conservation or preservation easement is located.
- (2) No conveyance of a conservation or preservation easement shall be effective until accepted by the holder.
- (3) In order to minimize conflicts with land-use planning, each conservation or preservation easement shall be approved by the appropriate governing body. Such approving body shall first refer the proposed acquisition to and receive comments from the local planning commission with jurisdiction over such property, which shall within sixty days of the referral provide such 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. If the property is located partially or entirely within the boundaries or zoning jurisdiction of a city or village, approval of the governing body of such city or village shall be required. If such property is located entirely outside the boundaries and zoning jurisdiction of any city or village, approval of the county board shall be required. If the property is located in the Nodawa scenic river corridor as defined in section 71-2005 and is not incorporated within the boundaries of a city or village, the Nodawa Council approval other than city, village, or county approval shall be required. Approval of a proposed acquisition may be denied upon a finding by the appropriate governing body that the acquisition is not in the public interest when the easement is inconsistent with (a) a comprehensive plan for the area which had been officially adopted and was in force at the time of the conveyance, (b) any national, state, regional, or local program furthering conservation or preservation, or (c) any known proposal by a governmental body for use of the land.
- (4) Notwithstanding the provisions of subsection (3) of this section, the state, or any state agency or political subdivision other than a city, village, or county, may accept an easement after first referring the proposed acquisition to and receiving comments from the local planning commission with jurisdiction over the property, which shall within sixty days of the referral provide such 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.

WAITE & MCWHA

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Paralegal - DONNA HARTLEY (dhartley@northplattelaw.com)

December 22, 2021

Via Email & Mail Delivery

Bill Mabin
Scotts Bluff County Planning Commission
Scotts Bluff County Board of Commissioners
785 Rundell Road
Gering, NE 69341
BMabin@scottsbuffcounty.org

Re: Conservation Easement -- Cow Camp LLC

Dear Mr. Mabin, Planning Commission, and Board of Commissioners of Scotts Bluff County:

Cow Camp LLC owned by Mark Johnson, Michael (Mike) Hoehn, and Leo Hoehn, owns land in Scotts Bluff County and are proposing to transfer a conservation easement to Wet Lands America Trust Inc which is an easement holder for Ducks Unlimited Inc. These gentlemen are all local people in the area involved in agriculture. I am an attorney who assists with the application for the easement. The property at hand here is shown on the attached documentation is located three miles east of Gering. It is shown on **Exhibit 1** attached hereto. As you can see there is cultivated agriculture, which means it can be plowed and planted plus the remaining non-cultivated agriculture and accretion or river ground area. The areas in green and blue can be grazed or hayed with the wetland area in blue.

Scotts Bluff County has considered many of these conservation easements and has approved them. A source of information on conservation easements can be obtained Bill Mabin with Scotts Bluff County since he has seen several of these through the process with Scotts Bluff County.

What I usually see is counties review their comprehensive plan and determine if there are any conflicts which would prevent the approval of the conservation easement. The statute specifically provides as follows:

“(3) In order to minimize conflicts with land use planning, each conservation or preservation easement shall be approved by the appropriate governing body. Such approving body shall first refer the proposed acquisition to and receive comments from the local planning commission...”

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76-2,112 (3)

I am requesting that this proposal for a conservation easement be referred to the Planning Commission for County of Scotts Bluff so the Planning Commissioners can review and provide comment to the County Commissioners for its approval.

Cow Camp's reasoning for wanting to make this transfer is to preserve the rural integrity and to preserve it for farming, ranching and recreational uses for future generations. Cow Camp's owners have lived, worked and hunted in this area for years. They use this property for farming, ranching and recreational purposes. It is important to them to preserve this type of property for future generations so they have it to use as it has been used in the past.

The property is made up of approximately 580 acres of which 442 is cultivated ag land which will remain to be allowed to be cultivated, 57 acres is non-cultivated ag which would be for pasturing cattle and used for haying and 57 acres of wetlands, watercourse and waterbody. The property is surrounded by similar type of agriculture and riparian land.

This conservation easement will not affect the current use of the property since it does allow the area to be pastured and the crop land area to be plowed and cultivated or pastured. The easement has been carefully structured to allow activities necessary to support grazing and other permitted uses of the property including cultivating, pasturing, and haying.

As indicated above, the reason for the appropriate governing body, in this case the county of Scotts Bluff, to review and approve is to "minimize conflicts with land use planning..." I reviewed the county comprehensive plan and I do not see anywhere in it where this property would cause a conflict with the land use planning or any items of the comprehensive plan. In particular, it indicates under "environmental goals" to "discourage development from locating on productive agriculture soils and in other agriculture areas where conflicts may arise from farming and efficient farm practices". This conservation easement preserves the use of this property for agriculture purposes. That includes the allowing of the planting, cultivating, harvesting of crops in the agriculture tilled areas as indicate which amounts to approximately 442 acres. The 57 acres that is non cultivated agriculture currently is basically river accretion land that is best for pasturing cattle and that is how it has been used in general in the past along with recreational uses.

Also, planning issues bring up issues of the flood plain and to discourage building in any flood plain. Currently you will see from the attached **Exhibit 2**, there are areas which are within the preliminary flood plain area which includes this property. Thus, unlikely that building would occur on any of the preliminary flood plain areas or wetlands.

The comprehensive plan, it talks about "planned residential, commercial, and industrial parks will be encouraged as oppose to continued strip development patterns." This area would not be used for any residential, commercial, or industrial parks and thus not an area designated for development by the comprehensive plan. In part what this conservation easement does is to make sure that the property stays in use as agriculture and recreational as it has been used in the past.

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The development plan on page 66 sets forth “to protect and conserve the unique natural and physical resource base of the county.” This conservation easement would protect the natural beauty in the wetlands area and maintain the physical resource base of the agriculture involved in the property.

Finally, on page 69 of the development plan it indicates “future development in the 100-year flood plain will be carefully monitored and strongly discouraged.” As you can see from the exhibits attached part of this property is in that flood plain area. The areas that are not in the flood plain are the agriculture areas which on page 69 of the developmental plan it further sets forth:

“In-filling and revitalization of existing developed areas will be encouraged to minimize the conversion of prime farmland to more intense urban uses.”

Again, maintaining the agriculture primed farm land in the county which this conservation easement fulfills.

I attach as **Exhibit 5** page 66 and 69 out of the comprehensive plan showing what the development goals are and land use policy under the development plan of where property should be developed and where they should not be developed.

The Nebraska Conservation Preservation Easements Act defines a “conservation easement” as a “limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural, scenic, or open condition, assuring its availability for agriculture, horticulture, forest, recreational, wildlife habitat, or open space used protecting air quality, water quality, or other natural resources, or for such other conservation purpose as may qualify as a charitable contribution under the internal revenue code.” Neb Rev. Stat Section 76-2,111(1).

The property proposed for the conservation easement falls into the exact description of the above paragraph involving being available for “agriculture, horticulture, forest, recreational, wildlife habitat, or open space...”

Conservation easements are interests in real estate authorized by state law. They allow land owners to continue to own and manage their property, making economic uses of the property for things like ranching, farming, hunting, and recreation. Land owners of properties with conservation easements on them still control access, pay property taxes, preserve working ranches and farms, and retain the right to sell the property or pass it onto family or friends.

Attached hereto is **Exhibit 1** an aerial photo and diagram of land owned by Cow Camp showing the proposed land area for the conservation easement with the outlined area the easement area. As you can see from the aerial diagram and map, part of this property is in the preliminary flood plain which will restrict building. See attached **Exhibit 2** showing with highlighted marks for the preliminary 100-year flood plain for this area. A copy of the proposed easement is attached and marked as **Exhibit 3**. I attach **Exhibit 4** which is the conservation easement application.

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Most complaints regarding conservation easements relate to them being permanent and not allowing buildings or other development. When looking at the various maps you can see this is not a “prime development area”, part in a preliminary flood plain and wetland area and not an area for buildings to be built.

On the issue of this being perpetual the County or State can condemn the property that is needed for the public good. A conservation easement does not prevent condemnation. Thus, if a road, power line, pipeline or other public needed use is determined it could be accomplished through a condemnation action.

If one reviews the proposed easement and statutes involving conservation easements in Nebraska you will see conservation easements can be terminated in accordance with the language of those provisions. See below some of the language quoted from the statutes and easement that if it is no longer in the public interest to hold the easement or the easement no longer substantially achieves the conservation or preservation purposes for which it was created, it can be terminated or modified by a court.

The proposed easement itself provides for a termination when:

“As allowed by Treasury Regulation 1.170A-14(g)(6), if a subsequent unexpected change in the conditions surrounding the Protected Property can make impossible or impractical the continued use of the Protected Property for the Conservation Purpose, the restrictions contained within this Easement may be extinguished by judicial proceeding.”

Page 41 Paragraph 5.10(a) proposed conservation easement

Nebraska statutes also allow for modification or termination:

“Judicial Modification or termination

... the owner of the subject real property or the holder of the easement may petition the district court in which the greater part of the servient estate is located for modification or termination of the easement.

The court may modify or terminate the easement pursuant to this section if the petitioner establishes:

... that it is no longer in the public interest to hold the easement
or that the easement no longer substantially achieves the conservation or
preservation purpose for which it was created

Neb. Rev. Stat § 76-2, 114

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Furthermore, the Nebraska conservation statutes specifically allow condemnation:

Condemnation and Eminent domain

(2) Nothing in sections 76-2,111 to 76-2,118 (conservation statutes) shall diminish the powers granted in any other law to acquire by purchase, gift, grant, eminent domain, or otherwise and to use interests in real property for public purposes.

(3) If property subject to a conservation or preservation easement is condemned for public use, that part of the easement which conflicts with the condemnation shall terminate as of the time of the condemnation. If the easement was obtained by gift or devise the owner shall be entitled to such compensation for the taking as if the property had not been subject to the easement and if the easement was obtained by purchase or exchange, the holder shall be entitled to just compensation for the taking of the easement.

(4) An entity having the power of eminent domain may, through agreement with the owner of the servient estate and the holder of the conservation or preservation easement, acquire an easement over the land for the purpose of providing utility services.

Neb. Rev. Stat. Ann. § 76-2,117

The easement requires good husbandry of the property including controlling invasive species and other reasonable restrictions and methods so as not to denigrate the property.

Conservation easements are arguably as permanent as buildings. Seldom, if ever, do we see urban sprawl removed, and returned back to agriculture land or properties used by wildlife. Ducks Unlimited through Wetlands America Trust Inc has other conservation easements in Scotts Bluff County and other counties in the State of Nebraska. Preserving unique wetlands and lands adjacent to the wetlands for waterfowl and other game species is as important to many people as building another parking lot or building. Especially where this proposed easement would be placed.

The opinions of the citizens of Nebraska through the legislature has determined that it is important to conserve and protect unique habitats through conservation easements. If the legislature did not believe this issue to be an important one, it would not have passed these conservation statutes. Not all properties are appropriate for a conservation easement, but this particular property when looking at the various maps can be shown to be in the preliminary flood plain and part a wetland area. Common sense would dictate that even if people could build in these areas that no one would, and even if a person wants to build a structure in these areas it likely will never be able to be done due to the wetland areas. The best use for this property is for agriculture and conservation and it is the type of property that the legislature and the opinions of the citizens of Nebraska have expressed to be the type most appropriate for a conservation easement.

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Cow Camp LLC owners would ask for positive comments to be passed from the planning commission to the city council relating to this proposed Conservation Easement and for the city council to approve the conservation easement for all future generations to enjoy this type of property.

I would ask for the application for the conservation easement be placed on the planning commissioners January 11, 2022 meeting and on the County Commissioners meeting of January 18, 2022. An owner of Cow Camp LLC and a representative for Ducks Unlimited would be on hand to answer questions at both of those meetings.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd R. McWha", is written over the typed name.

Todd R. McWha
For the Firm

TRM/bb
Enclosures/Attachments

The Power Point presentation of the Planning Commission meeting can be obtained by contacting:

Bill Mabin
Scotts Bluff County
Building & Zoning
bmabin@scottsbluffcounty.org
(308) 436-6700
785 Rundell Road
Gering, NE 69341

**Scotts Bluff County
Planning Commission Meeting
February 8th, 2022**

The Scotts Bluff County Planning Commission met on February 8th at 7:30 P.M. in the Scotts Bluff County Commissioner's Room, Administration Building, Gering, Nebraska.

Members Present: Bill Wineman, Jerry Thurman, Vern Groskopf, Roger Beitel, Eric Wilcox, Dean Schaneman.

Members Absent: Dan Dickinson, Terry Schank, Mick Lookabill.

William Mabin: Building and Zoning Director

Cheri DeLong: Building and Zoning Assistant

Notice of the Nebraska Open Meetings Act was made by Eric Wilcox.

Jerry Thurman made the motion to approve the January 11th, 2022 minutes as presented. Motion was seconded by Roger Beitel.

Roll Call: Bill Wineman aye, Jerry Thurman aye, Vern Groskopf aye, Roger Beitel aye, Eric Wilcox aye, Dean Schaneman aye.

Motion carried

Item 1:

Randall & Kellie May

Application for Zoning Change and Preliminary Plat for the May Subdivision.

Section 22, Township 23North, Range 54 West of the 6th Principal Meridian

Represented by: Scott Bosse 30601 County Road 17, Mitchell, NE 69357 308-623-0197.

Owner wishes to subdivide the approximately 20 acre tract into 2 parcels, with the intent on selling the north lot to the abutting owner to the north. Tract 2 will contain the May's home.

Requesting a zoning change from Agricultural to Rural Residential.

Access from County Road 26. Meets requirements. No questions.

Dean Schaneman made the motion to forward to the Scotts Bluff Commissioners. Motion was seconded by Bill Wineman.

Roll call: Bill Wineman aye, Jerry Thurman aye, Vern Groskopf aye, Roger Beitel aye, Eric Wilcox aye, Dean Schaneman aye.

Motion carried.

Item 2: Donald F. Colson
Ag Estate Dwelling Site Application
Section 30, Twp 21N Rg 55W

A tract of land situated in the Northwest Quarter of Section 30, Township 21 North, Range 55 West of the 6th P.M., Scotts Bluff County, Nebraska, more particularly described as follows:
All that part of the northwest Quarter of the Northwest Quarter of said Section 30, lying west of the Gering-Fort Laramie Irrigation Canal. 4.2 acres, more or less.

Represented by William Mabin. 785 Rundell Road, Gering, NE 69341

Mr. Colson is selling the farm ground on the east side of the irrigation canal and wishes to reserve the marginal use land on the west side of the irrigation canal for a future home site. Has access from County Road 17.

Vern Groskopf made the motion to forward to the Scotts Bluff Commissioners. Motion was seconded by Jerry Thurman.

Roll call: Bill Wineman aye, Jerry Thurman aye, Vern Groskopf aye, Roger Beitel aye, Eric Wilcox aye, Dean Schaneman aye.

Motion carried.

Item 3: Miscellaneous: None at this time.

Meeting adjourned at 7:36 pm.

Respectfully submitted,

Cheri DeLong

Evidence presented to the Planning Commission before and at the meeting:

**Scotts Bluff County
Planning Commission Meeting
April 12th, 2022**

The Scotts Bluff County Planning Commission met on April 12, 2022 at 7:30 P.M. in the Scotts Bluff County Commissioner's Room, Administration Building, Gering, Nebraska.

Members Present: Bill Wineman, Jerry Thurman, Vern Groskopf, Roger Beitel, Eric Wilcox, Dean Schaneman.

Members Absent: Dan Dickinson, Terry Schank, Mick Lookabill.

William Mabin: Building and Zoning Director
Bobbie Dendy: Building and Zoning Assistant

Notice of the Nebraska Open Meetings Act was made by Eric Wilcox.

Bill Wineman made the motion to approve the February 8th, 2022 minutes as presented.
Motion was seconded by Dean Schaneman.

Roll Call: Bill Wineman aye, Jerry Thurman aye, Vern Groskopf aye, Roger Beitel aye, Eric Wilcox aye, Dean Schaneman aye.

Motion carried

Item 1: Greg Bonine **Parcel # 010049444**
Ag Estate Dwelling Site Application
Section 1, Township 22N, Range 58 West of the 6th Principal Meridian

Represented by: Owner Greg Bonine, 40027 E. Lyman Rd. Lyman NE 69352. Phone number 307-640-5045.

Landowner is proposing to split off a parcel of 10.23 acres for a future dwelling site for his children. Parcel has room for access and to widen an existing driveway. This parcel meets the requirements of the Scotts Bluff County Zoning Regulations.

Jerry Thurman made the motion to approve and forward to the Scotts Bluff Commissioners at the meeting May 2nd, 2022, 4:30 PM. Motion was seconded by Dean Schaneman.

Roll call: Bill Wineman aye, Jerry Thurman aye, Vern Groskopf aye, Roger Beitel aye, Eric Wilcox aye, Dean Schaneman aye.

Motion carried.

Item 2: Mary Ann Jenkins

Parcel #010014527

**Ag Special Use Area Application
Section 33, Twp 22N Rg 57W**

Request to split off 10 acres for sale to Black Hills Energy.

Represented by Dennis Sullivan, M.C. Schaff & Associates, 818 S. Beltline East, Scottsbluff NE 69361. 308-635-1926.

The parcel requested for Ag Special Use Area is located west of Stegall Rd on County Rd L about a quarter of a mile. Black Hills Energy will be building a substation.. They will also construct new power lines to connect with existing power lines that feed into Wyoming. Mr. Mabin displayed a list of permitted uses a part of the powerpoint presentation which show "Public Utilites" as a permitted use in Agriculture zoning.

Roger Beitel made the motion to approve and forward to the Scotts Bluff Commissioners at the meeting on May 2nd, 2022, 4:30 PM. Motion was seconded by Vern Groskopf.

Roll call: Bill Wineman aye, Jerry Thurman aye, Vern Groskopf aye, Roger Beitel aye, Eric Wilcox aye, Dean Schaneman aye.

Motion carried.

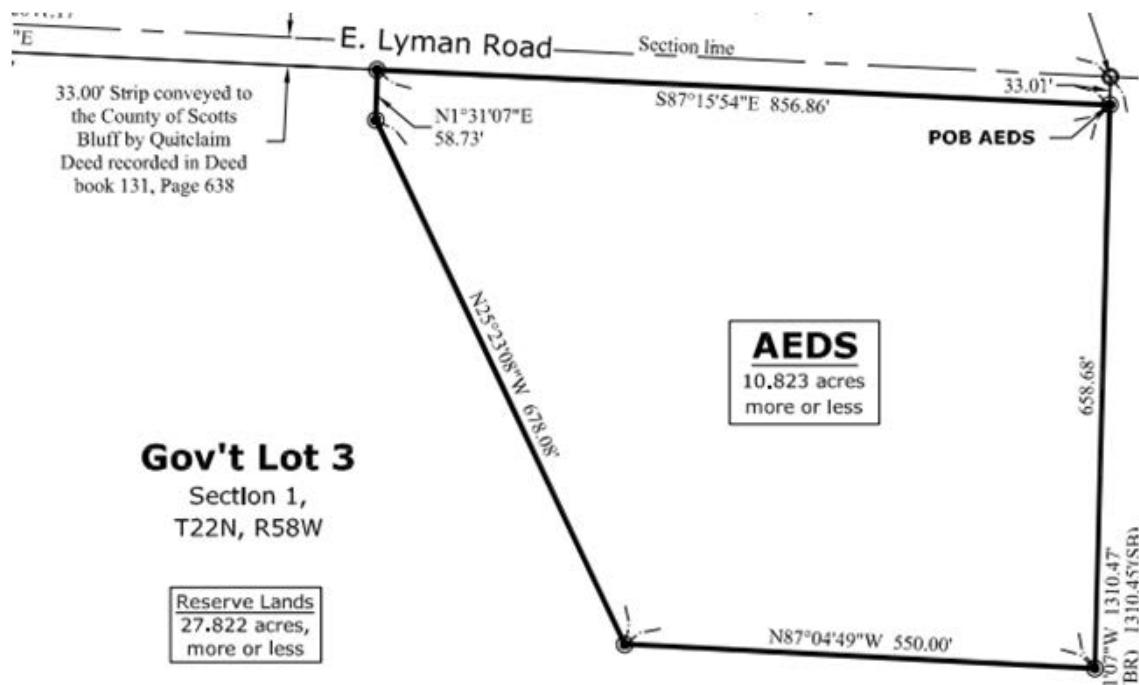
Item 3: Miscellaneous: The Building & Zoning subcommittee is progressing with review of zoning amendments to the Livestock Regulations and will be presenting amendments to the Planning Commission in the next couple months.

Meeting adjourned at 7:40 pm.

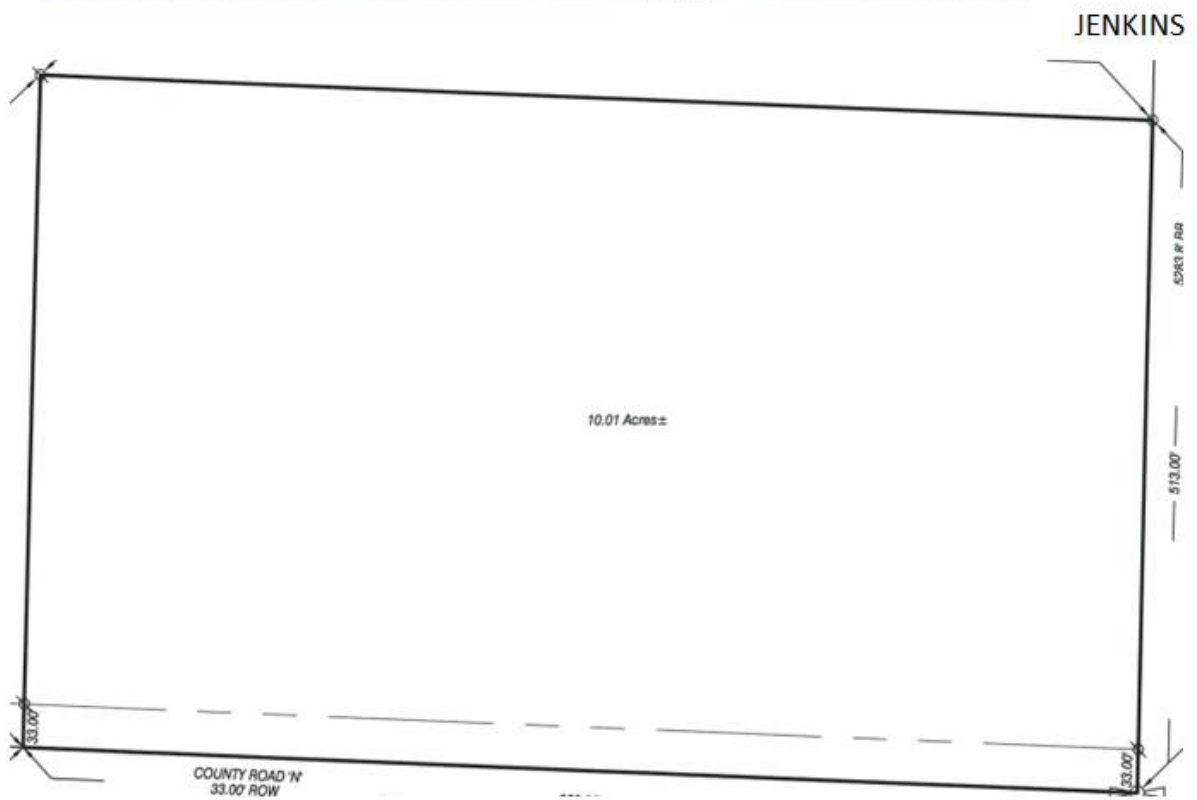
Respectfully submitted,

Bobbie Dendy
Scotts Bluff County Building & Zoning Assistant

Evidence presented to the Planning Commission before and at the meeting:



BONINE



**Scotts Bluff County
Planning Commission Meeting
June 14th, 2022**

The Scotts Bluff County Planning Commission met on June 14th, 2022 at 7:30 P.M. in the Scotts Bluff County Commissioner's Room, Administration Building, Gering, Nebraska.

Members Present: Bill Wineman, Dan Dickinson, Vern Groskopf, Eric Wilcox, Dean Schaneman & Jerry Thurman.

Members Absent: Mick Lookabill, Terry Schank & Roger Beitel.

William Mabin: Building and Zoning Director
Bobbie Dendy: Building and Zoning Assistant

Notice of the Nebraska Open Meetings Act was made by Eric Wilcox.

Jerry Thurman made the motion to approve the April 12th, 2022 minutes as presented. Motion was seconded Dean Schaneman.

Roll Call: Bill Wineman-aye, Dan Dickinson-aye, Vern Groskopf-aye, Eric Wilcox-aye, Dean Schaneman-aye & Jerry Thurman-aye.

Motion carried

Item 1: Public Hearing

Brian Chandler
Ag Estate Dwelling Site
Section 5, Township 22N, Range 56W

Parcel # 010005838

Represented by: Carl Gilbert, Wildcat Surveying 307 Church St., Harrisburg NE 69348

Owner wishes to split off the SW corner of above mentioned location for the purpose of a residence at a future date. The Ag Estate meets the requirements of the Scotts Bluff County Zoning & Subdivision Regulations. The Ag Estate will be presented to the County Commissioner's at the meeting, June 21st, 2022 at 4:30 PM for approval.

Bill Wineman made the motion to recommend approval to the Scotts Bluff Commissioners. Motion was seconded by Dean Schaneman.

Roll call: Bill Wineman-aye, Dan Dickinson-aye, Vern Groskopf-aye, Eric Wilcox-aye, Dean Schaneman-aye & Jerry Thurman-aye.

Motion carried.

Item 2: Public Hearing

C2W LLC (Brian Chandler)

Parcel # 010003088

Ag Estate Dwelling Site

Section 21, Township 22N, Range 53W

Represented by: Carl Gilbert, Wildcat Surveying 307 Church St., Harrisburg NE 69348

Owner wishes to split off the NW corner at the above mentioned location for the purpose of a residence at a future date. The Ag Estate meets the requirements of the Scotts Bluff County Zoning & Subdivision Regulations. The Ag Estate will be presented to the County Commissioner's at the meeting, June 21st, 2022 at 4:30 PM for approval.

Vern Groskopf made the motion to recommend approval to the Scotts Bluff Commissioners. Motion was seconded by Dan Dickinson.

Roll call: Bill Wineman-aye, Dan Dickinson-aye, Vern Groskopf-aye, Eric Wilcox-aye, Dean Schaneman-aye & Jerry Thurman-aye.

Motion carried.

Item 3: Public Hearing

Ben & Marisa Newell

Parcel2 # 010034994 & 010000670

Zoning Change (Ag to Rural Residential)

AND

Preliminary Plat (Newell Subdivision)

Sec21, Township 21N, Range 55W

Represented by: Scott Bosse, Accustar Surveying 30601 County Road 17, Mitchell NE 69357.

Requesting to change the zoning from Ag to Rural Residential be able to subdivide into two parcels for the Newell Subdivision. Lots 1 & 2 of the Newell Subdivision meet the minimum requirements of the Scotts Bluff County Zoning & Subdivision Regulations.

The Zoning Change and Preliminary Plat will be presented to the County Commissioner's at the June 21st, 2022 meeting for approval at 4:30 PM.

Dan Dickinson made the motion to recommend approval to the Scotts Bluff Commissioners. Motion was seconded by Jerry Thurman.

Roll call: Bill Wineman-aye, Dan Dickinson-aye, Vern Groskopf-aye, Eric Wilcox-aye, Dean Schaneman-aye & Jerry Thurman-aye.

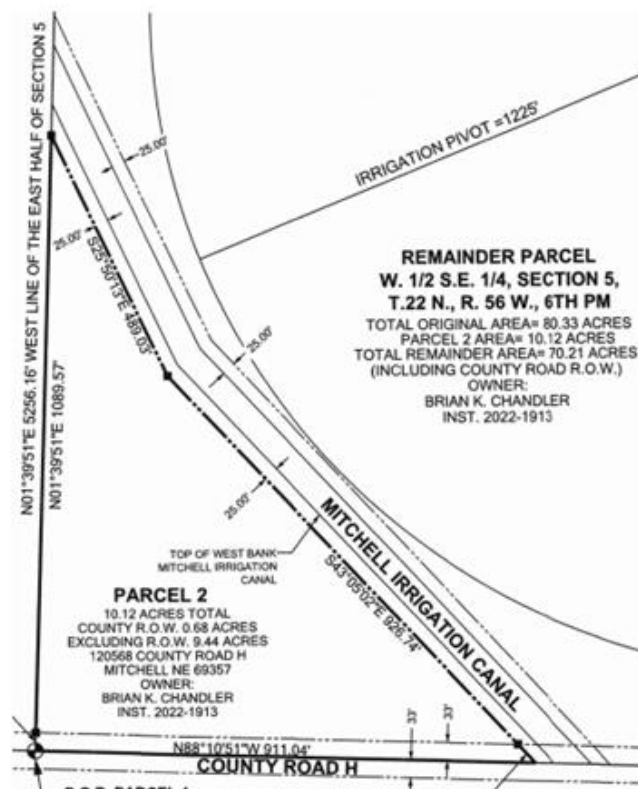
Motion carried.

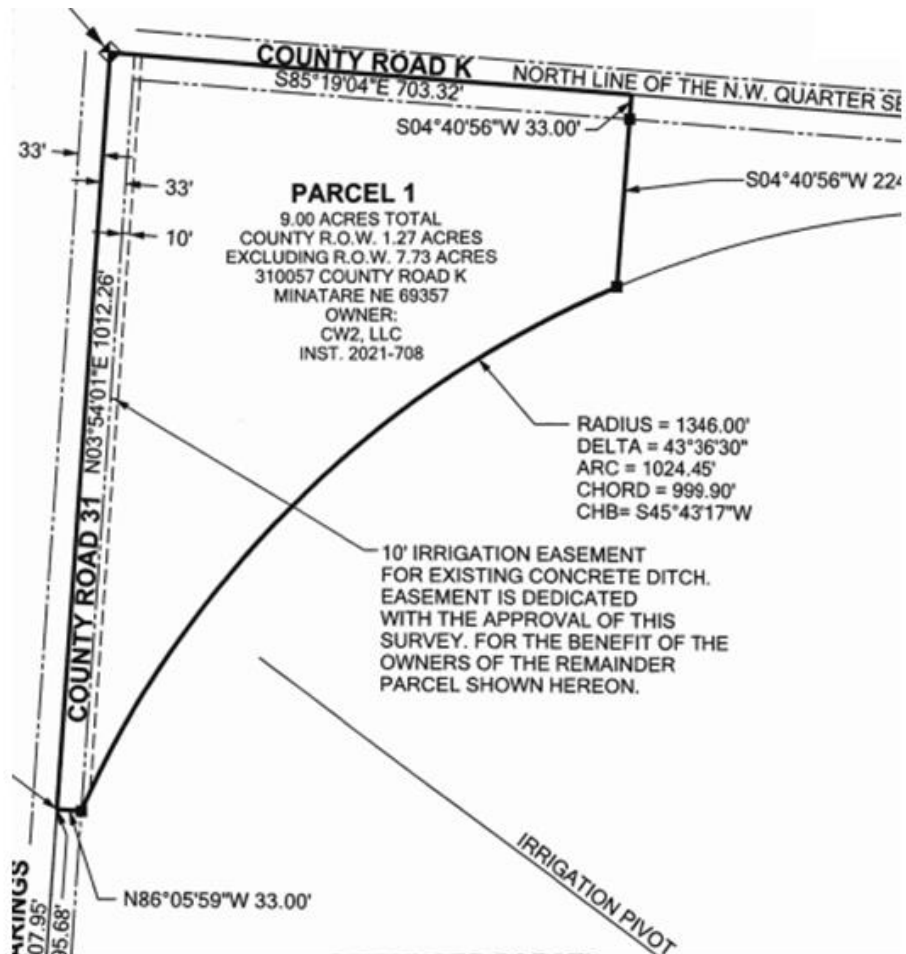
Item 4: Miscellaneous: Bill Mabin stated that the Zoning Amendments Subcommittee has approved the livestock regulation amendment recommendations and passed a motion to forward to the next Planning Commission meeting.

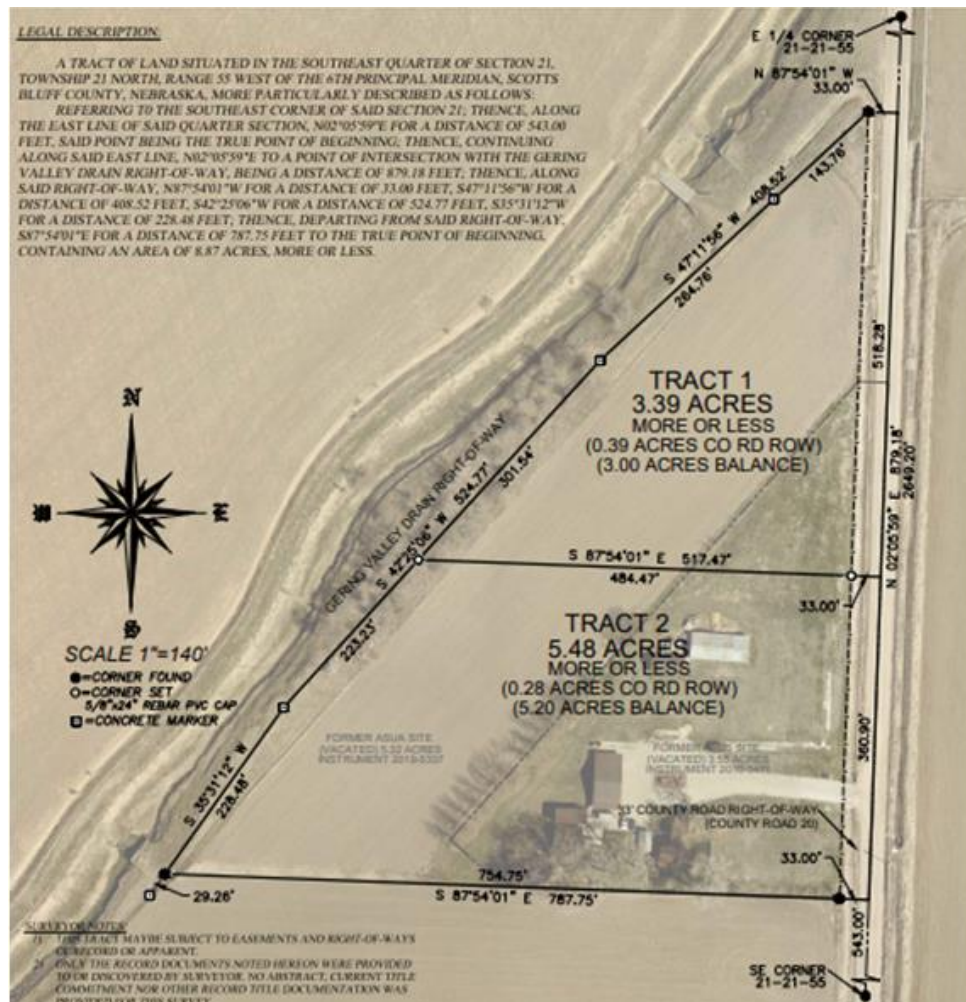
Meeting adjourned at 7:40 pm.

Respectfully submitted,
Bobbie Dendy

Evidence presented to the Planning Commission before and at the meeting:







Scotts Bluff County
Planning Commission Meeting
August 9th, 2022

The Scotts Bluff County Planning Commission met on August 9th, 2022 at 7:30 P.M. in the Scotts Bluff County Commissioner's Room, Administration Building, Gering, Nebraska.

Members Present: Eric Wilcox, Bill Wineman, Jerry Thurman, Dean Schaneman and Mick Lookabill

Members Absent: Roger Beitel, Dan Dickinson, Terry Schank and Vern Groskopf

William Mabin: Building and Zoning Director
Bobbie Dendy: Building and Zoning Assistant

Notice of the Nebraska Open Meetings Act was made by Eric Wilcox.

Bill Wineman made the motion to approve the April 12th, 2022 minutes as presented. Motion was seconded Dean Schaneman.

Roll Call: Bill Wineman aye, Mick Lookabill aye, Eric Wilcox aye, Dean Schaneman aye, Jerry Thurman aye.

Motion carried

Item 1: Public Hearing

Mary Ann Jenkins Trust
Zoning Change (Ag to Rural Residential)
AND
Preliminary Plat (Jenkins Estate Subdivision)
Section 8, Township 21 N, Range 57 W

Parcel # 010014330

Represented by: Scott Bosse, Accustar Surveying 30601 County Road 17, Mitchell NE 69357.

- Owner is requesting the existing AEDS to be rezoned from Ag to Rural Residential and be split into four 3.71 acre tracts to give to each of her children. There is county road access from County Road 6. This subdivision meets the requirements of the Scotts Bluff County Zoning and Subdivision Regulations. This item will be presented to the Scotts Bluff County Commissioners for approval August 15th, 2022 at 4:30 PM.

Jerry Thurman made the motion to recommend approval to the Scotts Bluff Commissioners. Motion was seconded by Dean Schaneman.

Roll call: Bill Wineman aye, Mick Lookabill aye, Eric Wilcox aye, Dean Schaneman aye, Jerry Thurman aye.

Motion carried.

Item 2: Public Hearing

Terry's Legacy LLC
Zoning Change (Ag to Rural Residential)
AND
Preliminary Plat (Visage Subdivision)
Section 24, Township 23 N, Range 55 W

Parcel # 010042814

Represented by: Scott Bosse, Accustar Surveying 30601 County Road 17, Mitchell NE 69357.

Reason: Mr. Jessen is requesting a zoning change from agriculture to rural residential to be able to subdivide off 18.15 acres, for the purpose of selling the current residence and marginal use area. The area has road access at County Rd D. This subdivision meets the requirements of the Scotts Bluff County Zoning and Subdivision Regulations. This item will be presented to the Scotts Bluff County Commissioners for approval August 15th, 2022 at 4:30 PM.

Dean Schaneman made the motion to recommend approval to the Scotts Bluff Commissioners. Motion was seconded by Bill Wineman.

Roll call: Bill Wineman aye, Mick Lookabill aye, Eric Wilcox aye, Dean Schaneman aye, Jerry Thurman aye.

Motion carried.

Item 3: Public Hearing

- Amendments to the Scotts Bluff County Zoning Regulations: Updating the Livestock Amendment regulations and related sections to correspond with the NDEE Title 130 Regulations. See attached changes for the details to approve in this meeting.

Bill Mabin presented the current version of the Scotts Bluff County Livestock Regulations, alongside the newly proposed amended version as approved by the zoning amendments subcommittee. The amendments will delete some definitions to be replaced by those in the NDEE Title 130, along with a change in various terminologies which need to be updated to correspond with Title 130. There were no questions or comments from the meeting attendees.

Mick Lookabill made the motion to recommend approval to the Scotts Bluff Commissioners. Motion was seconded by Jerry Thurman.

Roll Call: Bill Wineman aye, Mick Lookabill aye, Eric Wilcox aye, Dean Schaneman aye, Jerry Thurman aye.

Motion carried.

Item 4: Carole Farrenkopf/Wetlands Trust Inc. Parcel #010046046 & 010335218
Conservation Easement
Pts of Sections 19 & 20
Township 21 N, Range 53 W

Represented by: Todd R. McWha, Waite & McWha Attorneys At Law, 116 N. Dewey St., North Platte NE 69103.

The landowners, James & Carole Farrenkopf, are proposing to transfer a conservation easement to Wetlands America Trust Inc. which is an easement holder for Ducks Unlimited Inc. The property is located approximately half mile east of Melbeta, north of Highway 92. The landowners will still be able use the land for agricultural and recreational purposes. The Farrenkopf's are leaving this ground to their grandkids, not to ever be developed or subdivided. The acres are in a flood zone and do align with the Comprehensive Plan. See attached Exhibits for maps and land uses.

The Conservation Easement meets the requirements of the Scotts Bluff County Regulations. The Easement will be presented to the County Commissioner's at the meeting, August 15th, 2022 at 4:30 PM for final approval.

Mick Lookabill made the motion to recommend approval to the Scotts Bluff Commissioners. Motion was seconded by Dean Schaneman.

Roll call: Bill Wineman aye, Mick Lookabill aye, Eric Wilcox aye, Dean Schaneman aye, Jerry Thurman aye.

Motion carried.

Item 5 Miscellaneous: additional work to be addressed on AEDS regarding the reserve area required in the sub-committee meetings. No further miscellaneous items.

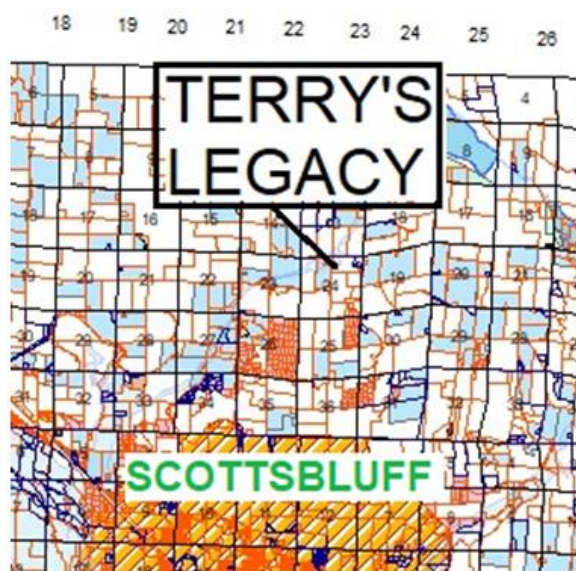
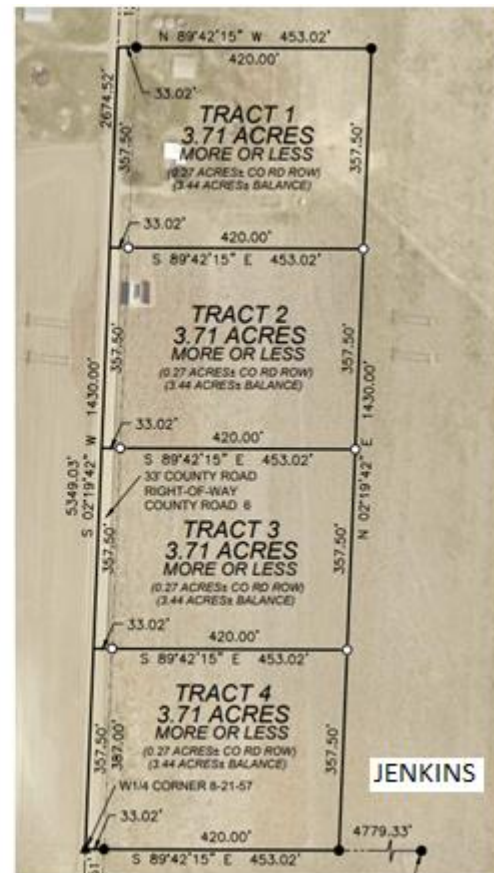
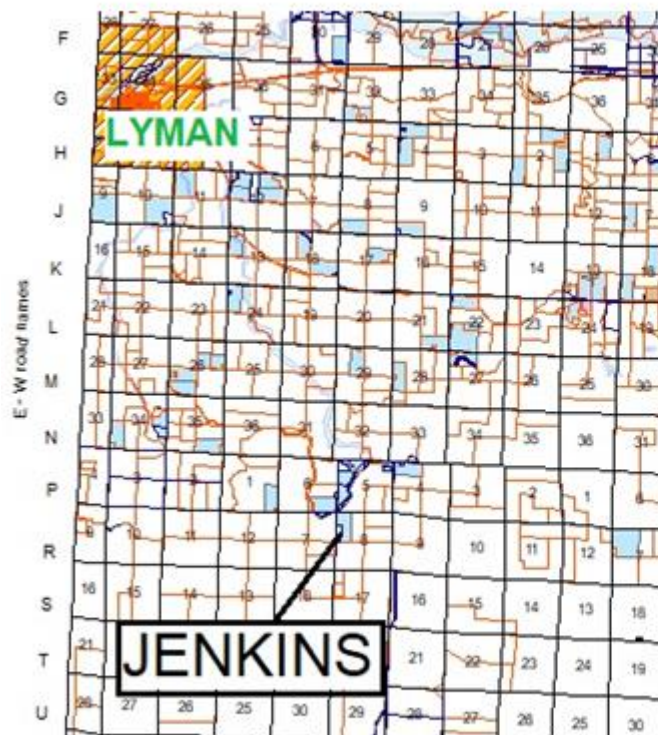
Meeting adjourned at 8:10 pm.

Respectfully submitted,
Bobbie Dendy

The Power Point presentation of the Planning Commission meeting can be obtained by contacting:

Bill Mabin
Scotts Bluff County
Building & Zoning
bmabin@scottsbluffcounty.org
(308) 436-6700
785 Rundell Road
Gering, NE 69341

Evidence presented to the Planning Commission before and at the meeting.



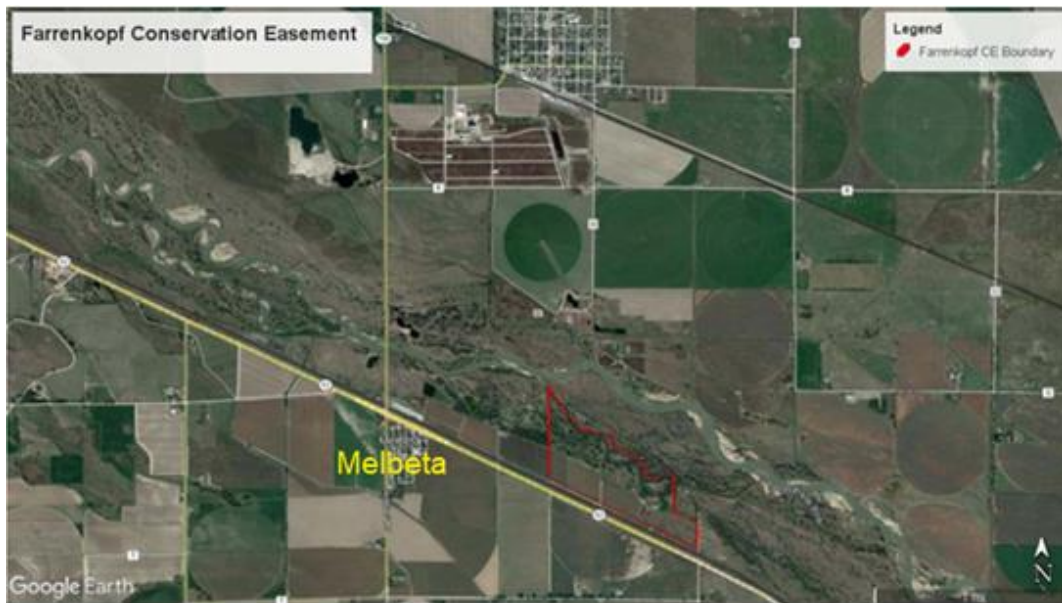
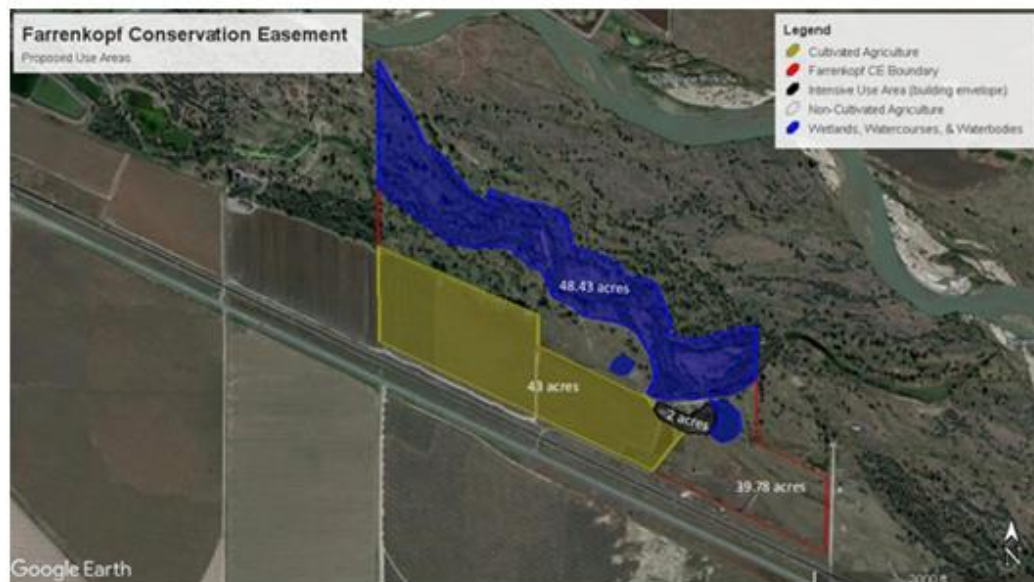
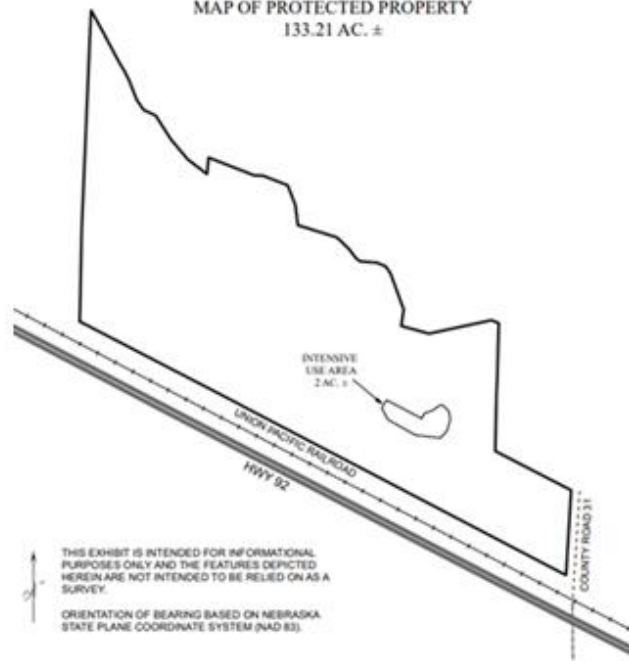


EXHIBIT B

MAP OF PROTECTED PROPERTY
 133.21 AC. ±



CURRENT LIVESTOCK REGULATIONS

14. "Confined Livestock Feeding"

a. Intent:

The intent of this subsection (5.101-14) is to encourage the location of confined livestock feeding operations in Scotts Bluff County, which recognizes that livestock feeding will promote agribusiness within the county; however, it is also recognized that livestock feeding must be considered along with other interests found in the county, such as residential uses found within certain areas of the county. Confined livestock feeding shall also mean "dairy".

b. Definitions:

1. "Agriculture (A) District relative to confined livestock feeding" shall include only the district regulation of "Agriculture" (commencing at Section 5.1 of the Scotts Bluff County Zoning Regulations) and no other district regulation found in the Scotts Bluff County Zoning Regulations (see Proviso); and in this regard, no other permitted or conditional uses found in any of the other district regulations except "Agriculture (A) District" shall be interpreted to allow confined livestock feeding (meaning the use as described in 5.101-14, for any purpose whatsoever). Incident to this definition is that "agricultural and ranching activities", as that term is used in various places in the Scotts Bluff County Zoning Regulations, shall be interpreted as allowing "confined livestock feeding" only as the same is permitted in this sub-section of the Scotts Bluff County Zoning Regulations (5.101-14). Provided additionally, that in Rural Residential (RR) District, under the general definition of Class I feeding, there shall be permitted livestock not to exceed 5 animals per acre for 4-H purposes, and any directly related purposes which are considered to be non-commercial in nature; but as to any such use, otherwise strict compliance is to be made with other applicable regulations and rules as there may be for such Rural Residential areas.
2. Beef Cattle Feeding. "Beef cattle feeding" shall mean confined livestock feeding of beef cattle on hoof, to include beef animals such as: cows, calves, yearlings, bulls; and to specifically exclude other domestic animals or fowl such as: swine, sheep, poultry, and other domestic animals or fowls which may be kept for feeding.
3. Confined Livestock Feeding. "Confined livestock feeding" as that term is applied in this subsection (5.101-14 (a) - (e)), shall refer to the feeding of beef cattle (see separate definition, thereof), in lots or pens or yards or other enclosures open to the air, in which a contiguous area is devoted to such feeding, in which contiguous area there are 25-300 head of beef cattle, Class I; or 25-1000 head of beef cattle, Class II; or more than 1000 head of beef cattle, Class III. The feeding of beef cattle as defined herein, shall be confined to situations of feeding in areas (lots or pens or yards or other enclosures open to the air) which are not normally used for the raising of crops or the grazing of animals; and furthermore, feeding of beef cattle which is "seasonal" in use, shall not be considered "confined livestock feeding" as defined herein.
4. Contiguous Area. "Contiguous area" shall mean an area devoted to the confined feeding of livestock, in which the lots or pens or yards or other enclosures open to the air are either immediately adjacent to each other, or are less than one-fourth of a mile apart (in other words, the various lots or pens or yards or other enclosures shall be considered as one "contiguous area", assuming that all of such parts or any of such parts are within one-fourth of a mile of any other part). Also, the other portions of the feedlot, such as: feed storage areas, access roads and alleys, catch basins and lagoons, shall be included as a portion of the "contiguous area".
5. Zoning Jurisdiction of Cities. "Zoning jurisdiction of cities" refers to the area beyond and adjacent to the corporate boundaries of first class cities, second class cities, and villages, located in Scotts Bluff County, which jurisdiction is more completely defined in Neb. Rev. Stat. 16-901 for first class cities, and Neb. Rev. Stat. 17-1001 for second class cities and villages. The two miles provided for first class cities, and one mile provided for second class cities and villages, is the area in which the cities and villages may exclusively render decisions on zoning regulations and other regulations free from the control of the county.

c. General Provisions:

described in
section c.
General Provisions

deleted and replaced
by current Title 130
definitions

1. **Confined livestock feeding** of beef cattle may be found only in Agriculture (A) or Rural-Residential (RR) District areas of the county that are so zoned (Section 5.1). This provision is intended to apply both to confined livestock feeding which is **Class I, Class II, and Class III**.

already addressed

2. Confined livestock feeding may only be done in any portion of the Rural-Residential (RR) District of the county, which is Class I. **Likewise, confined livestock feeding may only be done in any portion of the Agricultural (A) District of the county, which is Class II or Class III. This feeding may only be done outside the zoning jurisdiction of first class cities, second class cities, and villages. And this feeding can only be accomplished by permission for the same granted by the applicable zoning jurisdiction.**

area approved in
C&O permit limits
boundaries already

3. A single feeding operation is one conducted in a **contiguous area, as herein defined**; meaning that if the confined livestock feeding operation in a particular area involves lots or pens or yards or other encloses which are not contiguous, then the noncontiguous parts thereof would be separate confined livestock feeding operations and therefore subject to the application of this regulation (5.101-14) to each separate part thereof.

4. Confined livestock feeding which is "permitted" shall be allowed only upon the following procedure:

An application for a "confined livestock feeding" operation, which is to be a Class I application in Rural-Residential (RR), shall be presented to the Planning Director of the County, which application the Planning Director shall review through the applicable requirements set out herein, and specifically, the requirements of 14 (d), hereafter. If the Director determines that the application meets the requirements of this subsection, Paragraph 14, then the application shall be granted and a permit to operate the confined livestock feeding operation shall be rendered. If disapproved, the applicant shall be entitled to have the matter of the application set for public hearing, first before the Scotts Bluff County Planning Commission for review, and then later before the Scotts Bluff County Board of Commissioners for action thereon. If disapproved by review through the Board of Commissioners, the applicant shall then be entitled to other remedies as provided for in the Scotts Bluff County Zoning Regulations, and applicable law. Approval shall be given of a Class I application for a permit, if there appears to be a substantial likelihood that the specific conditions of 14 (d) of this subsection will be met by the confined livestock feeding operation to be conducted. Upon the granting of the permit, either by the Planning Director or the Board of Commissioners after review by the Planning Commission, the specific conditions of 14(d) shall be made a part of the permit, in language, together with any variations thereto which may be considered, so that any enforcement upon the permit at a later time may address the specific conditions upon which the permit was granted.

deleted and replaced
with sections 4.1 - 4.3
which uses current
definitions and references
to state permits

An application for a "confined livestock feeding" operation, which is to be a Class II application in Agricultural, shall be presented to the Planning Director of the County, which application the Planning Director shall review through the applicable requirements set out herein, and specifically, the requirements of 14(d), hereafter. If the Director determines that the application meets the requirements of this subsection, paragraph 14, then the application shall be granted and a permit to operate the confined livestock feeding operation shall be rendered. If disapproved, the applicant shall be entitled to have the matter of the application set for public hearing, first before the Scotts Bluff Planning Commission for review, and then later before the Scotts Bluff County Board of Commissioners for action thereon. If disapproved by review through the Board of Commissioners, the applicant shall then be entitled to other remedies as provided for in the Scotts Bluff County Zoning Regulations and applicable law. Approval shall be given of a Class II application for a permit if there appears to be a substantial likelihood that the specific conditions of 14(d) of this subsection will be met by the confined livestock feeding operation to be conducted. Upon the granting of the permit, either by the Planning Director or the Board of Commissioners, after review by the Planning Commission, the specific conditions of 14(d) shall be made a part of the permit, in language, together with any variations thereto which may be considered, so that any enforcement upon the permit at a later time may address the specific conditions upon which the permit was granted.

An application for a "confined livestock feeding" operation, which is to be a Class III application in Agricultural, shall be presented to the Planning Director of the County, which application the Planning Director shall review through the applicable requirements set out herein, and specifically, the requirements of 14(d), hereafter. After such review, the Planning Director shall set the matter of the application for public hearing, first before the Scotts Bluff County Planning Commission and then before the Scotts Bluff County Board of Commissioners.

If disapproved by the Board of Commissioners, the applicant shall then be entitled to other remedies as provided for in the Scotts Bluff County Zoning Regulations, and applicable law. Approval shall be given

of a Class III application for a permit if there appears to be a substantial likelihood that the specific conditions of 14(d) of this subsection will be met by the confined livestock feeding operation to be conducted. Upon the granting of the permit by Board of Commissioners, the specific conditions of 14(d) shall be made a part of the permit, in language, together with any variations thereto which may be considered, so that any enforcement upon the permit at a later time may address the specific conditions upon which the permit was granted.

NOTE: All costs relative to proceeding through the Planning Commission and the Board of Commissioners, shall be paid by the applicant the same as in conditional use permit matters.

d. Specific Provisions:

1. The feedlot shall be located with recognition given to the prevailing winds in the area, so as to minimize the possibility of interference with nearby residential use.
2. The feedlot or any portion of it shall be located so as to provide adequate safeguards for the following:
 - i. Diversion of outside surface water from entering the feedlot.
 - ii. Adequate drainage within the feedlot, with the use of mounds as a suggested characteristic.
 - iii. Adequate provisions for debris basins to intercept total feedlot runoff.
 - iv. Adequate detention ponds designed to temporarily hold runoff from the feedlot.
 - v. Provide adequate means to dispose of runoff from the feedlot.
3. The feedlot shall demonstrate that it has a sufficient water supply for the number of head of livestock allowed by its permit to be enclosed.
4. There must be demonstrated that reasonable techniques will be employed in the operation of the feedlot to keep dust, odor, insects, and noise at a minimum.
5. Whenever it is possible in the opinion of the planning director or the planning Commission-Board of Commissioners, that livestock wastes from the feedlot would violate Nebraska Water Quality Standards, approval for the design and construction of waste control facilities of the feedlot must be approved by the Department of Environmental Control, such that the DEC is satisfied and will join in the permit granted by Scotts Bluff County to the extent permissible by law.

NO CHANGE

e. Enforcement:

1. The enforcement of this subsection of "confined livestock feeding" (5.101-14) shall fall under the general provision of Neb. Rev. Stat. 23-174 and Neb. Rev. Stat. 23-114.05; or, as those sections may be changed from time to time; together with other applicable law as there might be.
2. Additionally, the specific conditions of (d), above, shall apply to the permit which may be issued for confined livestock feeding, such that any violation of any of such provisions shall be cause for the Planning Director to issue a notice of revocation of the permit. Notice of revocation of the permit shall be given in writing, allowing the applicant 15 days to make corrections as shall be deemed necessary to bring the permit into compliance (however, consideration shall be given to complications due to weather which would prohibit the applicant from making the corrections within the 15 day period); however, upon the passing of 15 days without corrections made to the satisfaction of the Planning Director, the revocation of the permit shall be final. The revocation shall be noted in the record of the Board of Commissioners to give final approval to the same. The applicant may, after the revocation of the permit by the Planning Director, first request that the Scotts Bluff County Planning Commission review and then the Scotts Bluff County Board of Commissioners make a decision of revocation, by requesting a public hearing before the Planning Commission and the Board of Commissioners; additionally, the applicant shall be entitled to other remedies provided in the Scotts Bluff Zoning Regulations and applicable law.
3. The remedies available for enforcement of this subsection (5.101-14), outlined above, are mutually exclusive, and in addition to other legal remedies as the law may provide.
4. Must provide a closure plan at the time of application. Shall comply with all Federal, State and local regulations at the time of closure.

NO CHANGE

PROPOSED NEW LIVESTOCK REGULATIONS

5. **Animal Feeding Operation**

a. Intent:

The intent of this subsection (5.101-14) is to encourage the location of confined livestock feeding operations in Scotts Bluff County, which recognizes that livestock feeding will promote agribusiness within the county; however, it is also recognized that livestock feeding must be considered along with other interests found in the county, such as residential uses found within certain areas of the county. **"Animal feeding operation"** shall also mean "dairy".

b. Definitions:

Agriculture (A) District - means the district regulation of "Agriculture," solely relative to an Animal feeding operation, as specified in Section 5.1 of the Scotts Bluff County Zoning Regulations, and no other district regulation found in the Scotts Bluff County Zoning Regulations.

Animal feeding operation - means a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the location. Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other, or if they utilize a common area or system for the disposal of livestock waste. Animal feeding operation does not include aquaculture as defined in Neb. Rev. Stat. § 2-3804.01.

Applicant - means the person applying for the permit or major modification.

Application area - means land utilized for the land application of livestock wastes.

Authorized representative - means: (a) In the case of a corporation, a principal executive officer in charge of a principal business function and of at least the level of vice president; (b) In the case of a limited liability company, a manager, or a person as described in Neb. Rev. Stat. § 21-2606, or a principal executive officer; (c) In the case of a partnership, a general partner; (d) In the case of a sole proprietorship, the proprietor; or (e) In the case of a municipal, state or other public entity, a principal executive officer or ranking elected official.

Best Management Practices - means schedules of activities, prohibitions, maintenance procedures, and other management practices found to be the most effective methods based on the best available technology achievable for specific sites to prevent or reduce the discharge of pollutants to waters of the State and control odor where appropriate. Best management practices also include operating procedures and practices to control site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage.

Concentrated animal feeding operation - or "CAFO" means an animal feeding operation that is: (a) Defined as a large concentrated animal feeding operation because of size; (b) Defined as a medium concentrated animal feeding operation because of size and because animals are in direct contact with waters of the State or waste is discharged to waters of the state through a man-made conduit; or (c) Designated as a medium or small concentrated animal feeding operation by the Director.

Construct or Construction - means the initiation of physical on-site activities.

Construction and operating permit - means the state permit to construct and operate a livestock waste control facility, including conditions imposed on the livestock waste control facility and the associated animal feeding operation.

Ground water - means water occurring beneath the surface of the ground that fills available openings in rock or soil materials such that they may be considered saturated.

Holding pond - means an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.

Irrigation distribution system - means any device or combination of devices having a hose, pipe, or other conduit through which livestock wastes or a mixture of water and livestock wastes is drawn and applied for agricultural or horticultural purposes.

Lagoon - means an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a totally housed animal feeding operation.

Large concentrated animal feeding operation - or "Large animal feeding operation" means an animal feeding operation that stables or confines as many as or more than the number of animals specified in any of the following categories: (a) 700 mature dairy cows, whether milked or dry; (b) 1,000 veal calves; (c) 1,000 cattle other than mature dairy cows or veal calves and including but not limited to heifers, steers, bulls, and cow/calf pairs; (d) 2,500 swine each weighing 55 pounds or more; (e) 10,000 swine each weighing less than 55 pounds; (f) 500 horses; (g) 10,000 sheep or lambs; (h) 55,000 turkeys; (i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system; (j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system; (k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system; (l) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system; or (m) 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system.

Liquid manure storage pits - means earthen or lined pits located wholly or partially beneath a semi- or totally housed animal feeding operation or at some removed location used to collect waste production.

Livestock waste control facility - means any structure or combination of structures utilized to control livestock waste until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, settling basins, liquid manure storage pits, lagoons, and other such devices utilized to control livestock wastes.

Livestock wastes - means animal and poultry excreta and associated feed losses, bedding, spillage or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, and other materials polluted by livestock wastes.

Major modification - means an expansion or increase to the lot area or feeding area; change in the location of the animal feeding operation; change in the methods of waste treatment, waste storage, or land application of waste; increase in the number of animals; change in animal species; or change in the size or location of the livestock waste control facility.

Medium animal feeding operation - means an animal feeding operation that confines or stables the type and number of animals in any of the following ranges: (a) 200 to 699 mature dairy cows, whether milked or dry; (b) 300 to 999 veal calves; (c) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle include but are not limited to heifers, steers, bulls, and cow/calf pairs; (d) 750 to 2,499 swine each weighing 55 pounds or more; (e) 3,000 to 9,999 swine each weighing less than 55 pounds; (f) 150 to 499 horses; (g) 3,000 to 9,999 sheep or lambs; (h) 16,500 to 54,999 turkeys; (i) 9,000 to 29,999 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system; (j) 37,500 to 124,999 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system; (k) 25,000 to 81,999 laying hens, if the animal feeding operation uses other than a liquid manure handling system; (l) 1,500 to 4,999 ducks, if the animal feeding operation uses a liquid manure handling system; or (m) 10,000 to 29,999 ducks, if the animal feeding operation uses other than a liquid manure handling system.

Medium concentrated animal feeding operation - means a medium animal feeding operation, as defined by the type and number of animals that it confines or stables, and which has been defined or designated as a concentrated animal feeding operation. An animal feeding operation is defined as a medium concentrated animal feeding operation if either one of the following conditions is met: (a) Pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or (b) Pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the animal feeding operation or otherwise come into direct contact with the animals confined in the operation.

National Pollutant Discharge Elimination System (NPDES) permit - means either a general permit or an individual permit, issued by the Department pursuant to Subsection 11 of Neb. Rev. Stat. § 81-1505. A general permit authorizes categories of disposal practices or livestock waste control facilities and covers a geographic area corresponding to existing geographic or political boundaries, though it may exclude specified areas from coverage. General permits are limited to the same or similar types of animal feeding operations or livestock waste control facilities which require the same or similar monitoring and, in the opinion of the Director of the Department of Environmental Quality, are more appropriately controlled under a NPDES general permit than under an individual permit.

One hundred year, 24-hour rainfall event - means a rainfall event with a probable recurrence interval

of one in one hundred (100) years.

Open lot animal feeding operations - means pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

Operating permit - means a permit issued prior to December 1, 2006, by the Department after the completion of the livestock waste control facility in accordance with the construction approval and the submittal of a completed certification form to the Department;

Operator - means the person responsible for the operation of an animal feeding operation.

Production area - means that part of an animal feeding operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement areas includes but is not limited to open lots, housed lots, feedlot, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

Small animal feeding operation - means an animal feeding operation with fewer animals than a medium animal feeding operation.

Small concentrated animal feeding operation - means an animal feeding operation that is designated as a concentrated animal feeding operation and is not a medium or large concentrated animal feeding operation

Surface water - means all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within, or bordering upon, the State. Impounded waters in this definition do not include areas designated by the Department as wastewater treatment or wastewater retention facilities or irrigation reuse pits.

Totally housed animal feeding operation - means an operation that is totally under roof where animals are housed, rainfall is prevented from becoming process wastewater, and all manure, litter, and process wastewater is contained. The roofed structure may or may not be enclosed on the sides.

Twenty-five year, 24-hour rainfall event - means a rainfall event with a probable recurrence interval of one in twenty-five (25) years.

Waters of the State - means all waters within the jurisdiction of this State including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the State.

Zoning Jurisdiction of Cities - means the area beyond and adjacent to the corporate boundaries of first class cities, second class cities, and villages, located in Scotts Bluff County, defined as "extra-territorial jurisdiction" and is more completely detailed in Neb. Rev. Stat. 16-901 for first class cities, and Neb. Rev. Stat. 17-1001 for second class cities, and villages.

c. **General Provisions:**

1. **Animal feeding operations** shall only be allowed in Agriculture (A) or Rural-Residential (RR) District areas of the county jurisdiction. This provision is intended to apply to **small, medium, and large animal feeding operations**.
2. Only small animal feeding operations shall be allowed in the Rural-Residential (RR) District of the county jurisdiction. The maximum capacity of each small feeding operation shall be governed by the number of animal units as prescribed in **Section 5.201(7)** of these zoning regulations.

3. Medium feeding operations, and large feeding operations shall only be allowed in the Agricultural (A) District of the county jurisdiction.
4. The procedure for obtaining approval for an animal feeding operation shall be as follows:
 - 4.1 Small animal feeding operations shall be allowed without written approval from the county and shall be subject to the requirements of all applicable sections of these zoning regulations.
 - 4.2 Medium animal feeding operations shall be allowed without written approval from the county under the following conditions: (a) when applicable, owner and/or operator must provide a copy of the Construction & Operating (C&O) Permit application received by the Nebraska Department of Environment & Energy (NDEE) to the Zoning Administrator. ; (b) when applicable, owner and/or operator must provide a copy of the approved NPDES Permit to the Zoning Administrator.
 - 4.3 Large animal feeding operations shall require approval of a conditional use permit, which procedure for application is prescribed in Section 10 of these zoning regulations.

d. Specific Provisions:

1. The feedlot shall be located with recognition given to the prevailing winds in the area, so as to minimize the possibility of interference with nearby residential use.
2. The feedlot or any portion of it shall be located so as to provide adequate safeguards for the following:
 - i. Diversion of outside surface water from entering the feedlot.
 - ii. Adequate drainage within the feedlot, with the use of mounds as a suggested characteristic.
 - iii. Adequate provisions for debris basins to intercept total feedlot runoff.
 - iv. Adequate detention ponds designed to temporarily hold runoff from the feedlot.
 - v. Provide adequate means to dispose of runoff from the feedlot.
3. The feedlot shall demonstrate that it has a sufficient water supply for the number of head of livestock allowed by its permit to be enclosed.
4. There must be demonstrated that reasonable techniques will be employed in the operation of the feedlot to keep dust, odor, insects, and noise at a minimum.
5. Whenever it is possible in the opinion of the planning director or the planning Commission-Board of Commissioners, that livestock wastes from the feedlot would violate Nebraska Water Quality Standards, approval for the design and construction of waste control facilities of the feedlot must be approved by the Department of Environmental Control, such that the DEQ is satisfied and will join in the permit granted by Scotts Bluff County to the extent permissible by law.

e. Enforcement:

1. The enforcement of this subsection of "confined livestock feeding" (5.101-14) shall fall under the general provision of Neb. Rev. Stat. 23-174 and Neb. Rev. Stat. 23-114.05; or, as those sections may be changed from time to time; together with other applicable law as there might be.
2. Additionally, the specific conditions of (d), above, shall apply to the permit which may be issued for confined livestock feeding, such that any violation of any of such provisions shall be cause for the Planning Director to issue a notice of revocation of the permit. Notice of revocation of the permit shall be given in writing, allowing the applicant 15 days to make corrections as shall be deemed necessary to bring the permit into compliance (however, consideration shall be given to complications due to weather which would prohibit the applicant from making the corrections within the 15 day period); however, upon the passing of 15 days without corrections made to the satisfaction of the Planning Director, the revocation of the permit shall be final. The revocation shall be noted in the record of the Board of Commissioners to give final approval to the same. The applicant may, after the revocation of the permit by the Planning Director, first request that the Scotts Bluff County Planning Commission review and then the Scotts Bluff County Board of Commissioners make a decision of revocation, by requesting a public

hearing before the Planning Commission and the Board of Commissioners; additionally, the applicant shall be entitled to other remedies provided in the Scotts Bluff Zoning Regulations and applicable law.

3. The remedies available for enforcement of this subsection (5.101-14), outlined above, are mutually exclusive, and in addition to other legal remedies as the law may provide.
4. Must provide a closure plan at the time of application. Shall comply with all Federal, State and local regulations at the time of closure.

f. Prohibited Locations. A livestock waste control facility shall not be constructed:

1. Within 100 feet of any well used for domestic purposes. For the purposes of these regulations, domestic water well means a water well providing water to any water supply system furnishing water for human consumption other than a public water supply system; for the watering of livestock, poultry, farm, and domestic animals; or for the irrigation of lands not exceeding an area of two acres.
2. Within 1000 feet of a public drinking water supply well, unless the applicant has obtained approved from the NDEE.
3. Less than four feet above the seasonal high ground water level, unless approval is granted by NDEE.

All existing animal feeding operations which are permitted by the NDEE at the time of the adoption of these amendments (DATE) shall be deemed in compliance with these zoning regulations.

ADDED

5.102 Conditional Uses: The following conditional uses may be permitted in the "A" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 10. ~~Any use or activity which is not listed below shall be prohibited.~~ (ADDED)

1. Airport or landing strip.
2. Asphalt and/or concrete batch plant.
3. Public buildings and facilities erected and established by any governmental agency.
4. Extraction and processing of sand, gravel, petroleum and other minerals.
5. Radio and television towers and transmitters; cellular towers.
6. Commercial and private recreational and tourist areas, including private country clubs, lodges, campgrounds and accessory motel, resort and incidental facilities.
7. Seasonal dwellings.
8. ~~Confined livestock feeding without the use of straw or other similar material to eliminate mud, odor, flies and other objectionable environmental characteristics; and any confined livestock feeding of 1000 head or more; all subject to conform with all applicable State requirements.~~
8. Large animal feeding operation.
9. Sanitary Land Fill.
10. Agricultural Service establishments primarily engaged in performing agricultural husbandry, or horticulture services on a fee or contract basis including:
 - A. Grain and/or feed elevators
 - B. Crop dusting or spraying operations facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation)
 - C. Farm equipment sales, repair, and installation facilities.
 - D. Veterinary clinics and hospitals and related facilities.
 - E. Grain and Feed Sales.
 - F. Commercial Grain Storage and drying.

5.2 Rural Residential (RR) District. The intent of this district is to provide the present and future residents of the County with low-density residential subdivisions in rural areas. However, no "residential zoning district" will be approved to locate within one mile of any existing Class I or higher livestock operation. Any new rural residential subdivisions shall be located with direct access to a paved road or have approval from the public works director when the subdivision involves a county road.

5.201 Permitted Uses

1. One (1) single family dwelling unit per lot.
2. Crop production, orchards, horticulture and truck farms.
3. Church, educational facilities, and parish houses.
4. Existing Public school and private school having curriculum equivalent to public schools.
5. Public park, playground, golf course and other recreational uses.
6. Guest home or bed & breakfast.
- ~~7. Horses and other livestock, provided however, that such animals are housed at least fifty feet (50') from an adjacent residence or property line and that no more than one such animal be permitted for each 23,000 square feet of lot area.~~
7. Horses and other livestock, provided that such animals are housed at least twenty feet (20') from adjacent property lines, and that the maximum density shall be one animal unit per one-half (½) acre, rounding to the nearest whole animal unit.

17.1 For the purpose of this regulation certain terms and words are herewith defined. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word "shall" is mandatory.

4. Animal Unit. One animal unit, ~~the purposes of these regulations~~ for all purposes except animal feeding operations, shall be interpreted as follows:

One unit = one cow/calf combination, or one slaughter/feeder cattle, or one horse, or one mature dairy cow, or one animal of similar weight and size.

Two swine of 55 pounds or more, or two sows with litters, or two sheep, or a number of animals similar weight and number to those described.

Five chickens, or five ducks or five turkeys, or five animals of similar weight and size.

**Scotts Bluff County
Planning Commission Meeting
November 9th, 2022**

The Scotts Bluff County Planning Commission met on November 9th, 2022 at 7:30 P.M. in the Scotts Bluff County Commissioner's Room, Administration Building, Gering, Nebraska.

Members Present: Bill Wineman, Dan Dickinson, Vern Groskopf, Eric Wilcox, Dean Schaneman and Jerry Thurman.

Members Absent: Mick Lookabill, Terry Shank and Roger Beitel.

William Mabin: Building and Zoning Director
Bobbie Dendy: Building and Zoning Assistant

Notice of the Nebraska Open Meetings Act was made by Eric Wilcox.

Dan Dickinson made the motion to approve the August 9th, 2022 minutes as presented. Motion was seconded Jerry Thurman.

Roll Call: Bill Wineman-aye, Dan Dickinson-aye, Vern Groskopf-aye, Eric Wilcox-aye, Dean Schaneman-aye and Jerry Thurman-aye.

Motion carried

Item 1: Platte River Ranch (Glen Summers)
Conservation Easement
Section 14, Township 21N, Range 53W

Parcel # 010014330

Represented by: Todd R. McWha, Waite & McWha Attorneys At Law, 116 Dewey St., North Platte NE 69103. Landowner was not present.

The landowner owns in its entirety and still pays taxes on the property. The land for consideration is located approximately three miles north of McGrew, NE. The parcel has cultivated agriculture, which means it can be plowed and planted. The area allowed to be cultivated for agriculture consists of 123 acres, with the intensive use areas amounting to a total of 5 acres, and the wetlands of 32 acres. The intensive use areas are the building areas. In Nebraska, most of the habitat conservation areas are private – not publicly owned like most states – so there is a need for private conservation efforts such as these.

The parcel is not inconsistent with the Comprehensive Zoning Plan. The Conservation Easement will be presented to the County Commissioners, November 14th, 2022 at 4:30 PM for final approval.

Bill Wineman made the motion to recommend approval to the Scotts Bluff Commissioners. Motion was seconded by Dan Dickinson.

Roll call: Bill Wineman-aye, Dan Dickinson-aye, Vern Groskopf-aye, Eric Wilcox-aye, Dean Schaneman-aye and Jerry Thurman-aye.

Motion carried.

Item 2: Vankar Properties LLC (Wickard East)
Conservation Easement
Pts. Of Sections 10, 11, 14 & 15
Township 23N, Range 58W

See Map

Represented by: Todd R. McWha, Waite & McWha Attorneys At Law, 116 Dewey St., North Platte NE 69103. Also present was landowner Karen Wickard, 50483 County Rd 19, Mitchell NE 69357 on behalf of Vankar Properties LLC, Vance K. Wickard and Karen L. Wickard.

This parcel is located approximately two miles southeast of Henry, NE. All of the acres are located in the flood plain of mostly accretion ground. Wetlands can be grazed. There are no provisions for "building envelopes".

Mrs. Wickard stated they have owned the land since 2013 and would like the land to remain as conservation land. She would like the Planning Commission to approve the conservation easement to protect the habitat and wildlife.

The parcel is consistent with the land use policy and developmental goals of the Comprehensive Zoning Plan. The Conservation Easement will be presented to the County Commissioners, November 14th, 2022 at 4:30 PM for final approval.

Jerry Thurman made the motion to recommend approval to the Scotts Bluff Commissioners. Motion was seconded by Dean Schaneman.

Roll call: Bill Wineman-aye, Dan Dickinson-aye, Vern Groskopf-aye, Eric Wilcox-aye, Dean Schaneman-aye and Jerry Thurman-aye.

Motion carried.

Item 3: Miscellaneous: a time change for the meeting was brought up at an earlier date, suggesting the start time of the Planning Commission meeting begin at 6:00 PM. Mr. Mabin said he'd put this discussion on an agenda at a later date. Also, Mr. Mabin said they would schedule sub-committee meetings after the first of the year (2023).

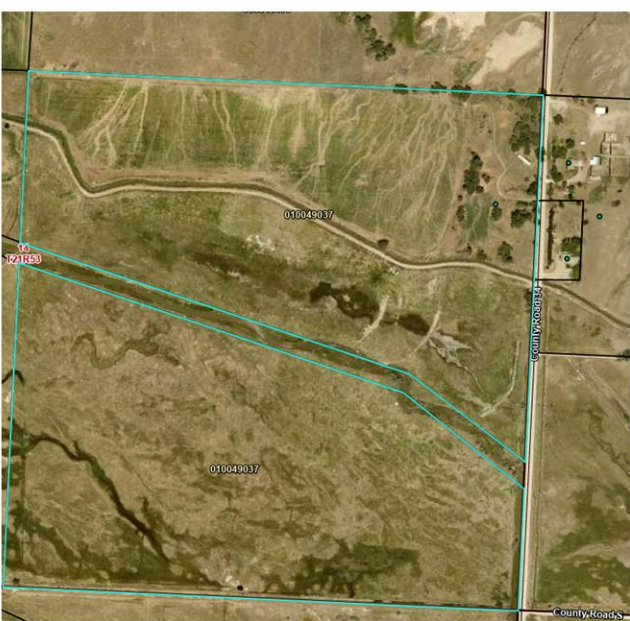
Meeting adjourned at 7.45 pm.

Respectfully submitted,
Bobbie Dendy

The Power Point presentation, and other materials provided before and at the Planning Commission meeting, can be obtained by contacting:

Bill Mabin
Scotts Bluff County
Building & Zoning
bmabin@scottsbuffcounty.org
(308) 436-6700
785 Rundell Road
Gering, NE 69341

Platte River Ranch (Glen Summers)



Summers Nine Mile
Platte River Ranch

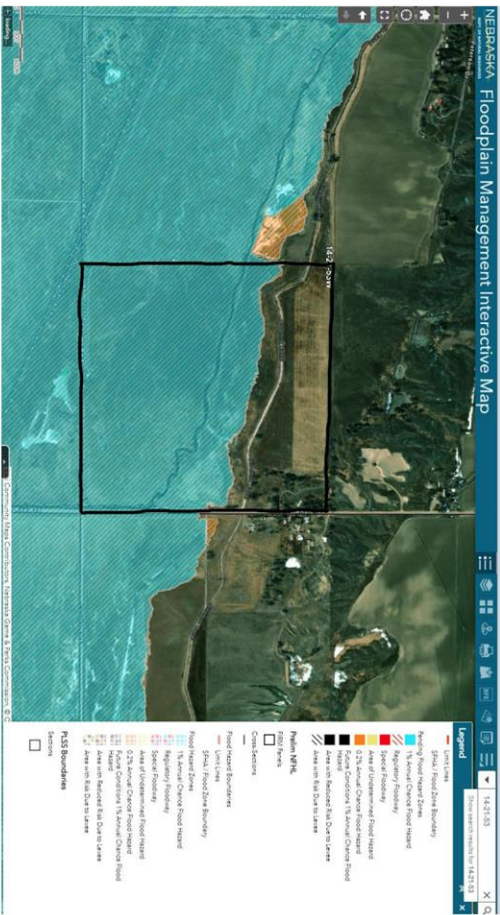


EXHIBIT 3

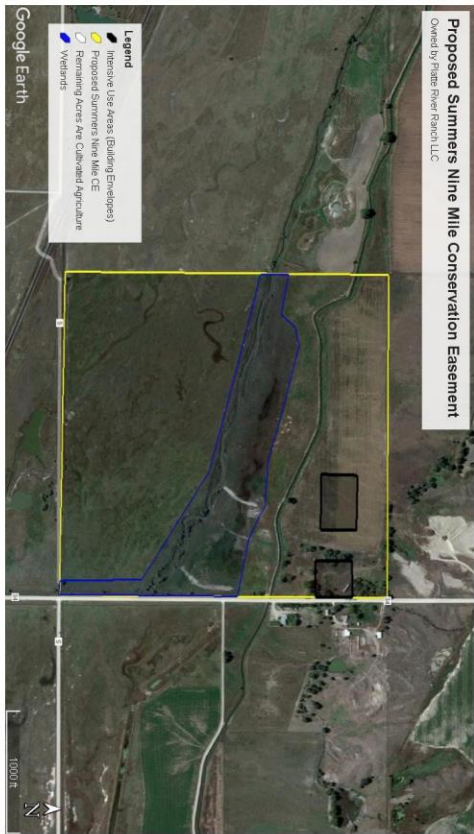


EXHIBIT 2

Vankar Properties (Wickard East)

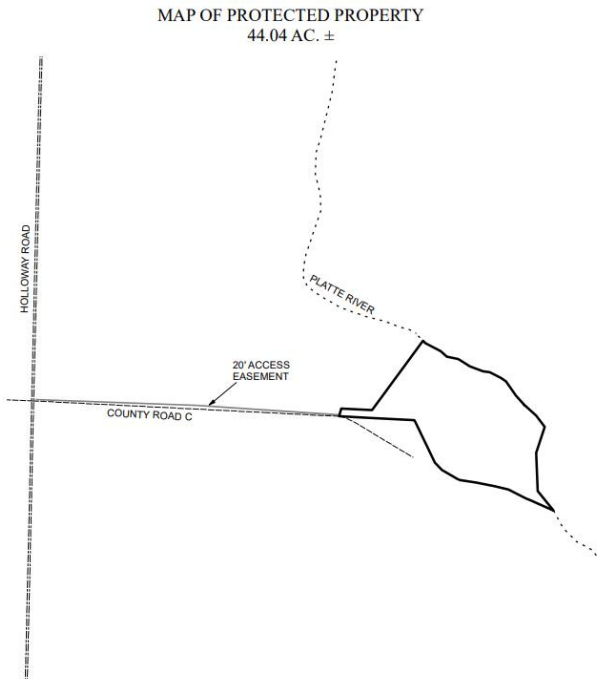


EXHIBIT 2

Wickard East
Vankar Properties LLC

Scotts Bluff County Communications Center Advisory Board
Tuesday November 15th, 2022 - 3:30 P.M.
Communications Conference Room
1825 10th Street
Gering, Nebraska 69341

The November 15th, 2022 meeting was called to order at 3:30 PM by Chairman Ben Backus.

Reference was made to the Nebraska Open Meeting Act. A copy is posted on the wall in the conference room.

For public information, a copy of the Nebraska Open Meetings Act is posted in the meeting room.

Roll Call:

Lyman: Kim Robb (absent)
Morrill: Janine Schmidt (absent)
Mitchell: Perry Mader (absent)
Scottsbluff City: Selina Lerma (absent)
Gering: Ben Backus
Terrytown: Chris Perales (absent)
County: Tim White (absent)
Minatare: Wayne Kilmer
McGrew/Melbeta: Karla Fiscus (absent)
Henry: Janine Schmidt (absent)

Introduction of Guests:

The following guests were known to be present.

Brian Wasson (SBPD)
Tom Schingle (SBFD)

Agenda could not be approved.

Minutes could not be approved.

Tyler spoke about the following,

Radio Project:

- Tower equipment installations are complete.
- Subscriber radio training is complete.
- Console user and admin training is complete.
- **The system is “live”, time is needed to perform installs and programming.** Hoping for mid-December for the fleets to be finished.
- Coverage and acceptance testing will be conducted November 14th-17th.

Box Butte County Project:

- Services will begin shortly after Box Butte talk groups are installed in the new radio consoles and CAD and phones will be set to cut the same day. No definite day has been set at this time.

Radio Management Online:

- One time cost of \$44,000.00
- Allows for large savings in radio tech time and money managing the fleet.
- The system is needed to allow for seamless alias changes and updating of the code plug for the fleet moving forward.
- The system will be utilized by departments that serve all communities in Scotts Bluff County.
- See attached quote and informational sheet.

Tyler spoke about the radio management software and the cost savings it brings. Ben spoke about the savings for all departments. Tyler spoke about the importance of the system for labor savings. \$44,000.00 is the total cost

for everyone. Emergency meeting set for November 29th to pass the action item.

Next meeting date November 29th, 03:30 pm, 2022

Gering moved to adjourn, Minatare 2nd.
Motion Passed

Adjourned at 03:42 PM

Submitted

Tyler Rexus

Scotts Bluff County Communications Center Advisory Board
Tuesday November 29th, 2022 - 3:30 P.M.
Communications Conference Room
1825 10th Street
Gering, Nebraska 69341

The November 29th, 2022 meeting was called to order at 3:30 PM by Chairman Ben Backus.

Reference was made to the Nebraska Open Meeting Act. A copy is posted on the wall in the conference room.

For public information, a copy of the Nebraska Open Meetings Act is posted in the meeting room.

Roll Call:

Lyman: Kim Robb (absent)
Morrill: Janine Schmidt
Mitchell: Perry Mader (absent)
Scottsbluff City: Selina Lerma (absent)
Gering: Ben Backus (absent)
Terrytown: Chris Perales (absent)
County: Tim White
Minatare: Wayne Kilmer
McGrew/Melbeta: Karla Fiscus (absent)
Henry: Janine Schmidt

Introduction of Guests:

Tom Schingle (SBFD)
Cindy Howard (SBCC)

The following guests were known to be present.

Moved by Morrill to approve the agenda as presented
2nd by Minatare.

Motion passed.

A motion was made by Morrill to approve the minutes of October 18th, 2022 meeting.

2nd by Scottsbluff City.

Motion passed

Tyler spoke about the following,

Radio Project:

- Tower equipment installations are complete.
- Subscriber radio training is complete.
- Console user and admin training is complete.
- **The system is “live”, time is needed to perform installs and programming.** Hoping for mid-December for the fleets to be finished.
- Coverage and acceptance testing was conducted November 14th-17th.

Box Butte County Project:

- Services will begin shortly after Box Butte talk groups are installed in the new radio consoles and CAD and phones will be set to cut the same day. No definite day has been set at this time. Looking like mid December.

Radio Management Online:

- One time cost of \$44,000.00
- Allows for large savings in radio tech time and money managing the fleet.
- The system is needed to allow for seamless alias changes and updating of the code plug for the fleet moving forward.
- The system will be utilized by departments that serve all communities in Scotts Bluff County.
- See attached quote and informational sheet.

Tyler spoke about the cost savings in labor with the radio management software. Ben spoke about changing Alias in the radios as there is personnel turnover.

Minatare made a motion was made to approve the purchase of the software from the 2910 funds and give a positive recommendation to the commissioners. 2nd by Scottsbluff City. Motion passed.

Tyler poke with the board about Cindy Howard and the experience she brings to the 911 department.

Next meeting date January 17th, 03:30 pm, 2022

Gering moved to adjourn
2nd by Scotts Bluff County.
Motion Passed

Adjourned at 03:40 PM

Submitted

Tyler Rexus