

MINUTES  
JOINT PUBLIC HEARING  
LINCOLN CITY COUNCIL  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
TUESDAY, JULY 17, 2012 AT 1:00 P.M.  
CITY COUNCIL CHAMBERS  
555 S. 10<sup>TH</sup> STREET, LINCOLN, NE

LANCASTER COUNTY COMMISSIONERS

Deb Schorr, Chair; Commissioners: Bernie Heier; Jane Raybould, Brent Smoyer; Larry Hudkins, Vice Chair, was absent.

CITY OF LINCOLN CITY COUNCIL MEMBERS

Adam Hornung, Chair; Council Members: Eugene Carroll, Doug Emery, Carl Eskridge, DiAnna Schimek; Jon Camp and Jonathan Cook were absent.

OTHERS PRESENT

Dan Nolte, County Clerk; Joan E. Ross, City Clerk; Brittany Behrens, Deputy County Attorney; Rick Peo, Assistant City Attorney; Sara Hartzell, Planning Department.

CALL TO ORDER

The Joint Meeting of the Lancaster County Board and the Lincoln City Council was convened at 1:00 p.m.

Lancaster County Board Chair Deb Schorr called the Lancaster County Board of Commissioners to order.

Lincoln City Council Chair Adam Hornung called the Lincoln City Council Members to order.

ELECTION OF JOINT BODY CHAIR

HORNUNG        Nominated Deb Schorr as Chair of the Joint Body.  
                  Seconded by Carroll & carried by the following County Commissioner vote:  
                  AYES: Raybould, Heier, Smoyer, Schorr; ABSENT: Hudkins.  
                  Followed by City Council vote: AYES: Carroll, Emery, Eskridge, Hornung,  
                  Schimek; NAYS: None; ABSENT: Camp, Cook.

INTRODUCTIONS

Chair Schorr asked that each elected official make an introduction and identify his/her area of representation.

OPENING STATEMENT

Chair Schorr made brief introductory remarks regarding the Public Hearing procedures and protocol and announced the location of the Nebraska Open Meetings Act.

Chair Schorr opened the public hearing and asked those wishing to testify to stand. County Clerk Dan Nolte administered the oath en masse.

**REGULAR MEETING**

**July 17, 2012**

**Page 182**

**RESOLUTIONS - PUBLIC HEARING**

**COUNTY CLERK AND CITY CLERK CALL THEIR RESPECTIVE ITEMS**

County Special Permit No. 12015 - Appeals from the Planning Commission's conditional approval of the application of Radix, Inc. for authority to operate a recreational facility in the AG Agricultural District, on property generally located at S.W. 29th Street and W. Wittstruck Road.

12R-150      City Special Permit No. 12016 - Appeals from the Planning Commission's conditional approval of the application of Radix, Inc. for authority to operate a recreational facility in the AG Agricultural District, on property generally located at S.W. 29th Street and W. Wittstruck Road.

**PRESENTATION BY APPLICANT**

Peter Katt, Baylor Evnen, 600 Wells Fargo Center, 1248 O St., came forward as the attorney representing Radix, Inc., a Nebraska non-profit corporation, operating Camp Gargano in the southern, mid-part of the County. He said the facility is currently permitted with a special permit for a club. He said Planning Department recommends that the special permit be changed from a club designation to a recreational facility designation. Mr. Katt said following a meeting with City staff, he and the project engineer, Mike Eckert, submitted an application requesting the designation of recreational facility. He said two individuals involved with the project, Doug Barry & Doug Pfeifer, are neighbors to the facility and have a fairly good feel for the neighborhood. Mr. Katt said they would run the facility in accordance with not creating an imposition on their neighbors. Mr. Katt said he and Mr. Eckert attended a meeting that was held at Camp Gargano along with Planning staff and neighbors. He said concerns were acknowledged and plans of the original proposal were significantly modified. He said there are three parts to the use in the particular permit for the recreational facility. Part A is how the Camp currently operates; Part B provision increases the numbers to 150; and Part C allows up to six events per year with 500 participants, provided an amusement license is obtained through the County. He said the Planning Department recommended approval of the application. Mr. Katt further stated that the Planning Commission unanimously recommends that the special permit is modified and approved by them to be approved.

Commissioner Jane Raybould asked that the number of 500 participants be further defined.

Mr. Katt said 500 participants would be the number of people registered and participating in the event. He agreed with Ms. Raybould that the total number of attendees could exceed that number. He emphasized that all of the large events require an amusement license which is subject to review annually by the County Board. If the applicant does not operate these events successfully, it is likely that more restrictions will be imposed. He asked that a flexible balance be allowed for Radix to host unknown future events but to not impact the neighborhood negatively.

Council Member Eugene Carroll inquired about property ownership. Mr. Katt responded that the real estate is owned by the non-profit corporation and the details of paying property taxes have not been finalized yet. Mr. Katt clarified a request for closure of a minimum maintenance road during events and affirmed that there is sufficient parking for 500+ participants.

Mike Eckert, Engineer with Civil Design Group, Inc., 8535 Executive Woods Dr., came forward to answer questions. He indicated there would be overflow parking lots in grass fields and handicap stalls would be hard surfaced.

Doug Barry, 14401 SW 15<sup>th</sup> St., Roca, Director and Founder of Radix and Camp Gargano, came forward to present his objectives. Mr. Barry said his home, in which he is raising five children, is the nearest residence to the property. He said in its 2½ year existence, the Camp's overall purpose has been to affect people's lives in a positive way. He said the primary use of the Camp is on 23 acres and includes running trails along the outside edges. Mr. Barry said the reason for the special permit is to continue the organization's work on a broader scale.

Council Member DiAnna Schimek clarified that Mr. Barry's application is for an increase in participants from 50 to 150 and a provision for special events. Mr. Barry agreed with Ms. Schimek and explained that currently he holds fund-raising gatherings, prayer rallies and open-house events to give exposure to their work. He said the 500 number gives flexibility to host family-friendly, wholesome events. He explained his connection to Victory Quest which is a for-profit corporation that encourages health & wellness. Mr. Barry said the 150 person events relate to day camps only because the bunk house does not hold more than 50 persons for an overnight stay.

**PUBLIC TESTIMONY**

Bob Roper, 10755 NW Hillsboro Rd., Platte City, MO, came forward in support. He said Radix impacts the lives of young men and young women in youth-related events to build the body, mind and soul. Mr. Roper said in the 20 years he has known Doug Barry, his intentions have always been of the highest ideal.

Jordan Barry, 14401 SW 15<sup>th</sup> St., Roca, came forward in support. He described his involvement from the early days of summer boot camp drills with friends to his work assisting his father, Doug Barry. He related one example of a participant's experience which was so inspiring, the young man carried the positive experience back home with him.

Jenay Barry, 14401 SW 15<sup>th</sup> St., Roca, came forward in support. Through her work at Camp Gargano, she and other young women have experienced growth in character and leadership. She wants their work to continue to reach as many people as possible.

Jacob Otte, 7951 Cheney Ridge Rd., came forward in support. He said he wants others to benefit from Camp Gargano's message which has also benefitted him.

Ron Oelling, 2141 Wilderness Ridge Dr., came forward in opposition. He said he is engaged in the business of farming on four sides of the applicant's property. He expressed concerns about traffic safety, litter and dust control.

Heath Wilcox, 14200 SW 15<sup>th</sup> St., Roca, came forward in opposition. He asked that individuals in attendance who are opposed to the special permit stand in recognition. He presented a petition of 43 signatures collected from farmers, families and working class people who oppose the special permit. He said people who live miles away or out of state have a choice in deciding when, how or if they will come to the proposed events. Surrounding neighbors will be forced to live with the events and he feels their quality of life will be impacted.

Michelle Brandt, 2311 W. Cove Dr., came forward in opposition. She expressed concern about the size of events which were once 50 or fewer participants at a time to hundreds of people. She said farmers who pay taxes should not have to work around the activities of Camp Gargano events.

Council Member Emery stated that if traffic is the main issue he suggested that a balance in the use of the roadways be found during the six events.

Trudy Adams, 13939 SW 14<sup>th</sup> St., came forward in opposition. She said she & her husband have owned 43 acres of property for the last 13 years and it borders the north fence line of Radix. She felt she was misled about the size of a building which was to be 1,000 sq. ft. but turned out to be 20,000 sq. ft.; the location grew from 23 to 71 acres; and testimony revealed that participation may grow from 500 to 1,000 individuals. Ms. Adams recounted other issues that concerned her.

Chair Schorr advised everyone in attendance that several departments are involved in the enforcement of a special use permit. She said the County Engineer oversees the roads & traffic; County Sheriff would be involved with excessive numbers; Health Department monitors noise; Building & Safety and Planning Commission are involved as well.

Laura Bahr-Frew, 15000 SW 29<sup>th</sup>, Martell, came forward in opposition. She said a discussion with Mr. Barry about 12 years ago led her to believe that the bunk house would only be large enough to house 50 young men to carry out a mission to build strong Christian leaders. She feels that expansion will bring about more people, more events, noise and traffic. Ms. Bahr-Frew said at the May 22, 2012 informational meeting for neighbors held at the Camp, she was shocked to see a 20,000 sq. ft. building.

## **REGULAR MEETING**

**July 17, 2012**

**Page 184**

Commissioner Brent Smoyer asked Ms. Bahr-Frew, because of its size, if she experienced any noise issues. She responded, no.

Jim Frew, 15000 SW 29<sup>th</sup>, Martell, came forward in opposition. He presented items of concern to him: 1) Victory Quest Vets Run reported a road closure that did not occur; 2) Zoning application indicated that Mr. Barry informed his neighbors, but he did not; 3) Letters from Mr. Barry were only sent to neighbors in the CUP. Mr. Frew questioned the tax-exempt status and Mr. Barry's original intentions.

Sara Hartzell, Planning Department, came forward to provide clarification. She said the original application was approved in 2007 for a club special permit for 50 or fewer users and a 20,000 sq. ft. building.

Rod Hollman, 6175 W. Wittstruck Rd., Martell, came forward in opposition. He expressed his concerns about traffic and safety as he actively travels the county roads to conduct his farming operations. In response to questioning about traffic issues, Mr. Hollman said it may not be a lot of difference whether 150 participants leave an event all at once or 500 dribble out slowly.

Commissioner Heier reminded Mr. Hollman and others of the traffic issues on 84<sup>th</sup> Street that were of great concern when the Lancaster Event Center was being built.

Jonathan Little, 13200 SW 14<sup>th</sup> St., Roca, came forward in opposition. He presented three key issues: 1) a non-profit camp is being used as a for-profit endeavor; 2) neighbors are being bullied with a fear tactic; 3) the facility has only one entry/exit. He expressed concerns about traffic safety on gravel roads and conservation of water.

Ms. Hartzell came forward to answer questions about the possibility of the facility being used to house sex offenders without the County Board's approval. She said if the State bought the land and put that type facility in place, they would not have to go through the process. She said another possible use would be for a group home. Ms. Hartzell reported that the group home use is unlikely, given the limit on the number of people allowed in that type of dwelling and the cost benefit ratio of utilizing a 20,000 sq. ft. building.

Don Foxhoven, 15700 SW 29<sup>th</sup> St., Martell, came forward in opposition. He shared his concerns of additional traffic leading to and exiting from the facility.

John Virts, 1301 W. Wittstruck Rd., Roca, came forward in opposition. He believes that minimum maintenance road is dangerous. Mr. Virts believes the applicant is violating his permit and should not be given another one.

Rick Peo, Assistant City Attorney, came forward to answer Council Carroll's question about how a City Council amendment to the special use permit might affect the County. Mr. Peo said that hopefully both legislative bodies will come to a similar arrangement as to terms, otherwise it would not be in conformance. He discussed the possibilities if the City voted one way and the County voted another way.

Brittany Behrens, Deputy County Attorney, came forward to answer questions. She clarified that the County Special Permit No. 12015 only applies to the property within the County jurisdiction. The City Special Permit No. 12016 would only apply to that area within the City's three-mile jurisdiction.

Mr. Katt came forward in rebuttal to address the issues raised by the opposition. He clarified possibilities of differing decisions by County & City. He said the only activities in the City jurisdiction are running trails. Mr. Katt said when his client came before the City & County to explain what he would like to do, he was guided to an approved use that fit his plans best. Mr. Katt believes there is no evidence that Mr. Barry or anyone associated with Camp Gargano has done anything other than to operate Camp Gargano as it was originally presented, discussed & approved by the County Board and City Council five years ago. He explained there is no particular zoning ordinance or special permit written specifically for every property down to the "T". The "club" choice was made at the time. Upon further discussion with staff, consensus determined the facility fits better with "recreational facilities". Mr. Katt continued to share that staff made the recommendation that it's appropriate to change this to a recreational facility. In addition to approved uses, properties have the right for accessory uses and as long as it is not the primary use of the property, it is allowed. He said from a traffic engineering perspective, it was determined that the existing road facilities can handle 1,000.

Mike Eckert came forward in rebuttal to speak about compromises. The special permit was actually within 250 feet of the acreage houses on the east side. He said compromises have been made to allow for more distance. He said the grass overflow parking allows for 1,000 stalls.

Commissioner Heier asked for clarification of ownership. Mr. Katt said the owner of the facility is Radix, Inc., which is a Nebraska non-profit corporation. The corporation is also the applicant that has applied for the special permit.

Commissioner Raybould asked for clarification of a club vs. a recreational facility. Mr. Katt said the events which have been held to date - fundraising events related to club activities - are accessory to the club use.

Ms. Hartzell came forward to respond to Commissioner Raybould's suggestion that Radix, Inc. simply seek County approval by applying for an amusement license for a special event with 500 participants. Ms. Hartzell stated that the day-to-day functioning of Radix must be addressed. It functions on a multi-generational level, working with adults as well as children. They work with different groups of people, not members of a club, so there would still be a conflict with the definition as a club. She said the special permit does define what recreational activities are to be expected on this property. Ms. Hartzell clarified the levels in the special permit and what amendments could be made.

Council Member Schimek requested that Mr. Barry clarify who Radix serves. Mr. Barry responded that Radix serves men and women of all ages. He said in the beginning it focused on young men. Throughout his travels around the country, he saw men who were missing the boat with regard to leadership and being heads of families. It then expanded to include young ladies, college girls, college guys and eventually adults.

Chair Schorr asked how larger racing events fit the Radix mission. Mr. Barry said to help draw people in to get a message, he had to give them something in which to engage in - fitness and challenges.

Commissioner Raybould asked Mr. Barry a series of questions. He responded by saying that for the Victory Quest event, neither a road was closed nor barricades installed as he originally told neighbors. Mr. Barry said he had not spoken to neighbors about the special permit even though he had indicated it on the application form. He stated that neighbors' claims that he told them he was building a 1,000 sq. ft. structure were untrue. Mr. Barry said it was true that he received an offer from an individual who does research work - for states in general - in the treatment of sex offenders. The interested party had heard the facility was possibly for sale.

Commissioner Raybould asked of Mr. Barry's plans going forward to rebuild the trust of his neighbors and assure the Joint County/City Body that he will adhere to every single element or parameter in the new use permit, should it be granted.

Doug Barry stated that there had been things spoken & written about him that were untrue. Until now, he has refrained from defending himself personally but his integrity & character have been attacked left & right. He explained why Wittstruck Road was not blocked off for the one event in question. Planning Department told him it was not to be blocked off for the special use permit. He was of the understanding that blockage would be required for the six major events of 500 people. Mr. Barry apologized for any misperception of his words spoken at a previous meeting. He said his organization has had a very good track record for 2½ years. He said evidence shows he has had a small impact on his neighbors. To regain his neighbors' trust, he welcomed all to come to any event he has. Mr. Barry said he will do his very best to be in communication with anybody and everybody.

Chair Schorr asked if anyone else wished to testify on the Special Permit appeals. Seeing no one, Chair Schorr closed the public hearing.

Council Member Carroll said City Council will not deal with this until July 30, 2012.

Chair Schorr said consensus of the County Board is to direct the County Attorney to prepare the appropriate resolution today to proceed for formal action next Tuesday, July 24, 2012.

Council Chair Hornung said, since a majority of the property is in the County, not within the three-mile jurisdiction, he would prefer that the County take the lead in its proposal and the City would find a way to be agreeable on that.

## REGULAR MEETING

July 17, 2012

Page 186

Council Member Eskridge said he agreed with Council Chair Hornung. He stated that the substantial issues regarding roads and water are in the County jurisdiction.

Commissioner Raybould said the mission of Camp Gargano and all the good things that they do is not in dispute. She clarified that the concern would be the scope, magnitude & number of events and the disruption to farmers. She said she would love to see the two groups get together and work out some amendment or modification that would be acceptable to both. Ms. Raybould said if a concession was not reached, the County could discuss it at future meetings and come up with a compromise that would be more equitable to everyone.

Chair Schorr said in summarization, preliminary discussions were held but were not received with overwhelming support.

## VOTING SESSION

HEIER Moved to draw up a resolution to approve County Special Permit No. 12015 by retaining Notes 3a. and 3b. and to strike the following Note in its entirety: "3c. One day occupancy of up to 500 persons that shall be permitted 6 times in a calendar year if a separate Amusement License is granted by the County Board."  
SMOYER Seconded.

Commissioner Raybould requested to see the motion in writing as her packet dates appeared different.

Brittany Behrens, Deputy County Attorney, clarified that the motion being made by Mr. Heier is based on the recommendation directly from the Planning Commission's resolution with the exception of "c".

Commissioner Heier explained the cooperative use of county roadways and encouraged safe travel. He reasoned that the removal of the 500 person event would be to see what the 50-person or 150-person event would do. He suggested that if it works, the County could amend it.

Brent Smoyer said he understands the danger of traveling gravel roads. Mr. Smoyer recounted his participation in a recent event in which 19,000 people traveled county roads. He said with traffic direction & signs, the event concluded successfully. As a start, Mr. Smoyer advised Mr. Barry that with the opportunity to hold 150-person events multiple times, he could show people he's a good neighbor and can make it work. He asked neighbors in the audience to give it a chance.

In response to Commissioner Raybould's questions, Deputy County Attorney Behrens agreed that Mr. Barry could apply for an amusement license for a special event involving 500-1,000 participants providing there was no conflict between land use. She said the amusement license process in the County requires a public hearing, notice to the neighbors, forwarding to the Health Department, Planning Department, Building & Safety, County Attorney's office, Engineering Department, County Sheriff and other various County departments for their input in additional conditions upon the granting of the amusement license.

Chair Schorr shared her support of Mr. Heier's motion. She said the County Board has worked very hard to be pro-business and supportive of new initiatives in the County whether it is a "for-profit" business or "not-for-profit" business. She said moving to 150 allows Radix to continue its mission and show neighbors the numbers can be managed. Ms. Schorr encouraged Radix to look at car pool initiatives, watch the noise and be aware of all the concerns raised by the neighbors. She said if, when and should Mr. Barry come back, those are the things the County Board would be looking at.

Commissioner Raybould stated that she is in support of Mr. Heier's motion. She feels it is a good compromise and it gives Radix, Inc. more opportunity to prove themselves to their neighbors.

The vote was carried by the following County Commissioners vote: AYES: Heier, Smoyer, Raybould, Schorr; NAYS: None.

Chair Schorr questioned Mr. Hornung on City Council procedures.

Council Chair Hornung responded that the City will have a resolution drafted for action in its regular procedural course.

CALL TO ADJOURNMENT

HORNUNG            Moved to adjourn the Joint County/City Meeting of July 17, 2012.  
                          Seconded by Carroll & carried by the following County Commissioner vote:  
                          AYES: Smoyer, Raybould, Heier, Schorr; NAYS: None; ABSENT: Hudkins.  
                          Followed by City Council vote: AYES: Carroll, Emery, Eskridge, Hornung,  
                          Schimek; NAYS: None; ABSENT: Camp, Cook.

ADJOURNMENT

The Joint County/City Meeting adjourned at 3:14 p.m.

Prepared by:  
Sandy L. Dubas, City Clerk Office Specialist

\_\_\_\_\_  
Joan E. Ross, City Clerk



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*Dan Nolte*  
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Dan Nolte, County Clerk