

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
THURSDAY, JANUARY 17, 2019
COUNTY-CITY BUILDING
ROOM 113 - BILL LUXFORD STUDIO
8:30 A.M.**

Commissioners Present: Jennifer Brinkman, Chair; Roma Amundson, Vice Chair; Deb Schorr, Sean Flowerday and Rick Vest

Others Present: Kerry Eagan, Chief Administrative Officer; Dan Nolte, County Clerk; Cori Beattie, Deputy County Clerk and Leslie Brestel, County Clerk's Office

Advance public notice of the Board of Commissioners Staff Meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska web site and provided to the media on January 16, 2019.

The Vice Chair noted the location of the Open Meetings Act and opened the meeting at 8:30 a.m.

AGENDA ITEM

1) APPROVAL OF STAFF MEETING MINUTES FOR JANUARY 10, 2019

MOTION: Vest moved and Flowerday seconded approval of the January 10, 2019 Staff Meeting minutes.

The following corrections to the minutes were noted:

- Page 6, Item 10, Paragraph 1, 2nd line and Paragraph 3, 1st line \$7,000 should be \$6,000
- Page 6, Item 10, Paragraph 2, last line "is" should be changed to "it", so it reads, "...how it was distributed"

ROLL CALL: Amundson, Vest and Flowerday voted yes. Schorr abstained. Brinkman was absent. Motion carried 3-0 with 1 abstention.

2) LEGISLATIVE UPDATE – Joe Kohout and Brennen Miller, Kissel, Kohout, ES Associates LLC

A. LEGISLATIVE UPDATE

Joe Kohout, Kissel, Kohout, ES Associates LLC, reviewed the weekly legislative report (Exhibits A and B). He said Kissel, Kohout, ES Associates LLC received communication regarding LB335 (Authorize a 24/7 sobriety program permit for operating a motor vehicle as a condition of bail) from the Douglas County lobbyists with concerns from the Douglas County Corrections Director about the draft legislation. Kohout stated twice a day testing and the Secure Continuous Remote Alcohol Monitor (SCRAM) component were of most concern. The communication has been forwarded to Brinkman, Kerry Eagan, Chief Administrative Officer, Joe Nigro, Public Defender, Pat Condon, County Attorney, and Kim Etherton, Community Corrections Director.

Brinkman entered the meeting at 8:37 a.m.

Regarding LB267 (Provide a duty for the county board relating to deficient bridges and authorize a tax levy), Pam Dingman, County Engineer, asked for scour critical bridges to be included in the section of the bill "deemed deficient by Department of Transportation standards." Kohout stated the bill would have to be amended to include scour critical bridges. Eagan added scour critical bridges are mentioned in the second half of the bill but not the first half.

Kohout felt it would be beneficial for a Board member to testify at the hearing on LB200 (Change provisions relating to licensure under the Health Care Facility Licensure Act of alcoholism centers providing civil protective custody of intoxicated persons) on Thursday, January 24. Brinkman, Vest and Flowerday indicated they would be willing to testify. Terry Wagner, County Sheriff, said Todd Duncan, Chief Deputy Sheriff, could also testify.

Sara Hoyle, Human Services Director, clarified General Assistance eligibility as it pertains to expanded Medicaid and Medical Care for Inmates Granted Medical Parole.

Hoyle will send the Board a letter for review supporting LB174 (State intent relating to appropriations for the Office of Violence Prevention) as the funding supports the Gang Outreach Specialist position and has historically been decreased.

Hoyle will also prepare a letter for Board review on LB294 (Appropriate funds for the expenses of Nebraska State Government for the biennium ending June 30, 2021) which will decrease Community Aid funds by 5.5% leading to two or three community-based programs unfunded.

A bill on rental vehicles will be sent to the Board for review with the County Attorney Office's suggestions (Exhibits C and D).

Kohout reviewed next week's scheduled hearings (Exhibits E and F).

Brad Johnson, Corrections Director, felt the County should support LB376 (Provide for safekeeping of prisoners) as when LB605 (Provide, change, and eliminate penalties, punishments, sentencing, restitution, probation, parole, and crime victim provisions and provide for post-release supervision, grants, and suspension of medical assistance for inmates) was passed, individuals with a misdemeanor cannot be held in a state correctional facility and there may be times when appropriate resources are not available at a non-state correctional facility.

Johnson reviewed LB247 (Adopt the Advance Mental Health Care Directives Act) which allows for stable, mentally ill individuals to establish a directive to assign a caretaker for them if they were to become mentally unstable.

It was the consensus of the Board for the Directors to send their bills of concern to Kohout before next Thursday for the Board to review during next week's legislative report.

B. LOBBYIST AND LEGISLATIVE TESTIMONY PROCEDURES (ACTION REQUIRED)

MOTION: Flowerday moved and Amundson seconded to accept the updates to the Lobbyist and Legislative Testimony Procedures. Brinkman, Schorr, Amundson, Vest and Flowerday voted yes. Motion carried 5-0.

3) TEXT AMENDMENT NO. 18016, ZONING RESOLUTION §13.048, COMMERCIAL WIND ENERGY CONVERSION SYSTEMS – Tom Cajka, Lincoln-Lancaster County Planning Department, Planner II; and Jenifer Holloway, Deputy County Attorney

Chris Schroeder, Lincoln Health Department Environmental Health Supervisor, was also present for the discussion.

Tom Cajka, Lincoln-Lancaster County Planning Department, Planner II, reviewed the text amendment, highlighting Parts I, M and O. He also reviewed the Planning Commission's recommended alternative amendment (Exhibit G).

Regarding Part I, Schroeder said the studies reviewed in 2015 included the noise exposure data at the dwelling. The current guidelines protect the non-participating dwellings.

Schroeder and Jenifer Holloway, Deputy County Attorney, felt the general concern for Part O was to make sure a participant could complain if a standard was being violated; however, if the private contract is being violated outside of the Special Permit, the County cannot regulate those contracts.

Holloway stated the resolutions she has drafted for the hearing will include both the original amendment and the Planning Commission recommendation. She also confirmed the amendment would be a legislative change; therefore, the Commissioners would not be required to provide ex parte communications.

ACTION ITEM

A. Wilderness Park Memo to Mayor Chris Beutler

Brinkman reviewed the memo (see agenda packet). She said Mayor Beutler suggested not putting a deadline of April but of having a discussion at the first meeting of the task force in February or March, and that the task force would develop a proposal for submitting a recommendation.

MOTION: Amundson moved and Flowerday seconded to accept the changes to the memo, to authorize the Chair sign the letter, and for the letter to be sent to the Mayor. Brinkman, Amundson, Schorr, Vest and Flowerday voted yes. Motion carried 5-0.

CHIEF ADMINISTRATIVE OFFICER REPORT

- B.** Payment of Invoices from Segal Marco Advisors from Retirement Expense Accounts #349825 - \$28,500 (Beyond 90 Days); #349827 - \$28,500 (Beyond 90 Days); and #349833 - \$28,500 (Total \$85,500)

Schorr exited the meeting at 9:14 a.m.

Eagan stated the invoices were received late.

MOTION: Amundson moved and Vest seconded to approve payment of the claims. Brinkman, Amundson, Vest and Flowerday voted yes. Schorr was absent. Motion carried 4-0.

- C.** Proposal from Segal Marcos Advisors for 2019 Pension Consulting Services

Schorr returned to the meeting at 9:15 a.m.

Eagan reviewed the proposal (see agenda packet).

MOTION: Amundson moved and Schorr seconded to authorize the County Attorney to develop a contract with Segal Marcos Advisors for 2019 pension consulting services. Brinkman, Amundson, Schorr, Vest and Flowerday voted yes. Motion carried 5-0.

- 4) NEBRASKA DEPARTMENT OF AGRICULTURE ANNUAL NOXIOUS WEED REPORT (ACTION REQUIRED) – Brent Meyer, Weed Control Superintendent**

Brent Meyer, Weed Control Superintendent, reviewed the noxious weed report (see agenda packet).

MOTION: Schorr moved and Amundson seconded to accept the report and authorize the Chair to sign it. Brinkman, Amundson, Schorr, Vest and Flowerday voted yes. Motion carried 5-0.

- 5) SHARED DRIVE ACCESS REPORT – Craig Gifford, Information Services Technical Support/Operations Coordinator**

Craig Gifford, Information Services Technical Support/Operations Coordinator, distributed information on a cloud-based shared drive and shared email (Exhibit H). He said email is currently served by the Microsoft government community cloud whose features are released slower than other cloud options due to security requirement restrictions. He recommended a County Board OneDrive account. Gifford stated he is in discussion with Microsoft about customizable options. He reviewed how the drive would be accessible for the staff meeting.

Schorr asked if the agenda links would be accessed differently by the public than they are currently. She felt for transparency of information to the public, the elected officials and department directors should submit their documentation by the deadline for agenda publication. Brinkman felt the same access to the public would exist as does currently.

It was the consensus of the Board for Flowerday, Brinkman and staff to work with Information

Services to create a plan for presentation at a future staff meeting.

6) NEBRASKA INTERACTIVE PAYMENT PROCESSING CONTRACT – David Derbin, Deputy County Attorney; and Jenifer Holloway, Deputy County Attorney

MOTION: Amundson moved and Vest seconded to enter Executive Session at 9:47 a.m. for the purposes of receiving legal advice, labor negotiations and to protect public interest.

The Chair said it has been moved and seconded that the Board enter Executive Session.

ROLL CALL: Brinkman, Amundson, Schorr, Vest and Flowerday voted yes. Motion carried 5-0.

The Chair restated the purpose for the Board entering Executive Session.

MOTION: Amundson moved and Vest seconded to exit Executive Session at 10:49 a.m. Brinkman, Amundson, Schorr, Vest and Flowerday voted yes. Motion carried 5-0.

7) LABOR NEGOTIATIONS – Doug McDaniel, Human Resources Director; Kristy Bauer, Deputy County Attorney; Nicole Gross, Compensation Manager; and Amy Sandler, Compensation Technician

See Item 6.

APPLICATION FOR PRISON RAPE ELIMINATION ACT (PREA) TRAINING – Brad Johnson, Corrections Director

Brad Johnson, Corrections Director, asked for Board permission to apply for Prison Rape Elimination Act (PREA) training. He noted while there are no registration fees, the estimated cost to the County to send one staff member is \$3,200 which would cover hotel, airfare and meals.

MOTION: Amundson moved and Flowerday seconded to approve attendance at the training.

Brinkman questioned if directors are required to ask for Board authorization for out-of-state training opportunities if the cost is covered by the department budget. Eagan replied there is not a written policy, and that it is a carryover policy from previous fiscal years. He felt the process could be discussed at the mid-year budget retreat in February.

ROLL CALL: Brinkman, Amundson, Schorr, Vest and Flowerday voted yes. Motion carried 5-0.

8) OPEN MEETINGS POLICY – Jenifer Holloway, Deputy County Attorney

Holloway reviewed the current and recommended changes to the Open Meetings policy (see agenda packet). She highlighted if the Board would like a special presentation on a grant award that item could be pulled from the consent items. She also noted the Board of Equalization (BOE) meeting dates need to be updated to the first and third Tuesdays of the month.

It was the consensus of the Board to not include language to disallow public comment on items not

on the agenda, and not planned to appear on a future agenda.

Holloway defined ex parte communication and reviewed when that procedure would be required.

Schorr asked at what point does the ex parte communication timeframe begin. Holloway answered when the Board sets a hearing for a quasi-judicial item or when the Clerk publishes a notice of a public hearing. There was discussion on how the BOE communications would be handled.

It was the consensus of the Board to request a legal opinion from the County Attorney's Office as to what is quasi-judicial, specifically clarifying the Board of Equalization, and to have Holloway come to a future staff meeting for further discussion on ex parte communication.

It was also the consensus of the Board for Holloway to move forward with the suggested agreed upon changes to the resolution and the policy addressing grant contracts as consent items, fixing the BOE meeting dates, public comment on items not on the agenda and not planned to appear on a future agenda, and order of testimony during public hearings.

9) APPLICATION FOR PRISON RAPE ELIMINATION ACT (PREA) TRAINING – Brad Johnson, Corrections Director

Item moved forward on agenda.

10) POTENTIAL LITIGATION – Pam Dingman, Lancaster County Engineer and Jenifer Holloway, Deputy County Attorney

MOTION: Schorr moved and Vest seconded to enter Executive Session at 11:23 a.m. for the purposes of potential litigation and to protect public interest.

The Chair said it has been moved and seconded that the Board enter Executive Session.

ROLL CALL: Brinkman, Amundson, Schorr, Vest and Flowerday voted yes. Motion carried 5-0.

The Chair restated the purpose for the Board entering Executive Session.

MOTION: Schorr moved and Amundson seconded to exit Executive Session at 11:35 a.m. Brinkman, Amundson, Schorr, Vest and Flowerday voted yes. Motion carried 5-0.

11) ACTION ITEM

A. Wilderness Park Memo to Mayor Chris Beutler

Item moved forward on agenda.

12) CHIEF ADMINISTRATIVE OFFICER REPORT

A. County Board Meeting Procedures

Discussion tabled.

- B. Payment of Invoices from Segal Marco Advisors from Retirement Expense Accounts #349825 - \$28,500 (Beyond 90 Days); #349827 - \$28,500 (Beyond 90 Days); and #349833 - \$28,500 (Total \$85,500)**
- C. Proposal from Segal Marcos Advisors for 2019 Pension Consulting Services**

Items B and C moved forward on agenda.

D. Chief Deputy Elected Official Salaries

It was the consensus of the Board to direct Eagan to put the Chief Deputy Elected Official salaries on the next Tuesday agenda.

E. County Commissioner Goals and Priorities

Item tabled until the next staff meeting.

F. Claims for Review Policy Update

Eagan reviewed the current process and the Board's responsibility for claim review. The Board discussed elected official claim reviews and the need for staff presence at claim reviews.

It was the consensus of the Board that the Miscellaneous Expenditures Resolution be reviewed. If there is no written language in the resolution pertaining to reviewing all elected officials claims, then elected officials' claims do not need to be reviewed by the Board if deemed acceptable by the Clerk's Office. If a claim is deemed questionable, the Board or their designee will communicate to the elected official or department director the need to attend a staff meeting.

13) CHIEF DEPUTY ADMINISTRATIVE OFFICER REPORT

No report was given.

14) GENERAL ADMINISTRATIVE REPORT

- A. Invitation from John Chapo, President & CEO Lincoln Children's Zoo Lincoln to the County Board of Commissioners and Staff to Meeting the Giraffes and to See the Expansion Taking Place at the Children's Zoo - January 22 (11:00 a.m.), February 5 (11:00 a.m.) or February 12 (11:00 a.m.)**

Vest, Amundson and Flowerday indicated interest in visiting the Zoo on February 12.

B. City-County Common Meeting - Agenda Items (Tuesday, February 5, 2019, 11:00 a.m.)

For informational purposes only.

15) DISCUSSION OF BOARD MEMBER MEETINGS ATTENDED

A. Information Services Policy Committee - CANCELLED

B. Lincoln Parks and Recreation Advisory Board - Vest

Vest reported the meeting was held in Executive session.

C. Lincoln Independent Business Association Elected Officials Committee - Amundson

Amundson said Hoyle gave a presentation on juvenile justice.

D. District Energy Corporation - Schorr/Flowerday

Flowerday reported Schorr was elected President of the District Energy Corporation (DEC) and he was elected Secretary/Treasurer, and the DEC financial report was received. Schorr said the Lincoln Electric Systems (LES) Operations Center is near completion. Flowerday will attend the International District Energy Association (IDEA) meeting in Pittsburgh from June 24-27, 2019.

E. Lincoln-Lancaster County Board of Health - Flowerday

Refer to Flowerday's report at the January 10, 2019 staff meeting.

F. Lancaster County Mental Health Crisis Center Advisory Board - CANCELLED

16) SCHEDULE OF BOARD MEMBER MEETINGS

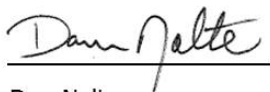
For informational purposes only.

17) EMERGENCY ITEMS

There were no emergency items.

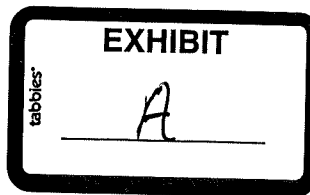
18) ADJOURNMENT

MOTION: Amundson moved and Flowerday seconded to adjourn at 12:00 p.m. Brinkman, Schorr, Amundson, Vest and Flowerday voted yes. Motion carried 5-0.



Dan Nolte
Lancaster County Clerk





Kissel, Kohout, ES Associates LLC

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LEGISLATIVE MEMORANDUM

TO: Lancaster County Board of Commissioners

FROM: Joseph D. Kohout
Brennen L. Miller

DATE: January 17, 2019

RE: Weekly Report

Please accept this as your first of our weekly reports for the 2019 session of the Legislature.

CHANGES TO COMMITTEE ASSIGNMENTS

Following our report last week, there were a few changes to committee assignments. Specifically, Senator Joni Albrecht and Senator Tom Brandt changed committees which means that Senator Albrecht has been placed on the Transportation and Telecommunications Committee and Senator Brandt has taken her positions on the Agriculture and General Affairs Committees. Senator Tim Gragert and Senator Andrew LaGrone have also traded putting Senator Gragert on Natural Resources and Senator LaGrone on Government, Military and Veterans Affairs where he was legal counsel up until a few weeks ago.

GOVERNOR'S STATE OF THE STATE

On Tuesday, the Governor presented his budget along with his recommendations for the 2019 session. Most significant for the county was his endorsement of LR8CA by Senator Linehan which would call for a 3% cap on increases in property taxes. His comments read as follows:

“Third, Senator Linehan and I are proposing to establish a three percent cap on property taxes levied by local governments. Over the past decade, local property taxes have risen over 57 percent. To deliver long-term, structural relief, it is important that we limit the growth of property taxes. Our proposal comes in the form of a constitutional amendment, which must be approved by the people after receiving your consideration.”

While the amendment would require 30 votes on final reading and final passage by the voters, it has not yet been set for public hearing.

LANCASTER COUNTY PRIORITIES

Competency to Stand Trial. This concept was introduced as LB240 by Senator Matt Hansen. The bill has been referred to the Judiciary Committee for public hearing. We will keep you apprised on when that hearing will be.

24/7 Sobriety. Introduced as LB335 by Senator Matt Hansen. The bill has not yet been referred to a committee for public hearing. As previously mentioned, the bill will either be referred to the Judiciary Committee or to the Transportation & Telecommunications Committee. We will keep you apprised. We are working with Kim Etherton to come over and brief Senator Hansen and his staff on the bill.

Financing of County Bridge Repairs. Introduced as LB267 by Senator Kate Bolz. The bill has not yet been referred to a committee although a preliminary recommendation had the bill going to the Government, Military & Veterans Affairs Committee. Once the bill has been referenced, we would recommend that we put together a “briefing team” that can go with us to meet with Senators to discuss the importance of the bill to each committee member.

Licensure of Facilities Providing CPC. Introduced by Senator Anna Wishart as LB200, the bill has been referred to the Health and Human Services Committee. It will be heard on the very first day of public hearings next Wednesday. Notification has been sent out to both the City of Lincoln and to Tammy at the Bridge.

County Real Property. Senator Myron Dorn has agreed to carry this legislation. We received changes to the bill last week and we expect to have those changes down very soon.

Medical Care for Inmates Granted Medical Parole. We have prepared a very rough draft of a potential bill and sent it for review by Commissioner Brinkman and Mr. Eagan.

Rental car options for counties. We since last week, we have been working on a potential draft. We are attaching our efforts on this to this report. We did receive some thoughts back from the County Attorney’s office and have included the changes submitted to bill drafters as part of this report.

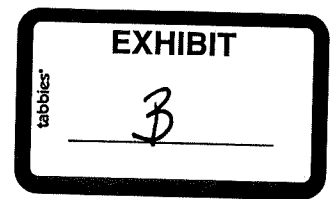
ADDITIONAL REQUESTS BY DEPARTMENT HEADS

Yesterday, we received a request from Brent Meyer which has been attached with this report. He is asking that we monitor developments on the Governor’s budget when it comes to the Riparian Management Task Force. Historically, we have done so.

HEARINGS FOR NEXT WEEK

We have attached a report for next week’s hearings that have been scheduled through yesterday on those bills we have flagged for Lancaster County.

This concludes our report for this week. We would be happy to answer any questions you might have.



From: [Brent D. Meyer](#)
To: [Joe Kohout \(jkohout@kisselkohoutes.com\)](mailto:jkohout@kisselkohoutes.com); [Brennen Miller \(bmiller@kisselkohoutes.com\)](mailto:bmiller@kisselkohoutes.com)
Cc: [Kerry P. Eagan](#)
Subject: Riparian Task Force Appropriations Funding
Date: Wednesday, January 16, 2019 11:36:06 AM
Attachments: [image001.png](#)

Joe,

An ongoing challenge each year is helping Appropriations understand the importance of funding for the Riparian Management Task Force. This funding was created by [LB 1038](#) in 2016, providing 1 million annually. Last year, less than 500,000 was appropriated and I'm sure this year will be challenging as well. LB 1038 passed 48-0-1 in 2016 and was clearly important to the State, since that time it has been a battle to maintain the funding.

I serve as the Chair for the RVMTF and would ask that you keep any eye on the Governor's proposed budget and let me know if the funding for the RVMTF, under NDA, pops up on your radar.

Thank you
Brent Meyer

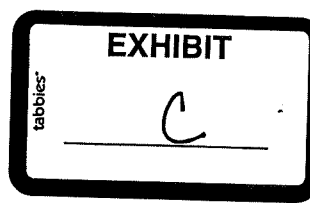
Brent Meyer
Weed Control Superintendent
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LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL

Introduced by

Read first time

Committee:

- 1 A BILL FOR AN ACT relating to county and local government; to amend
- 2 section 23-1112, Reissue Revised Statutes of Nebraska, and section
- 3 13-2203, Revised Statutes Cumulative Supplement, 2018; to provide
- 4 for reimbursement of actual travel expenses for a rental vehicle;
- 5 and to repeal the original sections.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-2203, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 13-2203 In addition to other expenditures authorized by law, each
4 governing body may approve:

5 (1)(a) The expenditure of public funds for the payment or
6 reimbursement of actual and necessary expenses incurred by elected and
7 appointed officials, employees, or volunteers at educational workshops,
8 conferences, training programs, official functions, hearings, or
9 meetings, whether incurred within or outside the boundaries of the local
10 government, if the governing body gave prior approval for participation
11 or attendance at the event and for payment or reimbursement either by the
12 formal adoption of a uniform policy or by a formal vote of the governing
13 body. Authorized expenses may include:

14 (i) Registration costs, tuition costs, fees, or charges;

15 (ii) Mileage at the rate allowed by section 81-1176, ~~or actual travel~~
16 ~~expense if travel is authorized by rental vehicle or commercial or~~
17 ~~charter means; and~~

①

18 (iii) Meals and lodging at a rate not exceeding the applicable
19 federal rate unless a fully itemized claim is submitted substantiating
20 the costs actually incurred in excess of such rate and such additional
21 expenses are expressly approved by the governing body; and

22 (b) Authorized expenditures shall not include expenditures for meals
23 of paid members of a governing body provided while such members are
24 attending a public meeting of the governing body unless such meeting is a
25 joint public meeting with one or more other governing bodies;

26 (2) The expenditure of public funds for:

27 (a) Nonalcoholic beverages provided to individuals attending public
28 meetings of the governing body; and

29 (b) Nonalcoholic beverages and meals:

30 (i) Provided for any individuals while performing or immediately
31 after performing relief, assistance, or support activities in emergency

1 situations, including, but not limited to, tornado, severe storm, fire,
2 or accident;

3 (ii) Provided for any volunteers during or immediately following
4 their participation in any activity approved by the governing body,
5 including, but not limited to, mowing parks, picking up litter, removing
6 graffiti, or snow removal; or

7 (iii) Provided at one recognition dinner each year held for elected
8 and appointed officials, employees, or volunteers of the local
9 government. The maximum cost per person for such dinner shall be
10 established by formal action of the governing body, but shall not exceed
11 fifty dollars. An annual recognition dinner may be held separately for
12 employees of each department or separately for volunteers, or any of them
13 in combination, if authorized by the governing body; and

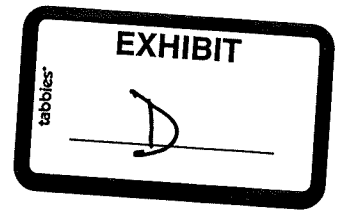
14 (3) The expenditure of public funds for plaques, certificates of
15 achievement, or items of value awarded to elected or appointed officials,
16 employees, or volunteers, including persons serving on local government
17 boards or commissions. Before making any such expenditure, the governing
18 body shall, by official action after a public hearing, establish a
19 uniform policy which sets a dollar limit on the value of any plaque,
20 certificate of achievement, or item of value to be awarded. Such policy,
21 following its initial adoption, shall not be amended or altered more than
22 once in any twelve-month period.

23 Sec. 2. Section 23-1112, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 23-1112 When it is necessary for any county officer or his or her
26 deputy or assistants, except any county sheriff or his or her deputy, to
27 travel on business of the county, he or she shall be allowed mileage at
28 the rate per mile allowed by section 81-1176 for ~~each mile actually and~~
29 ~~necessarily traveled by the most direct route if the trip or trips are~~ 2
30 ~~made by automobile. If travel by rail, or bus, or rental vehicle is~~
31 economical and practical, he or she shall be allowed only the actual cost

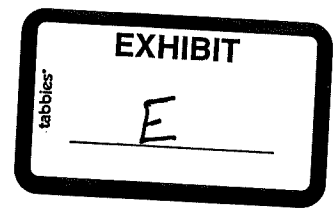
1 ~~of rail, or bus, or rental vehicle~~ transportation upon the presentation
2 ~~of his or her bill for the same accompanied by a proper voucher to the,~~
3 ~~county board of his or her county in like manner as is provided for as to~~
4 ~~all other claims against the county.~~

5 Sec. 3. Original section 23-1112, Reissue Revised Statutes of
6 Nebraska, and section 13-2203, Revised Statutes Cumulative Supplement,
7 2018, are repealed.



Changes to REQ00946

1. Strike after "81-1176" in line 15 through "means" in line 17, and replace with: "for travel by personal automobile, but if travel by rental vehicle or commercial or charter means is economical and practical, then authorized expenses shall include only the actual cost of rental vehicle or commercial or charter means. The governing body may establish different mileage rates based on whether the personal automobile usage is at the convenience of the local government or at the convenience of the local government's elected or appointed official, employee, or volunteer."
2. Strike after "for" in line 28 through "county" on page 4, line 4 and replace with: "for travel by personal automobile upon the presentation of his or her bill for the same accompanied by a proper voucher to the county board of his or her county in like manner as is provided for as to all other claims against the county, but if travel by rental vehicle or commercial or charter means is economical and practical, then he or she shall be allowed only the actual cost of rental vehicle or commercial or charter means. The county board may establish different mileage rates based on whether the personal automobile usage is at the convenience of the county or at the convenience of the county officer or his or her deputy or assistant."
3. Add this section too: 23-1112.01. *County officers; employees; use of automobile; allowance.* If a trip or trips included in an expense claim filed by any county officer or employee for mileage are made by personal automobile or otherwise, only one mileage-claim shall be allowed pursuant to section 23-1112 at the rate established in section 81-1176, for each mile actually and necessarily traveled by the most direct route, regardless of the fact that one or more persons are transported in the motor vehicle. No charge for mileage shall be allowed when such mileage accrues while using any motor vehicle owned by the State of Nebraska or by a county.



01/16/2019
05:02 PM

Kissel Kohout ES Associates LLC
106th Legislature, 1st Regular Session
LC

Page 1

Document	Senator	Position	Committee	Status	Description
LB20	Briese		Government, Military and Veterans Affairs	In Committee 01/14/2019	Require voter approval of public building commission bonds <i>Designed to require approval by the voters for the issuance of bonds by public building commissions and to repeal the original provision.</i>
LB42	Hilkemann		Banking, Commerce and Insurance	In Committee 01/14/2019	Provide certain responsibilities and a duty under the Condominium Property Act and a duty under the Nebraska Condominium Act <i>Designed to create responsibility for maintenance, repair, and replacement of common elements in the association of co-owners and board of administrators, or other body governing the condo. As well as to require the board of administrators or other administrative body under the Condominium Property Act for the yearly (on or before December 31) filing of the names and addresses of the current officers of the board with the county clerk, and the filing fees (not more than \$25).</i>
LB43	Bolz		Judiciary	In Committee 01/14/2019	Adopt the Sexual Assault Survivors' Bill of Rights Act <i>Designed to adopt the Sexual Assault Survivors' Bill of Rights Act, which includes, among other things, the survivor's right to consult with and have present an advocate of his or her choosing during medical evidentiary or physical examination (regardless of whether or not said right has been previously waived), the right to a free forensic medical examination, the right to shower at no cost if the facilities are available, right to consult with or have an advocate available during an interview by police/prosecution/defense, the right to be interviewed by an interviewer the gender of the survivor's choosing, and to and interpreter for differences regarding primary language.</i>
LB47	Chambers		Judiciary	In Committee 01/14/2019	Change provisions relating to when a grand jury report may be made public <i>Designed allow for a grand jury report may be made public only after all persons indicted have been adjudicated in district court, or when required by statute, or when the judge of the district court finds that such a release will exonerate a person or persons who have requested such a release.</i>
LB48	Stinner		Natural Resources	In Committee 01/14/2019	Change provisions relating to sufficient cause for nonuse of a water appropriation <i>Designed to change provisions relating to a finding of sufficient cause for nonuse of a water appropriation, namely, to add the following sufficient cause: "The land subject to the appropriation is under an acreage reserve program or production quota or is otherwise withdrawn from use as required for participation in any federal, state, or natural resources district program. .OR. . . such land was previously under such a program but currently is not under such a program and there have been not more than five consecutive years of nonuse on such land subsequent to when that land was last under such program."</i>
LB50	Vargas		Revenue	In Committee 01/23/2019 01/14/2019	Change individual income tax brackets and rates <i>Designed to change individual income tax brackets and rates for taxable years after January 1, 2019. Proposed as follows:</i> <i>Bracket</i> <i>number Single</i> <i>Individuals Married, Filing Jointly Head of Household Married,</i> <i>Filing Separate Estates & Trusts Tax Rate</i> <i>1 \$0-3,149 \$0-6,289 \$0-5,869 \$0-3,149 \$0-499 2.46%</i> <i>2 \$3,150-18,879 \$6,290-37,759 \$5,870-30,209 \$3,150-18,879 \$500-4,699 3.51%</i> <i>3 \$18,880-37,499 \$37,760-74,999 \$30,210-56,249 \$18,880-37,499 \$4,700-15,149 5.01%</i> <i>4 \$37,500-99,999 \$75,000-199,999 \$56,250-149,999 \$37,500-99,999 \$15,150 and over 6.84%</i> <i>5 \$100,000 and over \$200,000</i> <i>and over \$150,000 and over \$100,00 and over (Blank) 7.84%</i>
 <i>Further: a one percent (1%) tax rate on that portion of a taxpayer's Nebraska taxable income in excess of one million dollars and, a two percent (2%) tax rate on that portion of a taxpayer's Nebraska taxable income in excess of two million dollars.</i>					

01/16/2019
05:02 PM

Kissel Kohout ES Associates LLC
106th Legislature, 1st Regular Session
LC

Page 2

Document	Senator	Position	Committee	Status	Description
LB53	Scheer		Natural Resources	In Committee 01/14/2019	Change and provide duties for landowners or their tenants relating to removal of a blockage or obstruction in a watercourse and provide for court costs and attorney's fees
LB54	Lowe		Judiciary	In Committee 01/14/2019	Change provisions relating to carrying a concealed weapon
LB55	Lowe		Judiciary	In Committee 01/14/2019	Authorize persons eighteen years of age to acquire or convey title to real property
LB56	Lowe		General Affairs	In Committee 01/14/2019	Change special designated licensure provisions under the Nebraska Liquor Control Act
LB58	Morfeld		Judiciary	In Committee 01/14/2019	Adopt the Extreme Risk Protection Order Act
LB59	Cavanaugh		Health and Human Services	In Committee 01/14/2019	Change investigation and reporting provisions under the Children's Residential Facilities and Placing Licensure Act
LB63	Groene		Revenue	In Committee 01/14/2019	Change tax levy provisions relating to rural and suburban fire protection districts and change the Mutual Finance Assistance Act
LB67	Hansen		Urban Affairs 01/22/2019	In Committee 01/14/2019	Change provisions relating to determination of municipality population thresholds and references to cities, villages, and governing bodies
LB68	Hansen		Urban Affairs	In Committee 01/14/2019	Change provisions of the Business Improvement District Act as prescribed
LB71	Hansen		Judiciary	In Committee 01/14/2019	Eliminate a cause of action for damages for shoplifting
LB72	Hansen		Government, Military and Veterans Affairs	In Committee 01/14/2019	Provide for nonpartisan election of county officers
LB76	Williams		Revenue	In Committee 01/14/2019	Change provisions relating to the nameplate capacity tax
LB77	Williams		Banking, Commerce and Insurance 01/22/2019	In Committee 01/14/2019	Change provisions of the Real Property Appraiser Act and the Nebraska Appraisal Management Company Registration Act
LB79	Friesen		Transportation and Telecommunications 01/22/2019	In Committee 01/14/2019	Adopt and update references to federal transportation laws and allow for electronic images of certain registration certificates
LB80	Friesen		Transportation and Telecommunications	In Committee 01/14/2019	Change motor vehicle identification inspection provisions
LB82	Friesen		Transportation and Telecommunications 01/22/2019	In Committee 01/14/2019	Change provisions relating to contracts and state aid for bridges, land acquisition for state highways, functional classification, minimum standards, six-year and one-year plans, and distribution of funds and to change and provide duties as prescribed
LB83	Wayne		Government, Military and Veterans Affairs	In Committee 01/14/2019	Provide for restoration of voting rights upon completion of a felony sentence or probation for a felony
LB86	Wayne		Revenue	In Committee 01/14/2019	Change provisions relating to the allocation of the Affordable Housing Trust Fund and the collection and remittance of the documentary stamp tax
LB87	Wayne		Urban Affairs	In Committee 01/14/2019	Provide funding in opportunity zones designated pursuant to federal law

Kissel Kohout ES Associates LLC
106th Legislature, 1st Regular Session
LC

Document	Senator	Position	Committee	Status	Description
LB89	Wayne		Judiciary	In Committee 01/14/2019	Change certain marijuana penalties
LB90	Wayne		Judiciary	In Committee 01/14/2019	Make post-release supervision optional for Class IV felonies
LB91	Wayne		Judiciary	In Committee 01/14/2019	Provide for deferred judgments by courts as prescribed
LB94	Wayne		Judiciary	In Committee 01/14/2019	Designate Nebraska State Patrol as agency to investigate criminal activity within Department of Correctional Services correctional facilities
LB95	Wayne		Urban Affairs	In Committee 01/14/2019	Change applicability provisions for building codes
LB96	Wayne		Urban Affairs	In Committee 01/14/2019	Change local building code provisions
LB97	Wayne		Revenue	In Committee 01/15/2019	Change provisions relating to highway funding
LB98	Wayne		Government, Military and Veterans Affairs	In Committee 01/14/2019	Change signature requirements for nomination of partisan candidates by petition
LB103	Linehan		Revenue	In Committee 01/14/2019	Change provisions relating to property tax requests
LB106	Dorn		Judiciary	In Committee 01/14/2019	Change provisions relating to disclosure of DNA records under the DNA Identification Information Act
LB108	Bolz		Judiciary	In Committee 01/14/2019	Change provisions relating to placement of Department of Correctional Services inmates in county jails
LB109	Bolz		Government, Military and Veterans Affairs	In Committee 01/14/2019	Require the position classification plan and salary or pay plan for state employees to include certain positions
LB110	Wishart		Judiciary	In Committee 01/14/2019 Wishart Priority Bill	Adopt the Medical Cannabis Act
LB111	Howard		Transportation and Telecommunications	In Committee 01/14/2019	Change a certificate of title application signature requirement as prescribed
LB113	Blood		Judiciary	In Committee 01/14/2019	Require the Department of Correctional Services to disclose certain records
LB117	Hilgers		Transportation and Telecommunications	In Committee 01/14/2019	Change provisions relating to bridge and highway construction contracts, certification of financial showing, and obtaining contract plans prepared by the Department of Transportation
LB118	Arch		Government, Military and Veterans Affairs	In Committee 01/14/2019	Provide a procedure to withhold residential address of physicians in county records
LB124	Crawford		Urban Affairs	In Committee 01/14/2019	Change provisions relating to jointly created clean energy assessment districts under the Property Assessed Clean Energy Act
LB131	Pansing Brooks		Judiciary	In Committee 01/14/2019	Change certain provisions relating to minimum sentences

01/16/2019
05:02 PM

Kissel Kohout ES Associates LLC
106th Legislature, 1st Regular Session
LC

Page 4

Document	Senator	Position	Committee	Status	Description
LB132	Pansing Brooks		Judiciary	In Committee 01/14/2019	Change penalties for certain felonies committed by persons under nineteen years of age
LB133	Pansing Brooks		Judiciary	In Committee 01/14/2019	Change provisions relating to structured programming and deferral of parole
LB144	Hughes		Government, Military and Veterans Affairs	In Committee 01/15/2019	Provide for voter approval of nonpartisan nomination and partisan election of county officers
LB148	Groene		Government, Military and Veterans Affairs	In Committee 01/15/2019	Change requirements for public hearings on proposed budget statements and notices of meetings of public bodies
LB150	Brewer		Government, Military and Veterans Affairs	In Committee 01/15/2019	Change provisions relating to access to public records and provide for fees
LB151	Brewer		Government, Military and Veterans Affairs	In Committee 01/16/2019	Adopt the Government Neutrality in Contracting Act
LB152	Brewer		Government, Military and Veterans Affairs	In Committee 01/15/2019	State rights of Nebraska National Guard members and provide for confidentiality of member's residential addresses
LB155	Brewer		Natural Resources	In Committee 01/15/2019	Eliminate authority for eminent domain by certain political subdivisions
LB158	Brewer		Revenue	In Committee 01/15/2019	Change provisions relating to the assessed value of real property
LB162	Hunt		Revenue	In Committee 01/15/2019	Impose sales and use taxes on certain services
LB163	Hunt		Government, Military and Veterans Affairs	In Committee 01/15/2019	Permit counties to conduct elections by mail
LB171	Pansing Brooks		Appropriations	In Committee 01/15/2019	Appropriate funds to the Department of Administrative Services
LB174	Bolz		Appropriations	In Committee 01/15/2019	State intent relating to appropriations for the Office of Violence Prevention
LB176	Chambers		Judiciary	In Committee 01/15/2019	Eliminate certain mandatory minimum penalties
LB182	Bolz		Revenue	In Committee 01/15/2019	Adopt the School District Local Option Income Surtax Act
LB185	Friesen		Revenue	In Committee 01/15/2019	Change provisions relating to the special valuation of agricultural and horticultural land
LB191	La Grone		Government, Military and Veterans Affairs	In Committee 01/15/2019	Change provisions relating to budgets and public hearing notice for certain governmental entities
LB200	Wishart		Health and Human Services	In Committee 01/15/2019	Change provisions relating to licensure under the Health Care Facility Licensure Act of alcoholism centers providing civil protective custody of intoxicated persons
LB204	Briese		Government, Military and Veterans Affairs	In Committee 01/15/2019	Require approval of voters for bonds under the Interlocal Cooperation Act
LB211	Crawford		Government, Military and Veterans Affairs	In Committee 01/15/2019	Provide for nonpartisan nomination and election of county officers

01/16/2019
05:02 PM

Kissel Kohout ES Associates LLC
106th Legislature, 1st Regular Session
LC

Page 5

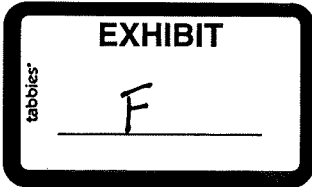
Document	Senator	Position	Committee	Status	Description
LB216	Kolterman		Judiciary	In Committee 01/15/2019	Prohibit releasing a person in custody to avoid medical costs
LB222	Albrecht		Revenue	In Committee 01/16/2019	Change the Volunteer Emergency Responders Incentive Act
LB226	Quick		Appropriations	In Committee 01/16/2019	State intent relating to appropriations for the Youth Rehabilitation and Treatment Center-Kearney and the Youth Rehabilitation and Treatment Center-Geneva
LB230	Pansing Brooks		Judiciary	In Committee 01/16/2019	Provide for room confinement of juveniles as prescribed
LB231	Pansing Brooks		Judiciary	In Committee 01/16/2019	Change provisions relating to legal defense of juveniles
LB232	Slama		Appropriations	In Committee 01/16/2019	Reduce the threshold amount for claims against the state for prosecution costs
LB233	Wayne		Judiciary	In Committee 01/16/2019	Prohibit bringing a cell phone into a detention facility
LB237	Crawford		Revenue	In Committee 01/16/2019	Change provisions relating to sales and use tax collection fees
LB239	Dorn		Government, Military and Veterans Affairs	In Committee 01/16/2019	Change requirements for notices of hearings on county budgets
LB240	Hansen		Judiciary	In Committee 01/16/2019	Change procedures for determining competency to stand trial
LB242	Lindstrom		Revenue	In Committee 01/16/2019	Adopt the Infrastructure Improvement and Replacement Assistance Act and provide for a turnback of state sales tax revenue
LB243	Gragert		Agriculture	In Committee 01/16/2019	Create the Healthy Soils Task Force
LB246	Brewer		Government, Military and Veterans Affairs	In Committee 01/16/2019	Change provisions relating to elections
LB247	Bolz		Judiciary	In Committee 01/16/2019	Adopt the Advance Mental Health Care Directives Act
LB250	Walz		Revenue	In Committee 01/16/2019	Change provisions relating to agricultural land and horticultural land receiving special valuations
LB253	McCollister		Executive Board	In Committee 01/16/2019	Adopt the Redistricting Act
LB254	McCollister		Business and Labor	In Committee 01/16/2019	Adopt the Fair Chance Hiring Act
LB264	La Grone			Introduced 01/15/2019	Redefine premises under the Disposition of Personal Property Landlord and Tenant Act
LB265	La Grone			Introduced 01/15/2019	Adopt the Unsecured Consumer Loan Licensing Act and clarify licensing provisions under the Delayed Deposit Services Licensing Act and the Nebraska Installment Loan Act
LB267	Bolz			Introduced 01/15/2019	Provide a duty for the county board relating to deficient bridges and authorize a tax levy

01/16/2019
05:02 PM

Kissel Kohout ES Associates LLC
106th Legislature, 1st Regular Session
LC

Page 6

Document	Senator	Position	Committee	Status	Description
LB269	Friesen			Introduced 01/15/2019	Change provisions relating to school permits
LB270	Friesen			Introduced 01/15/2019	Change licensing, registration, and titling provisions for motor vehicles and other vehicles as prescribed
LB275	Hansen			Introduced 01/15/2019	Require notification when persons prohibited by state or federal law attempt to obtain a handgun purchase permit or concealed handgun permit
LB277	McCollister			Introduced 01/15/2019	Change membership provisions for the Board of Parole
LB278	Bostelman			Introduced 01/15/2019	Provide a veteran notation on an operator's license or a state identification card for certain commissioned officers as prescribed
LB282	Hansen			Introduced 01/15/2019	Change provisions relating to bail
LB286	McCollister			Introduced 01/15/2019	Create the Coordinated Reentry Council
LB288	Linehan			Introduced 01/15/2019	Change income tax rates
LB289	Linehan			Introduced 01/15/2019	Change provisions relating to county assessor inspections of real property for property tax purposes
LB290	Linehan			Introduced 01/15/2019	Change the sales and use tax rate
LB293	Scheer			Introduced 01/15/2019	Provide, change, and eliminate provisions relating to appropriations
LB294	Scheer			Introduced 01/15/2019	Appropriate funds for the expenses of Nebraska State Government for the biennium ending June 30, 2021
LB295	Scheer			Introduced 01/15/2019	Appropriate funds for salaries of members of the Legislature
LB297	Scheer			Introduced 01/15/2019	Appropriate funds for capital construction and property acquisition
LB299	Scheer			Introduced 01/15/2019	Change Cash Reserve Fund provisions
LB303	Lindstrom			Introduced 01/15/2019	Change the amount of relief under the Property Tax Credit Act
LB306	Crawford			Introduced 01/15/2019	Change provisions relating to good cause for voluntarily leaving employment under the Employment Security Law
LR3CA	Erdman		Revenue	In Committee 01/14/2019	Constitutional amendment to provide income tax credits for property taxes paid
LR8CA	Linehan			Introduced 01/15/2019	Constitutional amendment to limit the total amount of property tax revenue that may be raised by political subdivisions



01/16/2019
05:03 PM

Kissel Kohout ES Associates LLC
106th Legislature, 1st Regular Session
LC

Document	Senator	Position	Committee	Status	Description
LB50	Vargas		Revenue 01/23/2019	In Committee 01/14/2019	Change individual income tax brackets and rates <i>Designed to change individual income tax brackets and rates for taxable years after January 1, 2019. Proposed as follows:</i> <i>Bracket number Single</i> <i>Individuals Married, Filing Jointly Head of Household Married, Filing Separate Estates & Trusts Tax Rate</i> 1 \$0-3,149 \$0-6,289 \$0-5,869 \$0-3,149 \$0-499 2.46% 2 \$3,150-18,879 \$6,290-37,759 \$5,870-30,209 \$3,150-18,879 \$500-4,699 3.51% 3 \$18,880-37,499 \$37,760-74,999 \$30,210-56,249 \$18,880-37,499 \$4,700-15,149 5.01% 4 \$37,500-99,999 \$75,000-199,999 \$56,250-149,999 \$37,500-99,999 \$15,150 and over 6.84% 5 \$100,000 and over \$200,000 and over \$150,000 and over \$100,00 and over (Blank) 7.84% <i>Further: a one percent (1%) tax rate on that portion of a taxpayer's Nebraska taxable income in excess of one million dollars and, a two percent (2%) tax rate on that portion of a taxpayer's Nebraska taxable income in excess of two million dollars.</i>
LB67	Hansen		Urban Affairs 01/22/2019	In Committee 01/14/2019	Change provisions relating to determination of municipality population thresholds and references to cities, villages, and governing bodies
LB77	Williams		Banking, Commerce and Insurance 01/22/2019	In Committee 01/14/2019	Change provisions of the Real Property Appraiser Act and the Nebraska Appraisal Management Company Registration Act
LB79	Friesen		Transportation and Telecommunications 01/22/2019	In Committee 01/14/2019	Adopt and update references to federal transportation laws and allow for electronic images of certain registration certificates
LB82	Friesen		Transportation and Telecommunications 01/22/2019	In Committee 01/14/2019	Change provisions relating to contracts and state aid for bridges, land acquisition for state highways, functional classification, minimum standards, six-year and one-year plans, and distribution of funds and to change and provide duties as prescribed
LB117	Hilgers		Transportation and Telecommunications 01/22/2019	In Committee 01/14/2019	Change provisions relating to bridge and highway construction contracts, certification of financial showing, and obtaining contract plans prepared by the Department of Transportation

COUNTY BOARD SUMMARY REPORT



TO : County Clerk: Attn: Monet McCullen

FROM : David R. Cary, Director of Planning

RE : **County Text Amendment 18016**
(Amend Section 13.048 of the Lancaster County Zoning Regulations – Wind Energy)

DATE : January 15, 2019

1. On January 9, 2019, the Planning Commission held a public hearing on County Text Amendment 18016, as submitted by Ann Post on behalf of the Prairie Wind Watchers.
2. Attached is the Planning staff report that includes the proposed text amendment as submitted by Ann Post on behalf of the Prairie Wind Watchers and identified in Exhibit "A", for **County Text Amendment 18016**, to amend Section 13.048 of the Lancaster County Zoning Regulations for Commercial Wind Energy Conversion Systems. The applicant's letter states that the intent of the proposed text amendment is to achieve three objectives, 1) to reduce or eliminate trespass zoning, 2) to ensure a thorough review process for any WECS special permit application, and 3) to ensure ongoing compliance with the terms of any special permit issued in accordance with Lancaster County Zoning Regulations.
3. The staff recommendation of an alternative proposal is based upon the Analysis as set forth on pp.2-5, concluding that the proposed changes to clarify certain conditions and to require post-construction noise level measurements are acceptable and help to ensure the noise levels are being met. The proposed change to setbacks and measuring noise levels at a property line instead of a dwelling are excessive and go beyond protecting property owners. A recommended alternative text amendment is attached (Exhibit "B") that incorporates portions of the applicant's proposal and makes a few additional clarifications.
4. There was significant testimony both in support and in opposition to this proposed change.
5. On January 9, 2019, the Planning Commission voted 7-1 (Harris dissenting; Beckius absent) to recommend approval of the alternative staff recommendation for Text Amendment 18016. The Planning Commission minutes can be found on pp.14-27, and the exhibits submitted by the applicant and public at the hearing can be found on pp. 28-47.
6. To access all public comments and information on this application, click on the following link www.lincoln.ne.gov and (Keyword = PATS). Click on the "Selection Screen" under "Featured Links", type in the application number (i.e. TX18016); click on "Search", then "Select". Go to "Related Documents".

The Planning staff is scheduled to brief the County Board on this amendment at their regular staff meeting on Thursday, January 17, 2019, at 9:00 a.m., in Room 113 of the County-City Building, 555 South 10th Street, Lincoln, Nebraska. The public hearing before the County Board has been scheduled for Tuesday, February 19, 2019, at 9:00 a.m., in Room 112 of the County-City Building, 555 South 10th Street, Lincoln, Nebraska.

If you need any further information, please let me know (402-441-6365).

cc: County Board
Jenifer Holloway, County Attorney's Office
Tom Cajka

Ann Ames, County Commissioners
Kerry Eagan, County Commissioners
Mark Hunzeker/Ann Post



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT
 FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Text Amendment #18016	FINAL ACTION? No
PLANNING COMMISSION HEARING DATE January 9, 2019	RELATED APPLICATIONS None

RECOMMENDATION: APPROVAL OF RECOMMENDED ALTERNATIVE

BRIEF SUMMARY OF REQUEST

This request is to amend Section 13.048 of the Lancaster County Zoning Regulations for Commercial Wind Energy Conversion Systems. The applicant’s letter states that the intent of the proposed text amendment is to achieve three objectives, 1) to reduce or eliminate trespass zoning, 2) to ensure a thorough review process for any WECS special permit application, and 3) to ensure ongoing compliance with the terms of any special permit issued in accordance with Lancaster County Zoning Regulations.

JUSTIFICATION FOR RECOMMENDATION

The proposed changes to clarify certain conditions and to require post construction noise level measurements are acceptable and help to ensure the noise levels are being met. The proposed change to setbacks and measuring noise levels at a property line instead of a dwelling are excessive and go beyond protecting property owners. A recommended alternative text amendment is attached that incorporates portions of the applicant’s proposal and makes a few additional clarifications.

APPLICATION CONTACT

Ann Post, BaylorEvnem, 402-475-1075
 apost@baylorevenem.com

STAFF CONTACT

Tom Cajka, (402) 441-5662or
 tcajka@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The potential for Commercial wind turbines in Lancaster County are in conformance with the goals of the Comprehensive Plan for renewable energy sources, while protecting the public health.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

The importance of building sustainable communities – communities that conserve and efficiently utilize our economic, social, and environmental resources so that the welfare of future generations is not compromised - has long been recognized. This concept has grown in importance with increased understanding of the limits to energy supplies and community resources, the likelihood that energy costs will continue to increase in the future, the climatic impacts of energy consumption, and the impacts on the physical and economic health of the community. LPlan 2040 describes a community that values natural and human resources, supports advances in technology, and encourages development that improves the health and quality of life of all citizens. (P.1.4)

Efforts are made to attract new and expanding industries that serve the emerging markets for more sustainable products and services. (P. 1.5)

LPlan 2040 supports the preservation of land in the bulk of the County for agricultural and natural resource purposes. (p.7.12)

Promote renewable energy sources. (P. 11.2)

Lincoln must develop a comprehensive strategy of fuel diversity and encourage conservation, alternative forms of energy and modern energy technologies. (P. 11.3)

Energy from renewable resources such as solar, geothermal, and wind technologies generally does not contribute to climate change or local air pollution and generally conserves nonrenewable resources. (P. 11.4)

Continue to encourage and expand wind and solar access to buildings and other land uses. (P. 11.7)

ANALYSIS

1. This request is to amend Section 13.048 parts d, f, g, h, i, j, k, m and n for Commercial Wind Energy Conversion Systems (turbine) and to add a new condition. As stated in the applicant’s letter this application is made on behalf of “residents of Lancaster County who feel there is opportunity for Lancaster County Zoning Regulations to better protect the property rights of and quality of life for landowners who chose not to participate in potential wind farm projects in Lancaster County.” Each section is discussed in more detail below.

2. Applicants Proposed language Part D;

~~d. Any proposed turbine which is within half mile of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on non-participating properties.~~ Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. ~~If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.~~

In Part D, the applicant is requesting to delete the requirement for shadow flicker modeling and that a turbine would be non-conforming if it violates the shadow flicker on houses built after the turbine is constructed. The modeling only applies if turbines are within half mile of a dwelling. The reason for deleting this section is that the applicant is requesting a setback of one mile from a dwelling to a turbine. The change to a one mile setback is not supported and therefore no changes to Part d is recommended.

3. Applicants Proposed Language Part F;

f. No turbine shall obstruct or impair an identified view corridor or scenic vista of public value, as mapped on the Capitol View Corridors map in the Lincoln/ Lancaster County Comprehensive Plan. The views from prominent environmental areas, such as Nine Mile Prairie and Spring Creek Prairie, shall also be protected from adverse visual or noise impacts. Any application which, upon initial review, poses a possible impact to these views will be required to be relocated or provide view shed mapping, and visual simulations from key observation points for review and approval by the Lincoln-Lancaster County Planning Department.

In Part F, the applicant is proposing to add language that view shed mapping and visual simulations be approved by the Lincoln-Lancaster County Planning Department. This requirement is in place to protect any view corridor or scenic vista. Under the current wording the Planning Department would review any view shed mapping or visual simulation because it is part of the special permit conditions. It is implied that any mapping or visual simulation would need to be in a form acceptable to the Planning Department. Although this additional wording is not necessary, there is no objection to add the proposed text for clarity in Part F.

4. Applicants Proposed Language Part G;

g. Setbacks to the turbine base:

1. For the purposes of this section, "turbine height" shall be equal to hub height plus the rotor radius.
2. For a non-participating lot, the setback shall be 5,280 feet ~~2 times the turbine height~~ measured to the property line, ~~or 3¹/₂ times the turbine height, measured to the closest exterior wall of the dwelling unit, whichever is greater, but at a minimum 1,000 feet to the property line.~~
3. For participating dwelling units, the setback shall be 2 times the turbine height measured to the closest exterior wall of the dwelling.
4. The setback to any public right-of-way or private roadway shall be no less than the turbine height.
5. Setbacks to the external boundary of the special permit area shall be no less than as stated above, except that the owner of the adjacent property may sign an agreement allowing that setback to be reduced to the rotor radius plus the setback of the zoning district.

In Part G, the applicant is requesting that turbines be set back 5,280 feet from the lot line of a non-participating property. The current condition requires the turbine be set back 2 times the turbine height from a property line or 3 and one-half times the turbine height from a dwelling, whichever is greater, but at a minimum 1,000 feet from a property line.

Reviewing other counties in Nebraska found smaller setbacks than what is proposed. These include:

Gage County:	1,980 feet or 3 times the turbine height from a dwelling, whichever is greater. 2 times the turbine height from a property line to the turbine.
Webster County:	2 times the turbine height, minimum 1,000 feet to a dwelling 2 times the turbine blade length to the property line.
Jefferson County:	1,320 feet from a dwelling. 600 feet from a property line to the turbine.
Seward County:	1,000 feet from a dwelling 150 feet from a property line.
Saline County:	2 times the turbine height, minimum 1,000 feet to a dwelling. 1.1 times turbine height from a property line to the turbine.

The current setbacks in conjunction with the limits on noise decibels gives protection to non-participating properties. It is important to understand that a turbine must not only meet the setbacks but also the noise levels. In some instances this would mean that the turbine would need to be setback far further than what is required due to the noise standard. A noise model submitted by NextEra as part of a previous text amendment showed that the setback could be as much as one mile from a non-participating property. The strict noise standards of 40 dBA daytime and 37dBA nighttime protect non-participating residents adequately. This proposed 5,280' setback is not necessary. The current setbacks were established in 2015 as part of an extensive public process that weighed the positive and negative aspects of wind turbines in a rural setting. This proposal is contrary to that process that resulted in a balance between protecting the public's health while providing an option for commercial wind energy. Thus, for all these reasons the proposed changes to Part G should be rejected.

5. Applicants Proposed Language Part H;

~~h. The turbine(s) shall not impact a non-participating lot, (vacant or occupied; of any size), to the extent that, because of the location of turbine(s), the lot owner is left with less than 3 acres of land outside of the CWECs setbacks and or the noise impact area in Section (i) below, unless they are part of an agreement with the CWECs owner/operator.~~

In Part H, the applicant is proposing to delete the entire section. If the turbines were required to be setback one mile from a property line, this section would not be needed. This condition was adopted to ensure that a vacant lot of a non-participating property would have at a minimum a 3 acre area that would be outside the turbine setback and noise impact area. Since the setback change in Part G is recommended for denial, Part H should be retained.

6. Applicants Proposed Language Part I;

i. Noise: No CWECS or combination of CWECS turbine(s) shall be located as to cause an exceedance of the following as measured at the closest exterior wall of any dwelling located on ~~the a participating property or at the property line of any non-participating property. If a turbine violates a noise standard on a dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.~~

For nonparticipating properties:

1. From the hours of 7 am to 10 pm:

- i. Forty (40) dBA maximum 10 minute Leq or;
- ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 15 hour period.

2. From the hours of 10 pm to 7 am:

- i. Thirty-seven (37) dBA maximum 10 minute Leq or;
- ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 9 hour period.

For participating properties:

1. Fifty (50) dBA maximum 10 minutes Leq for all hours of the day and night.

In Part I the applicant is requesting that noise level be measured from the property line instead of a dwelling on a non-participating property. The proposed text would require that the turbine could not exceed the 40 and 37 dBA **at the property line of non-participating properties**. Currently it is measured at the **closest exterior wall of a dwelling**. In reviewing zoning regulations pertaining to wind turbines in the counties of Gage, Webster, Jefferson and Seward none required noise to be measured at a property line. A recent text amendment to this section to allow noise levels to be different for participating and non-participating residents was approved by the Lancaster County Board of Commissioners on December 18, 2018. The change to measuring noise at the property line of non-participating residents is not supported and therefore no changes to Part I is recommended.

7. Applicants Proposed Language Part J;

j. Each application shall include a **A** professional pre-construction noise study ~~shall be conducted~~ which includes all property within one mile of a tower support base. The protocol and methodology for such studies shall be submitted to the Lincoln-Lancaster County Health Department for review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst case scenarios for noise propagation. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review and approval.

In Part J, the applicant is proposing to add language that emphasizes that a pre-construction noise study is required with the special permit application and that the Lincoln-Lancaster County Health Department (LLCHD) must approve the noise study. LLCHD proposes to add language after “tower support base” in the 1st sentence to clarify that the noise study be in compliance with the noise standards. This additional language is in the Recommended Alternative. It is implied that the study would be submitted with the application and approved

by LLCHD, however the proposed changes to Part J add clarity and are acceptable.

8. Applicants Proposed Language Part K;

k. ~~Each application shall include a~~ ~~Prior to the commencement of construction of any turbine,~~ pre-construction noise monitoring ~~may be conducted~~ study to determine ambient sound levels in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review and approval.

In Part K, the applicant is proposing that pre-construction noise monitoring shall be required and approved by LLCHD. Currently, pre-construction noise monitoring may be done to establish a base background noise level, but that testing is not required and may not be necessary. LLCHD does not support this modification because the purpose of conducting preconstruction noise monitoring is to establish higher noise limits above ambient noise levels, such as may be due to highway background noise. For example, a turbine is near a highway with noise levels already well over 40dBA. Thus the proposed change is not acceptable and there should be no changes to Part K.

9. Applicants Proposed Language Part M;

m. ~~At the discretion of the County Board,~~ Post-construction noise level measurements ~~may be required to~~ shall be performed in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department within one year of completion of construction and every two years thereafter to determine if the permittee is in compliance with this title and the terms of its special permit. Noise level measurements shall be taken by parties and in accordance with procedures as approved by the Lincoln-Lancaster County Health Department and shall be performed at the expense of the holder of the Special Permit. Any report, information or documentation produced in accordance with such study or measurements shall be provided to the Lincoln-Lancaster County Health Department and shall be a public document subject to Nebraska's public records laws.

In Part M, the applicant is proposing to make it mandatory that post construction noise level measurements be performed in accordance with procedures acceptable to LLCHD within one year of completion of the wind turbine and every two years thereafter. Currently this requirement is at the discretion of the County Board. Additional proposed language includes requirements that noise level measurements be taken in accordance with procedures approved by LLCHD and shall be performed at the expense of the Special Permit holder. The requirement for testing every two years is arbitrary and should not be included. If the turbine is operating properly without complaint, there is no need for testing. If a property owner believes the noise levels are being violated, that property owner could file a complaint with the County Board and the County Board could require noise levels measurements at that time. Requiring post construction noise level measurement will ensure that the wind turbine meets the required noise levels. LLCHD recommends replacing the word "parties" in the 2nd sentence with, "third party professional acoustician or engineering firms specializing in noise measurement." Thus the proposed changes, with the exception of the "every two years monitoring", and additional text proposed by LLCHD is acceptable.

10. Applicants Proposed Language Part N;

n. All noise complaints regarding the operation of any CWECs shall be referred to the County Board. The County Board shall determine if noise monitoring in addition to that required under the paragraph above shall be required to determine whether a violation has occurred. If the Lancaster County Board of Commissioners determines that such noise monitoring shall be required, it shall be done at the expense of the holder of the Special Permit in accordance with procedures and by parties approved by the Lincoln Lancaster County Health Department. The results of such monitoring shall be provided directly from the party or parties conducting the monitoring to the Lincoln Lancaster County Health Department for review and reporting to the Lancaster County

Board of Commissioners.

In Part N, the applicant is proposing to add language that if noise monitoring is required after construction of a wind turbine due to a complaint, it shall be done at the expense of the holder of the Special Permit. LLCHD recommends replacing the word “parties” in the 5th line with, “third party professional acoustician or engineering firms specializing in noise measurement”. Otherwise the changes are mostly to clarify the process and are acceptable.

11. Applicants Proposed Language Part O;

o. Agreements entered into between participating property owners and an applicant regarding any CWECS, before and after the issuance of a special permit shall be provided to the Lincoln-Lancaster County Planning Department and shall be public documents subject to Nebraska’s public records laws.

Part O is a new condition proposed by the applicant. These contracts are between two private parties. It is inappropriate to make contracts between private parties a matter of public record. This is not required for any special permit in the Lancaster County Zoning Regulations. This is not a condition that protects the health, safety and welfare of property owners. The proposed change should be rejected in its entirety.

12. The applicant’s letter states that one of the reasons for the proposed text change is to reduce or eliminate “trespass zoning.” According to The American Planning Association “trespass zoning” is not a legal term. A search of the use of term found that it is used by opponents of wind energy projects. The Lancaster County Attorney’s office also researched “trespass zoning” and found no case law that used the term. There is no reference to “trespass zoning” in any Nebraska State Statute.
13. The complete version of the recommended alternative is shown in Exhibit B. It includes all the recommended changes.

Prepared by

Tom Cajka, Planner

Date:

Applicant: Ann Post
BaylorEvnem
1248 “O” Street
Suite 600
Lincoln, NE 68508

Contact: Same as applicant

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December 11, 2018

Lincoln/Lancaster County Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: Application for Text Amendment

To the Lincoln/Lancaster County Planning Commission:

Enclosed please find a proposed text amendment to Lancaster County Zoning Regulations Chapter 13.048 Wind Energy Conversion Systems (WECS). I represent residents of Lancaster County who feel there is opportunity for Lancaster County Zoning Regulations to better protect the property rights of and quality of life for landowners who choose not to participate in potential wind farm projects in Lancaster County. Therefore, we developed this proposed text amendment to achieve three objectives, 1) to reduce or eliminate instances of "trespass zoning," 2) to ensure a thorough review process for any WECS special permit application, and 3) to ensure ongoing compliance with the terms of any special permit issued in accordance with Lancaster County Zoning Regulations.

We look forward to reviewing the details of this proposal with you at your earliest convenience.

Sincerely,

Ann K. Post
For the Firm
APost@baylorevnen.com

APO/apo

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EXHIBIT A

Proposed Amendments to County Zoning Regulations

Article 13 Special Permit

13.048. Commercial Wind Energy Conversion System

A Commercial Wind Energy Conversion System (CWECS) may be allowed in the AG District by special permit under the conditions listed below:

- a. In cases where CWECS wind turbines are part of a unified plan, parcels which are separated from one another only by the presence of public right-of-way may be combined into one special permit application. When a special permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.
- b. Turbines shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non-reflective finish. There shall be no advertising, logo, or other symbols painted on the turbine other than those required by the FAA or other governing body. Each turbine shall have onsite a name plate which is clearly legible from the public right-of-way and contains contact information of the operator of the wind facility.
- c. Each application shall have a decommissioning plan outlining the means, procedures and cost of removing the turbine(s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment. Each tower shall be removed within one year of decommissioning or revocation of the special permit. Upon removal of the tower, there shall be four feet of soil between the ground level and former tower's cement base.
- d. ~~Any proposed turbine which is within half mile of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on non-participating properties.~~ Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. ~~If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.~~
- e. Construction and operation shall not adversely impact identified State or Federal threatened or endangered species such as saline wetlands, or rare natural resources such as native prairie and grasslands.
- f. No turbine shall obstruct or impair an identified view corridor or scenic vista of public value, as mapped on the Capitol View Corridors map in the Lincoln/Lancaster County Comprehensive Plan. The views from prominent environmental areas, such as Nine Mile Prairie and Spring Creek Prairie, shall also be protected from adverse visual or noise impacts. Any application which, upon initial review, poses a possible impact to these views will be required to be

relocated or provide view shed mapping, and visual simulations from key observation points for review and approval by the Lincoln-Lancaster County Planning Department.

g. Setbacks to the turbine base:

1. For the purposes of this section, "turbine height" shall be equal to hub height plus the rotor radius.
2. For a non-participating lot, the setback shall be ~~5280 feet 2 times the turbine height~~ measured to the property line, ~~or 3 1/2 times the turbine height, measured to the closest exterior wall of the dwelling unit, whichever is greater, but at a minimum 1,000 feet to the property line.~~
3. For participating dwelling units, the setback shall be 2 times the turbine height measured to the closest exterior wall of the dwelling.
4. The setback to any public right-of-way or private roadway shall be no less than the turbine height.
5. Setbacks to the external boundary of the special permit area shall be no less than as stated above, except that the owner of the adjacent property may sign an agreement allowing that setback to be reduced to the rotor radius plus the setback of the zoning district.

~~h. The turbine(s) shall not impact a non-participating lot, (vacant or occupied, of any size), to the extent that, because of the location of turbine(s), the lot owner is left with less than 3 acres of land outside of the CWECS setbacks and/or the noise impact area in Section (i) below, unless they are part of an agreement with the CWECS owner/operator.~~

hi. Noise: No CWECS or combination of CWECS turbine(s) shall be located as to cause an exceedance of the following as measured at the closest exterior wall of any dwelling located on the a participating property or at the property line of any non-participating property. ~~If a turbine violates a noise standard on a dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.~~ For both participating and nonparticipating properties:

1. From the hours of 7 am to 10 pm:
 - i. Forty (40) dBA maximum 10 minute Leq or;
 - ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 15 hour period.
2. From the hours of 10 pm to 7 am:
 - i. Thirty-seven (37) dBA maximum 10 minute Leq or;
 - ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 9 hour period.

For participating properties:

1. Fifty (50) dBA maximum 10 minute Leq for all hours of the day and night.

ij. ~~Each application shall include a~~ A professional pre-construction noise study ~~shall be conducted~~ which includes all property within one mile of a tower support base. The protocol and methodology for such studies shall be submitted to the Lincoln-

Lancaster County Health Department for review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst case scenarios for noise propagation. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review and approval.

- jk. Each application shall include ~~Prior to the commencement of construction of any turbine, a pre-construction noise monitoring may be conducted~~ study to determine ambient sound levels in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review and approval.
- kl. Prior to the commencement of construction of any turbine, the applicant shall enter into an agreement with the County Engineer regarding use of County roads during construction.
- lm. ~~At the discretion of the County Board, Post-construction noise level measurements may be required to~~ shall be performed in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department within one year of completion of construction and every two years thereafter to determine if the permittee is in compliance with this title and the terms of its special permit. Noise level measurements shall be taken by parties and in accordance with procedures as approved by the Lincoln-Lancaster County Health Department and shall be performed at the expense of the holder of the special permit. Any report, information or documentation produced in accordance with such study or measurements shall be provided directly from or party or parties conducting the study or measurements to the Lincoln-Lancaster County Health Department and shall be a public document subject to Nebraska's public records laws.
- mn. All noise complaints regarding the operation of any CWECS shall be referred to the County Board. The County Board shall determine if noise monitoring in addition to that required under the paragraph above shall be required to determine whether a violation has occurred. If the Lancaster County Board of Commissioners determines that such noise monitoring shall be required, it shall be done at the expense of the holder of the special permit in accordance with procedures and by parties approved by the Lincoln Lancaster County Health Department. The results of such monitoring shall be provided directly from the party or parties conducting the monitoring to the Lincoln Lancaster County Health Department for review and reporting to the Lancaster County Board of Commissioners.
- n. Agreements entered into between participating property owners and an applicant regarding any CWECS, before and after the issuance of a special permit shall be provided to the Lincoln-Lancaster County Planning Department and shall be public documents subject to Nebraska's public records laws.

EXHIBIT B

RECOMMENDED ALTERNATIVE

13.048. Commercial Wind Energy Conversion System (CWECS)

A Commercial Wind Energy Conversion System (CWECS) may be allowed in the AG District by special permit under the conditions listed below:

- a. In cases where CWECS wind turbines are part of a unified plan, parcels which are separated from one another only by the presence of public right-of-way may be combined into one special permit application. When a special permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.
- b. Turbines shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non-reflective finish. There shall be no advertising, logo, or other symbols painted on the turbine other than those required by the FAA or other governing body. Each turbine shall have onsite a name plate which is clearly legible from the public right-of-way and contains contact information of the operator of the wind facility.
- c. Each application shall have a decommissioning plan outlining the means, procedures and cost of removing the turbine(s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment. Each tower shall be removed within one year of decommissioning or revocation of the special permit. Upon removal of the tower, there shall be four feet of soil between the ground level and former tower's cement base.
- d. Any proposed turbine which is within half mile of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on non-participating properties. Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.
- e. Construction and operation shall not adversely impact identified State or Federal threatened or endangered species such as saline wetlands, or rare natural resources such as native prairie and grasslands.
- f. No turbine shall obstruct or impair an identified view corridor or scenic vista of public value, as mapped on the Capitol View Corridors map in the Lincoln/ Lancaster County Comprehensive Plan. The views

from prominent environmental areas, such as Nine Mile Prairie and Spring Creek Prairie, shall also be protected from adverse visual or noise impacts. Any application which, upon initial review, poses a possible impact to these views will be required to be relocated or provide view shed mapping, and visual simulations from key observation points for review and approval by the Lincoln-Lancaster County Planning Department.

g. Setbacks to the turbine base:

1. For the purposes of this section, "turbine height" shall be equal to hub height plus the rotor radius.
 2. For a non-participating lot, the setback shall be 2 times the turbine height measured to the property line, or 3 ½ times the turbine height, measured to the closest exterior wall of the dwelling unit, whichever is greater, but at a minimum 1,000 feet to the property line.
 3. For participating dwelling units, the setback shall be 2 times the turbine height measured to the closest exterior wall of the dwelling.
 4. The setback to any public right-of-way or private roadway shall be no less than the turbine height.
 5. Setbacks to the external boundary of the special permit area shall be no less than as stated above, except that the owner of the adjacent property may sign an agreement allowing that setback to be reduced to the rotor radius plus the setback of the zoning district.
- h. The turbine(s) shall not impact a non-participating lot, (vacant or occupied; of any size), to the extent that, because of the location of turbine(s), the lot owner is left with less than three (3) acres of land outside of the CWECS setbacks and the noise impact area in Section (i) below, unless they are part of an agreement with the CWECS owner/operator.
- i. Noise: No CWECS or combination of CWECS turbine(s) shall be located as to cause an exceedance of the following as measured at the closest exterior wall of any dwelling located on the property. If a turbine violates a noise standard on a dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use. For nonparticipating properties:
1. From the hours of 7 am to 10 pm:
 - i. Forty (40) dBA maximum 10 minute Leq or;
 - ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 15 hour period.
 2. From the hours of 10 pm to 7 am:
 - i. Thirty-seven (37) dBA maximum 10 minute Leq or;
 - ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 9 hour period.

For Participating Properties:

1. Fifty (50) dBA maximum 10 minute Leq for all hours of the day and night.
- j. **Each application shall include a** A professional pre-construction noise study ~~shall be conducted~~ which includes all property within **at least** one mile of a tower support base **and must be able to demonstrate compliance with the noise standards in paragraph (i).** The protocol and methodology for such studies shall be submitted to the Lincoln-Lancaster County Health Department for review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst case scenarios for noise propagation. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review **and approval.**
- k. Prior to the commencement of construction of any turbine, pre-construction noise monitoring may be conducted to determine ambient sound levels in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.
- l. Prior to the commencement of construction of any turbine, the applicant shall enter into an agreement with the County Engineer regarding use of County roads during construction.
- m. ~~At the discretion of the County Board, p~~ Post-construction noise level measurements ~~may be required to~~ **shall** be performed in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department, **within one year of completion of construction to determine if the permittee is in compliance with this title and the terms of its special permit. Noise level measurements shall be taken by third party professional acousticians or engineering firms specializing in noise measurements and in accordance with procedures as approved by the Lincoln-Lancaster County Health Department and shall be performed at the expense of the holder of the Special Permit. Any report, information or documentation produced in accordance with such study or measurements shall be provided to the Lincoln-Lancaster County Health Department and shall be a public document subject to Nebraska's public records laws.**
- n. All noise complaints regarding the operation of any CWECs shall be referred to the County Board. The County Board shall determine if noise monitoring **in addition to that required under the paragraph above** shall be required to determine whether a violation has occurred. **If the Lancaster County Board of Commissioners determines that such noise monitoring shall be required, it shall be done at the expense of the holder of the Special Permit in accordance with procedures and by third party professional acousticians or engineering firms specializing in noise measurement approved by the Lincoln-Lancaster County Health Department. The results of such monitoring shall be provided directly from the party or parties conducting the monitoring to the Lincoln-Lancaster County Health Department for review and reporting to the Lancaster County Board of Commissioners.**

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, January 9, 2019, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Dick Campbell, Tracy Corr, Tracy Edgerton, Deane Finnegan, Maja Harris, Cristy Joy, Dennis Scheer and Sändra Washington; (Tom Beckius absent). David Cary, Steve Henrichsen, Tom Cajka, Brian Will, Dessie Redmond, George Wesselhoft, Stacey Hageman, Amy Huffman and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

Chair Scheer called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Scheer then requested a motion approving the minutes for the regular Planning Commission hearing held December 12, 2018. Motion for approval made by Campbell, seconded by Washington and carried 8-0: Campbell, Corr, Edgerton, Finnegan, Harris, Joy, Scheer and Washington voting 'yes'; Beckius absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

January 9, 2019

Members present: Campbell, Corr, Edgerton, Finnegan, Harris, Joy, Scheer and Washington; Beckius absent.

The Consent Agenda consisted of the following item: **CHANGE OF ZONE 18032, SPECIAL PERMIT 18041, CHANGE OF ZONE 18033, CHANGE OF ZONE 18034, SPECIAL PERMIT 872J AND SPECIAL PERMIT 18003A.**

Campbell moved approval of the Consent Agenda, seconded by Finnegan and carried 8-0: Campbell, Corr, Edgerton, Finnegan, Harris, Joy, Scheer and Washington voting 'yes'; Beckius absent.

Note: This is FINAL ACTION on SPECIAL PERMIT 18041, SPECIAL PERMIT 872J and SPECIAL PERMIT 18003 unless appealed by filing a Letter of Appeal with the Office of the City Clerk within 14 days.

Scheer called for Requests for Deferral.

**STREET AND ALLEY VACATION 18005
TO VACATE P STREET STUB FROM THE EAST RIGHT-OF-WAY LINE OF 70TH STREET TO
APPROXIMATELY 100 FEET TO THE EAST, LOCATED ADJACENT TO LOT 83 I.T., GENERALLY
LOCATED AT NORTH 70TH AND P STREETS**

PUBLIC HEARING: **January 9, 2019**

Members present: Campbell, Corr, Edgerton, Finnegan, Harris, Joy, Scheer and Washington; Beckius absent.

Staff recommendation: No recommendation.

There were no ex parte communications disclosed on this item.

The applicant has requested to defer public hearing and action on this item until further notice.

Washington moved to defer public hearing and action, seconded by Edgerton and carried 8-0: Campbell, Corr, Edgerton, Finnegan, Harris, Joy, Scheer and Washington voting 'yes'; Beckius absent.

**CHANGE OF ZONE 05061C
TO AMEND THE PLANNED UNIT DEVELOPMENT (PUD) INCLUDING THE SITE PLAN AND PHASING
AND TO ADD EXCAVATING AS A CONDITIONAL USE, ON PROPERTY GENERALLY LOCATED AT
SOUTH 1ST AND WEST DENTON ROAD**

PUBLIC HEARING: **January 9, 2019**

Members present: Campbell, Corr, Edgerton, Finnegan, Harris, Joy, Scheer and Washington; Beckius absent.

Staff recommendation: Conditional Approval

There were no ex parte communications disclosed on this item.

Staff Presentation: Dessie Redmond of the Planning Department stated this is a request to amend the site plan for Phase 2. This is where the horse track is proposed to be located. This original PUD (Planned Unit Development) was approved in 2006. This amendment is consistent

with the PUD. She pointed out the boundaries of the PUD. The northern part is B-2 zoning with Agricultural to the south. These areas generally follow the zoning regulations. Any deviations are spelled out in the development plan. The applicant is generally decreasing the size of the horse track with this proposal. The realignment of S. 1st St. is no longer needed with the decrease in size. Currently, the applicant doesn't have all the details to provide all the conditions. They will provide those terms to us at a later date and those will be reviewed administratively. They will also be required to vacate a portion of S. 1st St. There is currently a driveway that provides access to a property outside the PUD, but takes access through the PUD site. They will be required to dedicate a public access easement.

Washington inquired if the delay in providing information is a common request. Redmond is unaware if this happens a lot, but this is part of the PUD process. It will all be reviewed by staff.

Applicant:

Lynne Schuller, 7055 S. 1st St., Lincoln Nebraska of the **Nebraska Benevolent Horse Association**. They have decided to relocate S. 1st St. They feel this doesn't impede the safety of the rider and animals. This will have the same turns as Churchill Downs. We feel this doesn't take away from the safety. The turns are the key. When you have an oval, it is problematic if you are going to use the infill for a lot of other purposes. We had discussed excavating the middle. It is full of lean clay that is needed, and we felt a pond would be beneficial. That is why we are asking for this to be added as an option.

Campbell inquired about the size of the track at the old State Fairgrounds site. Schuller responded it was 5/8 of a mile.

Craig Wulf, 1501 Longs Peak Circle, Lincoln Nebraska stated that the goal is to have the track prepared late August or early September 2019. We will probably run a three-day meet. Schuller added this has been a tradition in Nebraska for many years.

DaNay Kalkowski stated that the applicant agrees with all conditions.

There was no testimony in support or opposition.

ACTION:

Campbell moved Conditional Approval, seconded by Corr.

Edgerton said it is great that they are able to move forward and she supports this application.

Washington supports this as well.

Motion for Conditional Approval carried 8-0: Campbell, Corr, Edgerton, Finnegan, Harris, Joy, Scheer and Washington voting 'yes'; Beckius absent.

TEXT AMENDMENT 18016

TO AMEND SECTION 13.048 OF THE LANCASTER COUNTY ZONING REGULATIONS RELATING TO WIND ENERGY CONVERSION SYSTEM

PUBLIC HEARING:

January 9, 2019

Members present: Campbell, Corr, Edgerton, Finnegan, Harris, Joy, Scheer and Washington; Beckius absent.

Staff recommendation: Approval of the Recommended Alternative

There were no ex parte communications disclosed on this item.

Staff Presentation: Tom Cajka of the Planning Department this application is to amend regulations related to wind energy. He stated that the Planning staff have offered an Exhibit B, Recommended Alternative. The first section he addressed was Section D. The applicant has proposed to delete the shadow flicker modeling. This is based on the assumption with turbines set back one mile from the road. In Section F, language was added to clarify that if mapping was required, it would be approved by the Planning Dept. Staff doesn't think this wording is necessary, as it would be reviewed as part of a special permit. Section G states that the applicant is proposing the turbine is set back 1,280 feet from a property line. Cajka indicated that current setbacks and noise levels give protection to non-participating properties. It is also important to remember that a turbine has to meet this setback level as well as the noise level. We feel that this change to Section G is contrary to the process and there is already a balance to protect the public health, while providing for the wind energy process. We recommend no change to this section. The applicant is recommending that Section H be deleted stating that a 3-acre property would meet the setbacks for noise. Staff is recommending this part stay. In Section I, they are requesting a change to the way setbacks are measured. This was just recently reviewed extensively. Staff does not support this change. Section J speaks to a pre-construction noise study. Some of the changes are rewording for clarity. Staff does not object to this. Section K is requesting that each application include a pre-construction noise monitoring study to be reviewed by the Health Department. This is currently a 'may be' conducted study. The applicant feels that this could be a problem.

Chris Schroeder of the Health Department stated that when you look at the existing code, the intent is to allow higher noise limits. If they opt to do a pre-construction noise study, it establishes background noises. You could go a little higher.

Cajka continued that Section M is the noise study. It shall be a requirement. The applicant would like this one year after construction, and then every two years after. Planning staff doesn't object to the post construction noise measurements. We don't feel that two years after construction is necessary. Property owners still have the right to file a complaint if they feel the noise is excessive. Any expense occurred would be by the special permit holder. Section N clarifies who pays for noise monitoring, if required. There was a change recommended by the Health Department that the word 'parties' be changed to 'third party professional acoustician or voice professional'. Section O is something new. It is an added condition that agreements be provided to the Planning Department and be a public document. We feel these agreements are between public parties and we do not require these for anything else in the special permit code. The applicant letter talks about trespass zoning. He contacted the APA (American Planning Association) legal department and trespass zoning is not a legal term and is used by anti- wind turbine people.

Washington would like clarification on Section M. Staff supports language asking for post construction assessment, but reject the monitoring every two years. She inquired if this is based on technical specifications or an understanding that the motors don't change over time. Schroeder responded that typically they don't change a lot over time. If there was a gear box failure or such, a noise complaint could be filed. Washington wanted to know who the adjacent land owners can complain to, if they feel it is too loud. Schroeder stated they would complain to the County Board or the Health Department. All complaints go to the County Board, and the Health Department could go out to do testing. This could be lengthy. We felt it was a good approach for these complaints to go to the County Board.

Corr wondered about neighbors that continually complain, since they didn't want this in the first place. She is concerned if the special permit holder has to continually pay for a noise study. Schroeder noted that is why these complaints go to the County board. They can review and decide.

Harris questioned if there is any confusion about who pays for the noise study as the language is written. Cajka stated when we receive noise complaints, the Health Department investigates. In the City when we receive a lighting complaint per say, Building and Safety goes out and investigates. There could be an assumption that this would be at no cost. Health Department has said they don't have the right equipment to monitor that. He thinks it is a good idea to spell out who pays for this. Harris wondered if any other county in Nebraska spells this out. Cajka said no, not that he could find. Harris asked about the post-construction study. Cajka looked at Nebraska. Gage County was the only one who talked about a post-construction level. It is at the discretion of the county as to who pays for this. Saline County and other counties he looked at didn't even address it.

Harris inquired if staff could provide an example of another special permit for agricultural use

where there is mandatory testing in any time period to check for compliance. Cajka is not sure. There are noise restrictions on race tracks, but he doesn't know if there is a condition for a post-construction study.

Edgerton inquired if the turbine violates the setback standard, does it become a non-conforming use? Cajka stated that a non-conforming use can continue to operate. Washington wondered if this is a permanent clause or can it come up for reassessment at some point. Cajka answered that in the zoning code, if a non-conforming or non-standard property ceases to be used for two years, it must go away. Edgerton asked if the modeling data must be reflected in what the restrictions are, perhaps the model is wrong. Can it still continue, but as non-conforming? Cajka noted the last sentence of Section G addresses if the turbine is already up and it doesn't meet the shadow flicker, if a house is built and the turbine is non-conforming.

Campbell questioned Section J, why the pre-construction noise study is conducted one mile away, when requirements for the turbine to hit the noise level is less than that. Cajka responded that was placed in the original text in 2015. Campbell believes it seems inconsistent. Schroeder stated that when we asked for modeling existing noise levels, modeling showed dwellings needed to be a minimum of one mile away.

Scheer would like to go back and contrast for distance setback and noise setback. Through all the processes, his understanding is that the annoyance is the noise. The distance to alleviate the noise annoyance is what we are concerned about. The distance setback he has understood to be from a turbine collapsing. Schroeder stated he was correct.

Cajka stated that these setbacks were determined for safety. He doesn't know if there could be a situation where a turbine could be located less distance and still meet the noise requirements. This gives an added level of security.

Applicant:

Mark Hunzeker, Baylor Evnen Law Firm appeared on behalf of Prairie Wind Watchers. He expressed concern about the process whereby staff are allowed to provide an extended amount of time to explain their position but the applicant is limited to 5 minutes. Hunzeker stated that this application addresses setbacks and noise monitoring. These were all largely ignored in 2015. These issues need to be addressed now. The proposed amendments protect these areas. We spent some time on the separation area. These separations need to be measured from the property line of the non-participating property. We need to have the ability to use the property for residences, church, day care and other uses. All would have the same impact. We have no other uses in the entire county where measurements are taken other than to the applicant property line. Why would you restrict what someone can do in the future? Consider this line. There are other issues of noise leveling. It is useful to establish a baseline. Post-

construction noise measures need to be required. The County Board can require these things under the developer's expense. Previously, there was an opportunity to complain to the County Board. With respect to contract provisions, an alternative would be to adopt a recommendation that says it will be against County Board policy to penalize participating owners complaining about other aspects of development. Then you wouldn't be prohibited from complaining. It is not the reported annoyance level by people who are being paid to endure the noise. It is another thing if they are being subjected to noise and losing something if they complain.

Proponents:

1. Ann Post, Baylor Evnen Law Firm appeared. Today's proposed text amendment achieves a lot. She wants to touch on trespass zoning. This is not a legal term, but it is a term that describes a phenomenon. Trespass zoning occurs where zoning levels are measured from outside the dwelling to the property line on a non-participating property. If they were to build a home, they are going to experience noise at a heightened level. The best way to demonstrate this is with pictures. She presented a hypothetical example of a wind turbine location. She showed the locations where non-participating owners would experience noise. She noted the areas where someone would have to move outside the noise level area to escape the noise from the turbine. These are extreme, but likely examples of how these could affect property owners. She showed another parcel where someone might lose most of their property to noise and adverse consequences. This issue of trespass zoning is one that disappears when you measure noise at the property line as opposed to somewhere in the property line. She would ask that this amendment be adopted.

2. Larry Alder, Cortland, Nebraska. To put this in perspective for people who live in town, your neighbor builds an eyesore and it annoys you. On top of that, he plays his stereo loud at odd hours. You can hear the noise in your house. The back of your property has a playground where the noise gets louder. When you are on the other side of the house, it is within sound limits. If our property has less than three acres in the setback, if we don't keep it from the property line, the decibel levels can be higher than the participating properties. This amendment needs to be set. The setback should be from the property line.

3. Yvonne Mihulka Poole, 2331 W. Ash Rd., Cortland, Nebraska. Ms. Poole provided copies of a zoning map of Lancaster County (see Exhibit "1"). Her farm is in the crosshairs of this. There is a 1-mile buffer zone around the surrounding towns. Health and property rights are protected. This can't be built within one mile of these towns. She wonders why she doesn't deserve the same protection as other properties. Big wind and big money have asked for changes. This amendment is necessary for everyone's health. We all agree with renewable energy. Wind energy can find a place, but not within one mile of someone's house. This is a densely populated area. Our landscapes deserve a viable setback.

4. Curtis Schwaninger, 3750 W. Hallam Rd., Hallam, Nebraska. He received a call a few weeks ago from the company that had purchased the Volkswind property. He was offered \$200.00 an acre. They said they were from NextEra looking at solar. He was offered \$400.00 an acre from someone who came to his house. The next week he heard that NextEra had talked to Lancaster County and Gage County about wind farms. He believes this is deceptive. They can't be trusted to do what they say. He believes very strict rules need to be laid down to protect owners from bullies. Prairie Wind Watchers have over 200 contacts that oppose the wind farm. He believes the majority should have the say. It is a proven fact that wind towers cause health problems. This will also keep the county from being polluted with towers that helicopters would have to dodge. Wind towers, if we need to have them, should be in open areas where their health hazards can be dealt with.

5. Joetta Schwaninger, 3750 W. Hallam Rd., Hallam, Nebraska. In November and December 2018, the Health Department talked about certain studies and noted they were peer reviewed. Tough questions should have been asked. How old were the studies, how accurate were they, were they by mail-in or visit? Regarding peer review, how many reviews were there? Noise annoyance is a minor factor. Health hazards are real. She read from a letter of someone who did not do their research on a wind project. Someone asked for more information and believes all they received were lies. The commissioners looked at money for the county. The towers were too close to houses and they could be heard. Everyone needs to research areas where towers have been for a while. This letter was from an adjuster for Farm Bureau, Holt County, Nebraska. We need an amendment for at least a 1-mile setback.

6. Mike Woodward, 2715 SW. 14th St., Cortland, Nebraska. Part of his concern is the manipulation of noise testing. He provided some research. Noise testing was only done between June and October. This is probably the least windy time of year. He believes there is manipulation of the wind research. There are many factors. Landscape is one. Prince Edward Island and Ontario, Canada have trees, sound absorbing landscape. His other concern with the noise standards versus the mile setback is the placement of the turbine. If someone complains about the noise, data can be manipulated. The rotation can be slowed down to skew the testing. How are we going to control that? The only real control of noise is distance or something absorbent. He has concerns with the way the testing will be conducted. There are factors and variables. With a 1-mile setback, this will probably be the only guarantee we have. The noise modeling that NextEra presented supports the mile setback. He asks for a 1-mile setback to be approved.

7. Judy Daugherty, P.O. Box 193, Hallam, Nebraska. Ms. Daugherty provided copies of articles relating to wind farms in DeKalb County, Missouri (see Exhibit "2") and Saginaw County, Michigan (see Exhibit "3"). She lives on three acres in the middle of the proposed wind project. She believes that NextEra lies and spews partial truths. She heard from the project manager

that they go with the manufacturers setbacks. GE recommends a safety zone of 1.1 times the turbine height. She is really tired of hearing that. That is for the fall zone only. They are trying to imply that this covers everything. We asked Volkswind for a year and a half to produce the safety manual they were going to use. It was never produced. Now NextEra is doing the same thing. We would like to see documentation from the manufacturer. She believes we haven't seen it because it is not in line with what they want to do. Many of us have repeatedly tried to get a safety manual, with no success. This company is far from ethical. NextEra testified that they try not to place a turbine within 1,600 feet of a dwelling. This is not true. We heard from two people from Missouri who have towers placed less than 1,600 feet. Homeowners who have homes in the project area have banded together to protect themselves from these wind turbines. The project footprint encompasses many acres. This is a fact that the marketability of our homes will be affected. We don't like what we have heard from NextEra. We deserve to be safe on our properties.

8. Charlotte Newman, 1500 Pella Rd., Martell, Nebraska. She lives two miles north of Hallam Road. She believes the Commission has heard some good testimony. She appreciates the time that has been taken to hear testimony. She has heard that non-participants are well protected. She doesn't agree. It is easier to measure distance than noise. Measurement from the property line protects future use. Personal testimony says that noise under one mile is a problem. She would beg to differ with assessment of noise annoyance. She believes a lot of safety issues with wind turbines haven't been studied long enough. She thinks this still comes down to putting a large intrusive industry in an agricultural community. This is an industrial project. We have heard many times about big financial gains. When you consider the amount that NextEra has said they will give to participants, you have a small amount of reimbursement for participants. This is not enough to save anyone's family farm or to make a difference. It is not a substantial reimbursement. She asks that this amendment be considered and the ramifications that this brings to the non participants.

9. Joe Dabbs, 26240 SW. 84th St., Hallam, Nebraska. He believes the 1-mile setback from the property line is the best. The last text amendment that raised the decibel level, Deb Schorr voted no primarily because of the population density in Nebraska. He agrees.

Opposition:

1. David Levy, 1700 Farnam Street, Omaha, NE, on behalf of NextEra Energy. He also expressed concern about the process, as their application was before the County Board three weeks ago and decisions were made at that time, yet here we are again. NextEra took this application very seriously. We went through it line by line. Some items were reasonable such as pre-construction modeling and noise modeling down the road. NextEra supports the staff recommendation. He also wants to focus on the idea of trespass zoning. This is a 1-mile setback from a property line. The noise modeling has a limit of 37 decibels. Now they are

talking one mile to a property line. This is a property line versus a dwelling unit. There is no evidence of a direct health impact. Let's also remember that this is an agricultural district. Some of the maps shown were extreme examples. The circle was a 50 decibel circle. Noise doesn't drop off to zero at the end of the circle. The rule of thumb between 37 and 50 decibels is probably one half mile to one mile. The maps don't paint an accurate picture. The reasoning for the physical distance setback is an important point. We are ignoring the reason that there are setbacks.

Harris asked if the post construction mandatory noise studies are industry standard. Levy doesn't know if they are standard, but is aware of other counties that do them. Continuing them later is probably a good idea, but there is no reason to keep doing them. One year post construction is not uncommon. Harris questioned if there are any other counties that require a post-construction study. Levy responded Webster County.

2. David Kuhn from NextEra Energy, representing the Blue Prairie Wind Project. He supports the staff recommendation. He addressed some of the comments made about NextEra, including the specific comment about GE recommended setbacks. The recommended setbacks are 1.1 times the tip height. He emailed a copy of these guidelines to Steve Henrichsen with the Planning Department about the specifics (see Exhibit "6"). He would highly recommend you go through public comments from Missouri. This group brought some people to testify. The presiding commissioner from Missouri saw that and broadcasted his comments.

2. David Schwaninger, 28500 SW. 14th St., Martell, Nebraska. He is a fourth generation farmer and landowner. No one is taking into consideration his loss of monetary gain. He pays taxes of \$45,000.00 a year. Half of that goes to Norris school. These wind turbines are estimated to generate about \$10,000.00 a year each. This would make a huge contribution to his income. A monolith company is building a large building in Hallam and he hasn't heard anyone complain. His wife is from Burwell, Nebraska, where there are several windmills. They got stopped from road construction and couldn't even hear the windmills. He believes it is made up science from people who want to live on a smaller property. He is a fourth generation farmer and property taxes have gone off the rails and Governor Ricketts isn't going to do anything about it.

3. Ken Winston represents **Nebraska Interfaith Power and Light.** Mr. Winston provided copies of a letter of opposition (see Exhibit "4"). He wants to focus on the testimony. This would upend the recently decided balance. We are specifically opposed to the 1-mile setback. We have already spoken about our concerns with climate change. People have the right to have their own views on wind development, but we would like a decision made on verifiable impacts. Most complaints are based on annoyance which is a subjective standard. If adopted, the amendment would set a precedent. The commission should be prepared for anything else that some member of the public finds annoying.

5. John Hansen, 1305 Plum St., Lincoln, Nebraska. He is in opposition to the original text proposal. He agrees with the current revised staff proposal. He is president of the Nebraska Farming Association. These regulations go to the heart of working out compromises that work. He has been through a lot of the state's history and sometimes it is just not possible to make everyone happy. You hope to come up with solutions that are fair and reasonable. Being a good neighbor cuts both ways. At some point, you have to meet in the middle. We want to utilize every tool we can to augment our income. On average, we live in the margins. Many farmers have other jobs to supplement their income. This is an important supplemental income. There are a lot of communities across the state that are desperate to have wind developers come to their county. He is a bit surprised that the developer is willing to accept the staff recommendations, but believes it speaks to them that they are willing to do so.

6. Russell Miller, 341 S. 52nd St., Lincoln, Nebraska. Mr. Miller provided a copy of his testimony for the record (see Exhibit "5"). As a resident of Lancaster County, he is in favor of wind farms for the positive impact it will have on the air quality. It will be a benefit to all of Lancaster County. The coal plant close to Hallam, Nebraska, hopefully won't have to be used as much. The particulates released into the air magnify many health problems. The second positive impact is the tax revenue that they will produce. Norris and Crete Schools will benefit from the taxes. The obvious intent of this application is to make it difficult to have wind towers. He urges this commission to vote against the entire request or to approve only the changes recommended by staff.

7. Matt Gregory is a clean energy advocate. He is in opposition to the language that establishes a 1-mile setback. It will essentially kill wind companies from doing business, which he believes is the intent. He has previously spoke to a study that states many Nebraskans would like to see alternative energy sources developed. There is no peer-reviewed research on ill health effects of wind energy. This is about their annoyance to the sound. A national survey of wind power was correlated to renewable energy sources. One land owner shouldn't have to wait around to see what another land owner is going to do.

8. Lou Nelson, Center for Rural Affairs, 145 Main St., Lyons, Nebraska. He is in opposition to this amendment. He echoes many of the thoughts which have already been expressed. There is no peer-reviewed research for adverse health effects. He believes the standard was balanced out last year. He thinks it is essential to go with either the staff recommendation or reject the application completely. This issue was already researched and voted on.

Staff Questions:

Harris inquired with the current language as it stands, and asked if are we the most conservative county in Nebraska as it relates to wind energy, or the most restrictive. Cajka responded that

for the six or seven counties he looked at—Gage, Saline and Seward Counties are the closest to us. We are the most restrictive. Harris asked if there was confusion about who pays for noise studies. Suggested language regarding pre-construction noise monitoring doesn't specify who pays for that monitoring. Cajka doesn't believe that is confusing. It is part of the application process. It is at the applicant's expense. The question was after there was a complaint.

Campbell was told that 50 decibels is like two people talking. Schroeder agreed that general conversation is 50 to 60 decibels but cautioned in terms of comparison, as wind turbines are perceived as more annoying.

Corr wondered about the post-construction noise testing or a complaint. She questioned if the owners of the project will be notified of the specific date of testing. Schroeder doesn't believe so. Best practice would be not to let them know. We subcontract that.

Scheer inquired if during the application process or the post-construction testing, if staff is confident how the test results will come back or if there is any ambiguity. Schroeder doesn't support that. Post-construction noise testing would be done through a third party. Scheer wondered if the information you get during the application process is to verify distance that the turbine will be sited from the dwelling, pre-construction modeling. Schroeder stated that we have to sign off on protocol. We will work on the modeling protocol and this would be submitted to the company. Scheer can see that argument of one mile is easily defined. Based on information you get from modeling or testing, he questioned if that is reliable to make that distance. Schroeder is confident. Results are conservative. They would predict higher noise modeling to make sure that testing is accurate.

Applicant Rebuttal:

Hunzeker stated that we tried hard to get these issues considered last time. Because they were not considered, they made a separate application. In the staff report of November 14, 2018, on the previous text amendment, reference was made to an analysis by Epsilon Associates that wind turbines would need to be a minimum of one mile from a dwelling. This was a study paid for by NextEra. He presented a drawing of the one mile surrounding area. We aren't talking about a noise level drop-off. The contours must be measured to the property line. This has a real impact on people who choose not to participate. This forces a developer of an industrial use in an agricultural use to account for the noise on land which is participating on the project. Don't force that onto non-participants. This isn't a matter of trying to unbalance the public health, safety and welfare of landowners. This needs to be done on every zoning decision you make. Don't allow a project to foreclose the possibility of development on a non-participating property.

ACTION:

Campbell moved Approval of the Recommended Alternative as proposed by staff, seconded by Corr.

Campbell believes the Planning staff has done a good job in looking at all the different proposals that have come forward. He is still in favor of the project and feels that it is something that can move forward in Lancaster County and doesn't support the more difficult restrictions.

Harris will not support the option. Not because she thinks this is the second bite of the apple, but the applicant has the right to come forward. We have had an extensive public input process and extensive hearings that she has been a part of since Volkswind was here originally. She feels that she has received a massive amount of data to support her original vote. She feels it would almost be an insult to clarify a few things that are already implied. She is not willing to support any of the material changes, including the post construction noise monitoring. We have perhaps the most restrictive noise ordinance already. There is nothing that stops this from being a voluntary requirement. Developers have done these things in the past.

Washington was a little concerned at first about rehashing this. She believes the proposal provides some assurances that she wanted to have in place for protecting non-participating landowners. She will support the staff recommendation. She would have offered to amend for post-construction monitoring in two years. Models don't always give you what you expect. She wants to make clear her vote for these additional assurances for non-participating landowners. She won't negate her previous decisions in Gage County.

Campbell doesn't believe the expense of doing this every two years is necessary. Washington would encourage landowners to be thoughtful and diligent. She doesn't want these to get noisier and noisier.

Finnegan will support Campbell's motion.

Joy will support the motion as well. She believes the staff recommendation will serve this well.

Corr thinks a lot of the push for the one-mile rule is because it is easy to understand and measure. She thinks what we have now is fine. She will support Campbell's motion. It becomes confusing when we have people not in the industry trying to interpret this.

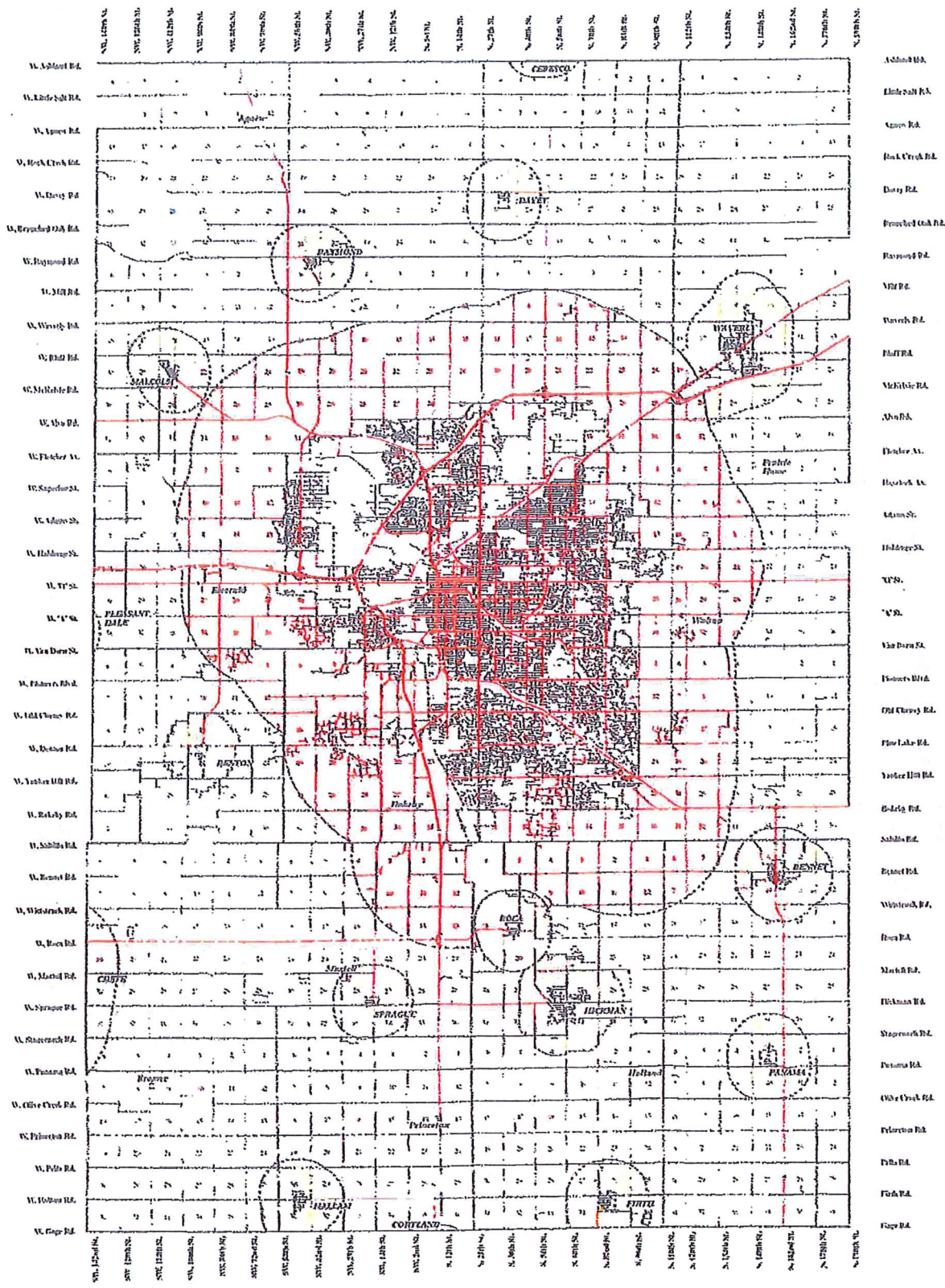
Scheer agreed. He wouldn't be in favor of changing the parameter of annoyance to be on distance instead of sound. He thinks what we have is good. In terms of context, this is his third time through this as well. He will vote in favor of this motion. He believes it is a good compromise. He questioned the Health Dept on monitoring. He believes they are confident in their ability to monitor.

Motion for approval carried 7-1: Campbell, Corr, Edgerton, Finnegan, Joy, Scheer and Washington voting 'yes' Harris voting 'no'; Beckius absent.

There being no further business to come before the Commission, the meeting was adjourned at 3:25 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, January 23, 2019.

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ZONING JURISDICTIONS IN LANCASTER COUNTY

One Mile Jurisdiction of Incorporated Villages
 Two Mile Jurisdiction of Crete
 Three Mile Jurisdiction of Eden
 Lancaster County Jurisdiction



St. Joseph News-Press eEDITION

http://www.newspressnow.com/news/local_news/wind-farm-still-causing-concern-in-dekalb-county/article_9da661b4-abac-5cc6-be1f-265d8da51fef.html

TOP STORY

Wind farm still causing concern in DeKalb County

By Margaret Slayton News-Press Now May 27, 2017



Kim Tindel of Osborn, Missouri, stands on her property surrounded by several wind turbines, which are operated by Florida-based NextEra Energy. She said the closest turbine is 1,400 feet from her property and she has documented items in her house shaking.

Buy Now

Mark Zinn News-Press Now

Concerns continue to be raised by residents in DeKalb County over the operation of

a commercial wind turbine project in Missouri.

ADVERTISING

NextEra Energy Resources based in Florida began operating 97 wind turbines near Osborn, Missouri, in December. The project in DeKalb County was one of the first by NextEra Energy to use wind turbines that were manufactured to be 500 feet tall.

Some residents in the county have expressed concern over effects from light flicker, noise levels, vibration of buildings and a lack of access to television and weather emergency services.

Barbara Shatto, owner of Shatto Milk Company, said a concern she has pertains to red lights flashing every few seconds at night near her business and home.

“When you come home at night and you’ve got bright red lights flashing, it’s not exactly a pleasant experience,” Shatto said. “I have window shutters and they do a good job at times to block out the light, but it doesn’t do it completely. You’re just stuck with it. Blocking out the lights is very difficult to do.”

Kim Tindel said there are around 30 turbines within five miles of her residence, with the nearest tower located around 1,400 feet from her home. Tindel said she has documented items in her house shaking.

“The house shakes and it trembles,” Tindel said. “I do have a shelf in my laundry room and stuff has fallen off my shelf. My pictures move. I put a Mason jar on the shelf with water in it and the water is moving.”

Tindel said she hears two noises associated with the project and she has covered her windows to block out the lights.

“It sounds like airplanes hovering 24 hours a day,” Tindel said. “We can hear it over the sound of television and over lawn mowers. Then there’s another sound other than the blades constantly moving. Sometimes it’s a high-pitch sound that’s hard to describe that I can hear outside, but I cannot hear it inside my house.”

Billy and Sherri Sonderegger said there are around 10 wind turbines within two miles of their home.

“I describe it as an airplane flying off in the distance but it never goes anywhere,” Billy Sonderegger said. “It’s always there. The sound just keeps coming. I’ve come home at 11 or 12 at night to unload cattle and left my pickup trailer running and I can hear it above the noise of the pickup.”

While the state of Missouri has no regulations pertaining to the placement or noise levels of wind turbine development aside from county regulations, the state of Vermont’s Public Service Board created rules this spring addressing tower height, light flicker and noise levels.

If passed, the rules would impose a 42-decibel daytime noise limit and a 39-decibel limit at night. There also would be a setback requirement of 10 times the turbine’s height, meaning that a 500-foot-high turbine would need to be at least 5,000 feet away from an occupied building.

Steve Stengel, communication director for NextEra Energy, said the company has received one complaint from a landowner pertaining to concerns over noise and lights.

“While we have received a number of complaints about TV reception interference that we are currently addressing with individual landowners, we have only received one complaint from a landowner related to noise or light issues,” Stengel stated in an email. “We have investigated that complaint and found that our wind turbines were operating normally.”

Stengel said the company monitors the performance and operating conditions of the turbines around the clock, but he declined to state what decibel level the project is functioning.

“There is not a specified sound requirement in the special use permit granted for the project,” Stengel said. “However, I can tell you that this site has been and continues to operate normally.”

Margaret Slayton can be reached at npsports@newspressnow.com.



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ENR

Engineering News-Record

Wind Power **7-13-17**

Are Four Wind-Turbine Failures in Five Weeks Too Many for NextEra Energy?

Out of the ordinary but not a surprise with thousands spinning, company says



Blades fail at rate of 3,800 a year!

NextEra suffered four wind-turbine failures in recent weeks. The mishaps at the four different sites included broken blades, a fire and a turbine collapse.

PHOTO BY JEFF SCHRIER/THE SAGINAW NEWS VIA AP

July 13, 2017

Jeff Yoders

The business of wind generation is less than breezy these days for clean-energy producer NextEra Energy Resources.

In Saginaw County, Mich., in late June, a blade on a 160-ft turbine snapped and was left dangling from its rotor (ENR 7/10 p. 4). The turbine is one of 75 at the 120-megawatt Tuscola Bay Wind Energy Center. Earlier in June at the Steele Flats wind farm in Nebraska, one of 44 turbines collapsed.

On June 5, a 2.5-megawatt turbine at the Endeavor I Energy Center in northwestern Iowa caught fire, and one of its blades fell to the ground. On May 31, near Enid, Okla., another blade fell from a turbine at the 98-MW Breckinridge Wind Energy Center.

NextEra would not comment on potential causes of the failures, but spokesman Bryan Garner says, "These are four different issues at four different sites involving two different equipment manufacturers. Two of the issues involved turbine blades, one was a tower, and one was a fire in the nacelle. Yes, we are investigating each incident, as we would with any equipment issue. ... We view these as isolated equipment issues. I should also point out there were no injuries."

NextEra's runs General Electric-manufactured turbines at its Tuscola Bay, Breckinridge and Steele Flats facilities. Cedar Rapids, Iowa-based Clipper is the manufacturer of the turbines at Endeavor.

NextEra Energy Resources owns and operates nearly 10,000 wind turbines across the country. Of the turbines' combined 30,000 blades, there are only five or six blade failures a year, so two in a month is out of the ordinary, Garner notes.

"There is nothing to indicate there are more than would be expected for the volume of turbines we have in operation," Garner says.

Juno Beach, Fla.-based NextEra, the largest owner and operator of wind turbines in the U.S., has 117 wind farms in the U.S. and Canada that generate more than 13,850 MW of net power a year.

By the Wind-Turbine Numbers

There are currently about 53,000 turbines in the U.S. Wind-turbine rotor blades fail at a rate of approximately 3,800 a year, 0.54% of the 700,000 or so blades that were in operation worldwide at the time of a 2015 study by renewable-energy insurance underwriter GCube.

The National Renewable Energy Laboratory's 2013 review of drive-part failures in wind turbines found that electrical systems had the highest failure rate of internal turbine parts.

"We work with the respective manufacturers to investigate each incident and replace the impacted equipment. We site the turbines safely and responsibly and diligently maintain the equipment, so failures are rare," Garner notes.

"We don't have any specific data points on this, but I can say wind-turbine failures are extremely rare. Wind turbines consist of rugged, sophisticated equipment that enables them to operate reliably under near-constant wind conditions," says Evan Vaughan, media relations officer of the American Wind Energy Association, Washington, D.C. "And wind farms are resilient. Should one turbine fail in a project, the others continue to operate."

Recent Articles By Jeff Yoders

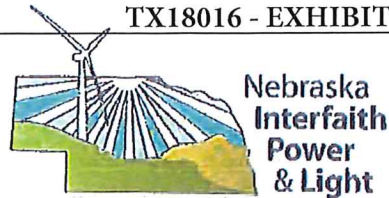
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ENR Midwest Editor and Associate Technology Editor Jeff Yoders has been writing about design and construction innovations for 16 years. He is a two-time Jesse H. Neal award winner and multiple ASBPE winner for his tech coverage. Jeff previously launched Building Design + Construction's building information modeling blog and wrote a geographic information systems column at CE News. He also wrote about materials prices, construction procurement and estimation for MetalMiner.com. He lives in Chicago, the birthplace of the skyscraper, where the pace of innovation never leaves him without a story to chase.



January 9, 2019

Dennis Scheer, Chairperson
Members of the Lincoln Lancaster County Planning Commission

RE: Commercial Wind Setback Increase

Dear Chairman Scheer and Members of Planning Commission:

Nebraska Interfaith Power & Light opposes the commercial wind setback amendment being proposed by opponents of wind development. The proposal to increase the setbacks to a distance of one mile seeks to undo the common-sense change that was supported by this Commission in November and adopted by the County Board last month. This proposal appears intended solely to prevent wind development in Lancaster County and would upend the recently-adopted balance between participants and non-participants. The well-reasoned staff report also opposes this proposal.

Climate change is the most important moral issue of the 21st century, with the potential to impact every person on the planet. Its impacts will be felt most severely by the earth's poorest citizens, "the least of these" among us. Our faith traditions command us to protect and care for creation and stand up for our most vulnerable brothers and sisters.

Nebraska Interfaith Power & Light is a statewide interfaith, nonpartisan, nondenominational organization providing a moral message on issues related to climate change and care of creation. Action on climate change is now more important than ever. There have been several recent reports that have pointed out the increasing risks of climate change including one from the Intergovernmental Panel on Climate Change and one prepared by a wide array of scientists on behalf of the United States government.

The good news is that there are positive responses to climate change. Renewable energy, such as wind development, is a vital component of that response. Significantly, wind generation emits no greenhouse gases and uses no water, unlike fossil fuel generation such as coal. Wind generation also emits no pollutants like mercury, a dangerous neurotoxin, or Sulphur dioxide or nitrogen oxides, all of which have been objectively linked to numerous health problems.

We recognize and respect the fact that residents have the right to their own views on wind development. However, we ask that the Planning Commission make its decision based on objectively verifiable information. The Health Department extensively examined the potential of negative health impacts related to wind development and concluded that almost all reported negative impacts are related to annoyance, a completely subjective standard.

This proposal is a collateral attack on a decision that has previously been made by this body and endorsed by the County Board. If adopted, it would establish a precedent for collateral attack on almost any development proposal approved by public officials. If annoyance is the standard, and a one-mile setback is required, the Commission should be prepared for a request for the same setback when new roads, new neighborhoods or any other developments that some members of the public find annoying are being considered.

For the above reasons, we ask the Commission to oppose the proposed increase in setbacks in the commercial wind zoning requirements.

Sincerely,

/s/Kenneth C. Winston

Kenneth C. Winston

Director of Policy and Outreach

Nebraska Interfaith Power & Light

kwinston@inebraska.com 402-212-3737

From : Russell Miller
341 S. 52
Lincoln, Nebraska 68510

9 January 2019

To : Lincoln/Lancaster County Planning Commissioner

Enclosure 1: Sheldon's power plant 2017 emissions

Subject : Text Amendment 18016 (wind turbine noise limits)

Hello,

As a resident of Lancaster County I am in favor of wind farms because of the positive impact it will have on our air quality AND Lancaster County tax base. Despite the opposition of a small group of County residents, the entire County population will benefit from wind farms and I hope you consider what is best for all 300,000 of our citizens.

The first benefit is that the coal burning electric generation plant located near Hallam will not have to be used as much. In the year 2017, Sheldon, which will be a next-door neighbor to a wind farm, emitted 1,400 tons of nitrogen oxides and 1,900 tons of sulfur dioxide. It is well documented both of these pollutants are particularly harmful to children under 5 years of age, elderly persons, and all persons with breathing problems. These two pollutants cause or magnify asthma, COPD and other lung diseases.

The second benefit will be for all of Lancaster County residents because of the increased tax base that wind farms will produce. It is expected the the proposed project by NextEra will generate about \$800,000 in new tax revenue annually. The big winners from these new taxes will be Norris and Crete Public Schools which receive about 70% of the total assessed taxes. The rural fire departments will also benefit.

The obvious intent of this text amendment as proposed by the applicant is to make it very difficult to have wind farms. This is because of their opposition to the towers. It has nothing to do with safety or health. I urge this Commission to vote against the entire request or accept only the changes as recommended by your staff.

Thank you,

Russell Miller

Enclosure 1: Sheldon's power plant 2017 emissions

On Aug 21, 2018, at 3:17 PM, Gary R. Bergstrom <gbergstrom@lincoln.ne.gov> wrote:

Mr. Miller,

The most recent full year of plant-wide emissions from the Nebraska Public Power District's (NPPD) Sheldon Station that we have available is for calendar year 2017. I have provided that information in the table below.

Pollutant	Emissions (tons)
PM10 (particulate matter >10 μ m)	7.42
NOx (Nitrogen oxides)	1,406.13
SO ₂ (Sulfur dioxide)	1,961.79
VOC (Volatile Organic Compounds)	26.31
CO (Carbon Monoxide)	665.49
HAPs (Hazardous Air Pollutants — Combined)	32.34
Total	4,099.48

Additionally, I do want to correct one misconception on the plant's operations. NPPD Sheldon Station has not yet converted either of its two coal-fired boilers to hydrogen, and that conversion is not anticipated to occur for at least the next couple of years.

We do not have any data on how far the pollutants travel, as air pollution dispersion is heavily dependent on weather patterns. Some emissions may impact the nearby area, while some emissions may be transported hundreds of miles or more.

I hope you find this information helpful. Please let me know if you have any questions.

Gary R. Bergstrom august 13, 2018 at 1:37pm

RE: request for Sheldon's power plant air pollution
To : Russell Miller

The reduction in emissions at Sheldon Station is due to a combination of factors. They did add emission controls to reduce their emissions air pollution emissions, but they have also seen lower levels of operation due to being part of the 'Southwest Power Pool'. I don't know exactly how much impact wind and solar power generation have had on power generation at Sheldon Station, but I would recommend contacting NPPD for questions on that matter.

The emissions of mercury are included in the 32.34 tons of HAP emissions. Mercury emissions in 2017 came to a total of 3 pounds, substantially lower than the 36 pounds emitted in 2014. Again, that reduction is due to a combination of emission controls and reduced power generation. For reference, 3 pounds of mercury equates to just under 7 tablespoons.

Technical Documentation Wind Turbine Generator Systems All Onshore Turbine Types



General Description

Setback Considerations for Wind Turbine Siting



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Table of Contents

1	Introduction.....	5
2	Falling Objects.....	5
3	Tower Collapse.....	5
4	Ice Shedding and Ice Throw.....	5
5	Blade Failure.....	5
6	Industry Best Practices.....	6
7	Setback Considerations.....	7

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1 Introduction

This document provides setback guidance for the siting of wind turbines. This guidance considers potential safety risks associated with wind turbines such as objects (maintenance tools, ice, etc.) directly falling from the wind turbine, unlikely occurrences such as tower collapse and blade failure, and environmental / operational risks such as ice throw. The guidance is general in nature, and is based on the published advice of recognized industry associations. Local codes and other factors may dictate setbacks greater than the guidance in this document. The owner and the developer bear ultimate responsibility to determine whether a wind turbine should be installed at a particular location, and they are encouraged to seek the advice of qualified professionals for siting decisions. It is strongly suggested that wind developers site turbines so that they do not endanger the public.

2 Falling Objects

There is the potential for objects to directly fall from the turbine. The objects may be parts dislodged from the turbine, or dropped objects such as tools. Falling objects create a potential safety risk for anyone who is within close proximity to the turbine, i.e., within approximately a blade length from the turbine.

3 Tower Collapse

In very rare circumstances a tower may collapse due to unstable ground, a violent storm, an extreme earthquake, unpredictable structural fatigue, or other catastrophic events. Tower collapse presents a possible risk to anyone who is within the distance equal to the turbine tip height (hub height plus $\frac{1}{2}$ rotor diameter) from the turbine.

4 Ice Shedding and Ice Throw

As with any structure, wind turbines can accumulate ice under certain atmospheric conditions. A wind turbine may shed accumulated ice due to gravity, and mechanical forces of the rotating blades. Accumulated ice on stationary components such as the tower and nacelle will typically fall directly below the turbine. Ice that has accumulated on the blades will likewise typically fall directly below the turbine, especially during start-up. However, during turbine operation under icing conditions, the mechanical forces of the blades have the potential to throw the ice beyond the immediate area of the turbine.

5 Blade Failure

During operation, there is the remote possibility of turbine blade failure due to fatigue, severe weather, or other events not related to the turbine itself. If one of these events should occur, pieces of the blade may be thrown from the turbine. The pieces may or may not break up in flight, and are expected to behave similarly to ice thrown from the blade. Blade failure presents a possible risk for anyone beyond the immediate area of the turbine.

6 Industry Best Practices

Recognized industry practices suggest the following actions be considered when siting turbines in order to mitigate risk resulting from the hazards listed above:

- Place physical and visual warnings such as fences and warning signs as appropriate for the protection of site personnel and the public.
- Remotely stop the turbine when ice accumulation is detected by site personnel or other means. Additionally, the wind turbine controller may have the capability to shut down or curtail an individual turbine based on the detection of certain atmospheric conditions or turbine operating characteristics.
- Restrict site personnel access to a wind turbine if ice is present on any turbine surface such as the tower, nacelle or blades. If site personnel absolutely must access a turbine with ice accumulation, safety precautions should include but are not limited to remotely shutting down the turbine, yawing the turbine to position the rotor on the side opposite from the tower door, parking vehicles at a safe distance from the turbine, and restarting the turbine remotely when the site is clear. As always, appropriate personnel protective gear must be worn.

7 Setback Considerations

Setback considerations include adjoining population density, usage frequency of adjoining roads, land availability, and proximity to other publicly accessed areas and buildings. Table 1 provides setback guidance for wind turbines given these considerations. GE recommends using the generally accepted guidelines listed in Table 1, in addition to any requirements from local codes or specific direction of the local authorities, when siting wind turbines.

Setback Distance from center of turbine tower	Objects of concern within the setback distance
All turbine sites (blade failure/ice throw): 1.1 x tip height ¹ , with a minimum setback distance of 170 meters	<ul style="list-style-type: none"> - Public use areas - Residences - Office buildings - Public buildings - Parking lots - Public roads <ul style="list-style-type: none"> - Moderately or heavily traveled roads if icing is likely - Heavily traveled multi-lane freeways and motorways if icing is not likely - Passenger railroads
All turbine sites (tower collapse): 1.1 x tip height ¹	<ul style="list-style-type: none"> - Public use areas - Residences - Office buildings - Public buildings - Parking lots - Heavily traveled multi-lane freeways and motorways - Sensitive above ground services²
All turbine sites (rotor sweep/falling objects): 1.1 x blade length ³	<ul style="list-style-type: none"> - Property not owned by wind farm participants⁴ - Buildings - Non-building structures - Public and private roads - Railroads - Sensitive above ground services

Table 1: Setback recommendations

The wind turbine buyer should perform a safety review of the proposed turbine location(s). Note that there may be objects of concern within the recommended setback distances that may not create a significant safety risk, but may warrant further analysis. If the location of a particular wind turbine does not meet the Table 1 recommended guidelines, contact GE for guidance, and include the information listed in Table 2 as applicable.

1 The maximum height of any blade tip when the blade is straight up (hub height + ½ rotor diameter).

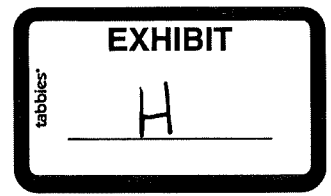
2 Services that if damaged could result in significant hazard to people or the environment or extended loss of services to a significant population. Examples include pipelines or electrical transmission lines.

3 Use ½ rotor diameter to approximate blade length for this calculation.

4 Property boundaries to vacant areas where there is a remote chance of future development or inhabitation during the life of the wind farm.

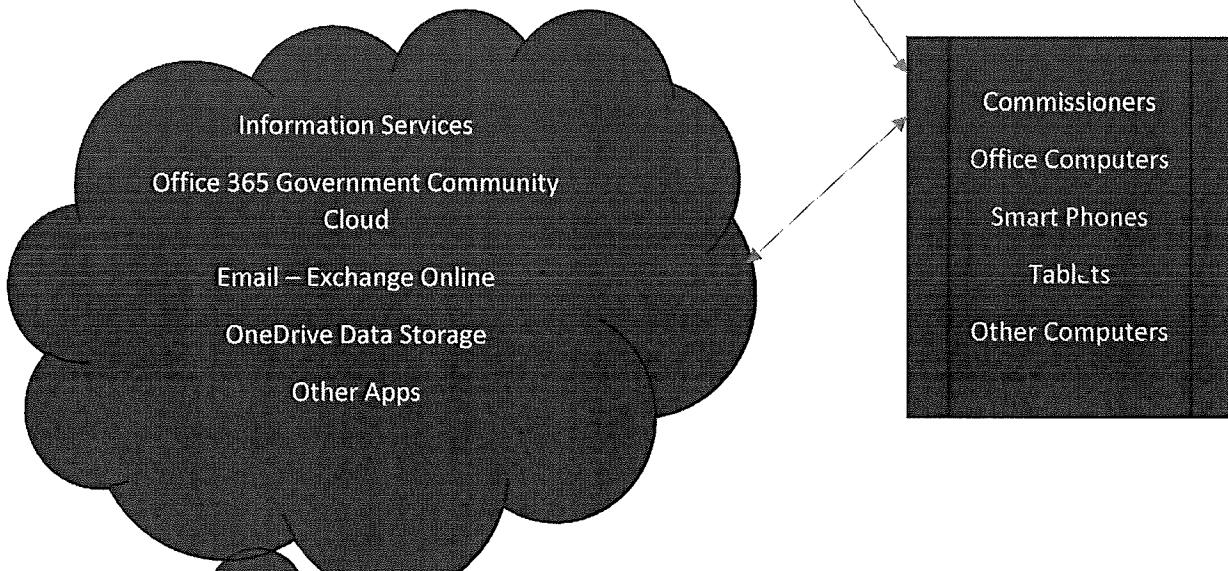
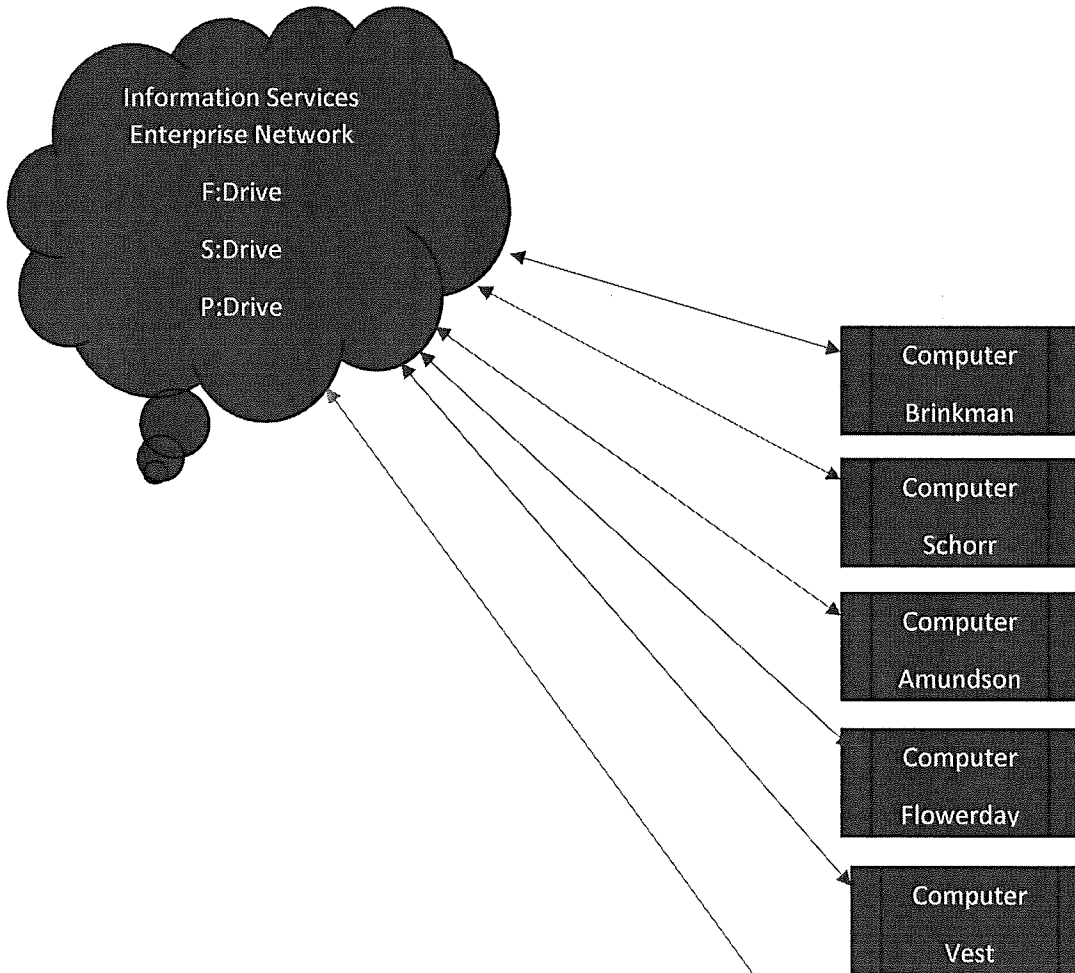
Condition/object within setback circle	Data Required
If icing is likely at the wind turbine site	- Annual number of icing days
Residences	- Number of residences within recommended setback distance - Any abandoned residences within setback distance
For industrial buildings (warehouse/shop)	- Average number of persons-hours in area during shift - Number of work shifts per week - Any abandoned buildings within setback distance
For open industrial areas (storage/parking lot)	- Average number of persons-hours in area during shift - Number of shifts per week. - Any abandoned buildings within setback distance
For sports/assembly areas	- Average number of persons in area per day - Average number of hours occupied per day - Number of days area occupied per week - If area covered, what type of cover
For roads/waterways	- Plot of road/waterway vs. turbine(s) - Average number of vehicles per day - Type of road and speed limit (residential, country, # of lanes, etc.)
For paths/trails (walk, hike, run, bike, ski)	- Plot of paths/trails vs. turbine(s) - Average number # of persons per day by type of presence (walk, hike, etc.) - Flat or uneven/hilly terrain

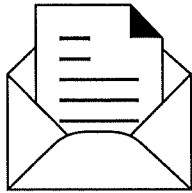
Table 2: Setback recommendations



Lancaster County Board Office 365 Account

- Establish a OneDrive Account to load files, documents, and other such information.
- County Admin Staff would have sign-in access to manage this information.
- County Board would have Read Access to this information.
- Anyone else could have Read Access as established by County Board and County Admin policy and process.
- OneDrive Information can be accessed with an internet connection and Office 365 Sign-On Credentials (email, email_password)
- Working on customized permissions that could make a Folder shared with access to ADD information and VIEW/READ information. Standard/Given permissions do not control at this specific level.



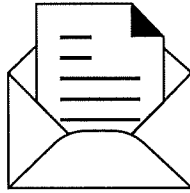


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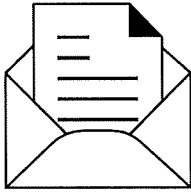


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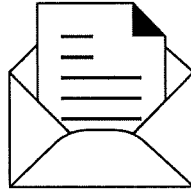
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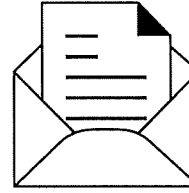
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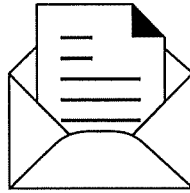
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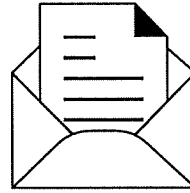
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