

REGULAR MEETING OF THE SEWARD COUNTY PLANNING COMMISSION
Monday March 20th, 2023
Minutes

Open the Meeting. Meeting called to order by Chairman Eberspacher at 7:30 pm.
Roll Call. Members Present: Daniel, Eberspacher, Medinger, Niemann, Schuckebier, Pekarek.

Members Absent: Krenk, Luebbe, Richert.

Present: Misty Ahmic, Johnathan Jank, John Culver, Chad Fritz, Josh Delcamp, Mr. and Mrs. Hackbart and daughter, Talli Kratochvil, Matt Irving, Blaine Clowser, Bruce Vitosh, Chris Heath. Chairman Eberspacher notified the public that the public meeting information is posted as required by law and is available for inspection. Chairman Eberspacher asked for a motion to accept the minutes from the prior meeting. Pekarek made the motion, and Niemann seconded the motion. 6 voting in favor, 0 against, and 3 absent not voting.

Item 1: Discussion/Action: Todays Power Inc. has applied for a CONDITIONAL USE PERMIT for the Installation and use of a 1MW Solar Array photovoltaic energy production facility. Parcel ID: 800004744, Precinct J. In the Northwest ¼ of, Section 22, Township 10N, Range 3E Seward County Nebraska.

Item 2: Open Public Hearing: open @ 7:32p.m. Motion made by Niemann and seconded by Daniel. Voice acclamation voting 6 for 0 against and 3 absent not voting. Matt Irving representing Todays Power addressed the Board. TPI is working with NPPD to build a solar array that will produce energy that will go into Norris Public Power grid. This project will be on a 9-acre site. Landowner Blaine Clowser asked how many sites they have. 80 sites with 1MW capabilities. Nebraska has Thayer, Lancaster, Gage, Saline Counties and are all under construction process. This is a utility scale operation. Mr. Clowser explained that the Construction foreman is Chris Heath and he moves around to different projects and works with the contractors at each location. Clowser asked if the energy is pumped into the grid or is there battery storage. Mr. Irving stated that this site will not have battery storage. Chairman Eberspacher asked if the land is leased or owned. Mr. Irving stated that the land is owned by Hackbart, and Norris leases the land from Hackbart. TPI leases for 25 years from Norris to provide power for 25 years for a set dollar amount. TPI owns the solar array. The panels are 30 foot by 6 foot. TPI leases the ground to put equipment on to produce energy. After 25 years if all entities are finished, TPI will remove the site and return it to the original state. Bruce Vitosh introduced himself as the General Manager of the Norris Public Power District. Norris has a 25-year lease agreement with the landowners. Norris leases Today's Power to

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provide power for 25 years with two, 5-year extensions possible. This project could possibly run.

35 years. Daniel asked if Norris has any more of these sites planned. This is Norris first endeavor into solar. They allow a renewable generation to be built that is with 10% of the total peak load usage. Norris is working with TPI to install 6, 1 MW sites in 5 of the 6 counties served. 2 sites in Gage County, 1 in Saline, 1 in Lancaster, 1 in Thayer, and 1 site in Seward County. Norris looked at renewable generation back in 2016, and 2018 it did not work for them at the time. TPI was working in Kansas building 1MW sites. Nebraska sites are copied off proven sites in Kansas that have worked. Daniel asked what this means for the rural customer in Seward County. All customers in Seward County will benefit from the locked in rate for 25 years. It was economically feasible to build in Seward County at the 1MW size. There is a carbon zero goal by 2050. This installation fits that plan. Overall, the 6 sites in Nebraska will represent 3% of the usage in the District. Discussion on subsidies and tax credits. Pekarek asked if TPI does sites bigger than 1 MW. The largest site is 12 MW located in Arkansas. Floodplain runs through the property. TPI does an extensive environmental and cultural review that is required for banking purposes for the property. Pekarek asked after 25 years who cleans it up? TPI cleans it up. Pekarek asked if TPI goes out of business who cleans it up? Vitosh answered, it is within the contract that there is an escrow kept in case that ever happens. Eberspacher asked about wind and hailstorms. TPI has designed the system to withstand 100 mile an hour winds. Each solar panel is rated to withstand a certain size and diameter of hail. Clowser added that there is a study out there that claims that homes within a half mile of the site have reduced value. TPI has no evidence of values moving either way. Solar is not as intrusive on the neighboring homes as wind turbines, as they are not very tall and do not make any noise. Schuckebier asked what the total height of the installation is. Irving added that the structure is within the 4-to-7-foot height. Schuckebier also asked if these panels track, and about the pitch of the panels. Yes, they track sunlight. These panels will be in sync and not pointing in different directions. Discussion. Vitosh stated that there is a clause in the contract that the panels need to be operating and producing energy. There is a performance clause in the contract. Discussion. Daniel asked what the timeframe is for completion. Vitosh replied it is generally a three-to-four-month process to be up and running. Eberspacher asked about glare. That is one of the questions on the Planning Commissions Finding of Facts. Vitosh replied, the solar panels TPI installed have a solar glare control

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film on them. This is to restrict a glare because of a nuisance, These are designed to absorb sunlight, not reflect it.

Industry has come a long way with the technologies to absorb the rays with no reflective glare. All FAA studies have passed on this item. There is a installation pretty close to a regional runway, and have no issues with that. No lights will be on the property. Chairman Eberspacher asked for any other comments from the board or public. Mr. Clowser spoke on his concerns having to subsidize energy programs. Mr. Irving stated that the mission of TPI is to assist co-ops and ppds to be able to recognize the savings, and the savings goes back to the members and be good stewards.

Item 3: Close public Hearing: 7:45p.m. Eberspacher asked for a motion to close the public hearing. Motion made by Medinger and seconded by Pekarek. Voice acclamation voting 6 for, 0 against, and 3 absent not voting.

Item 4: Discussion/Action: Today's Power Inc. has applied for a CONDITIONAL USE PERMIT for the Installation and use of a 1MW Solar Array photovoltaic energy production facility. Parcel ID: 800004744, Precinct J. In the Northwest ¼ of, Section 22, Township 10N, Range 3E Seward County Nebraska. The Findings of Facts were reviewed. Chairman Eberspacher asked for a motion from the board. Motion made by Pekarek and seconded by Niemann. Roll call voting 6 for, 0 against, and 3 absent not voting.

Item 5: Discussion Action: For a Short Form Plat to create the PLATINUM RANCH Short Form Plat. PID: 800003861. Located in J Precinct. In the Southwest ¼ of, Section 12, Township 10N, Range 3E. Seward County Nebraska. Brock T. Henderson and Joshua D. Delcamp own 19.06 acres of land and have made an application for a Short Form Plat to subdivide land under 10.0 acres. The intention of this application is to separate 8.01 acres, for banking purposes to sell and build a home. This quarter section of land is Zoned Agriculture (A-1). Article 4: Section 4.03.02 Permitted Uses in A-1 Agriculture District. The density within any 1/4 section of ground shall not exceed two (2) dwelling units. There is 1 home in this quarter section. This quarter section of land is not in the Water Conservation District. This parcel has a Floodplain running through it. Parcel Id# 800003861 checked taxes for this parcel, and as of 3/10/2023 the taxes are current. Discussion on the recorded easement and property lines. Motion made by Daniel and seconded by Medinger. Roll call voting 6 for, 0 against, and 3 absent not voting.

Item 6: Discussion Action: For a Short Form Plat to create the VOLZKE FARMS SUBDIVISION Short Form Plat. PID: 800031970.

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Located in E Precinct. In the Southwest ¼ of, Section 4, Township 11N, Range 1E. Seward County Nebraska. Allyson Krohe and Devin Volzke own 80.0 acres of land and have made an application for a Short Form Plat to subdivide land under 10.0 acres. The intention of this application is to separate 5.99 acres from the 80 acres, to build a home. This quarter section of land is Zoned Agriculture (A-1). Article 4: Section 4.03.02 Permitted Uses in A-1 Agriculture District. The density within any 1/4 section of ground shall not exceed two (2) dwelling units. There is 1 home in this quarter section. This quarter section of land is not in the Water Conservation District. This parcel will not be the Floodplain. Discussion. Pekarek asked if the original home will stay with the remainder of the property. Chairman Eberspacher asked the board for a motion with the taxes verified. Motion made by Pekarek and seconded by Niemann. Voice acclamation voting 6 for, 0 against, and 3 absent not voting.

Item 7: Discussion/Action: Density in a quarter section on homes with no value. Chairman Eberspacher noted this is a follow up from last months discussion. Pekarek gave an update on the results of research. Pekarek stated that he spoke to Jeff from JEO a couple of weeks ago and has heard nothing in return. Discussion. Mr. Delcamp asked what the conversation was before JEO had been called. Eberspacher explained that the issue is that this action will be taking rights away from the existing landowner with the home in disrepair. We would be taking the right and transferring it to someone else. Pekarek added that the Planning Board is only a recommending board. Ahmic stated that the recommendation must start at the planning level. Discussion. Is it fair to take someone's density away because the house is in disrepair. The way the regulations are now this action cannot be performed. Ahmic stated she sent an email out stating the procedure needed, you would have to work with JEO to make a regulation and define it. Discussion. What might seem inhabitable to one person might be another's dream home. Daniel stated that in most cases the two parties would have gotten together and resolved this between themselves. That is not the issue here. Daniel made a motion that the board does not get involved in removing or transferring property rights from citizens of Seward County to change density. Discussion. Delcamp replied that he agrees with the motion as Seward County has density regulations. Niemann seconded the motion. Roll call voting 6 for, 0 against and 3 absent not voting.

Item 8: Discussion/Action: Inspectors/ occupancy Board needs to have a discussion on building inspectors. Jack stated that he had Ray Seuper come to speak to the board about the benefits of the inspection process and what

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they do and look for. Daniel said he has spoken to Mitch from Saunders County on how their program runs and is being financed by the permit fees. Saunders inspects all buildings in the County. Discussion. In Saunders County 2021

he inspected 92 homes, in 2022 he inspected 56 homes, and inspects all but electrical. Permits are for all structures except for 200 square foot or less, and Agricultural buildings on 20 acres more must be filed with the assessor. Saunders County fee structure brings in more than what the budget is.

Discussion. Commissioner Culver asked what the fees are for the small number of inspections that are being completed. Daniel did not have that information. Discussion. Culver said he is against making the government bigger. Daniel stated this is an important topic to protect the ground water and our density. Medinger stated that she does not know if an inspector will take care of the density problem. Discussion. Zoning Administrator inspections might work to check density. The General Contractor might apply for the inspection. Eberspacher asked for a motion about the inspection process in Seward County. Are we going to adopt an inspection process in the County or not. Medinger made a motion not to adopt an inspection program. Pekarek seconded the motion. Discussion. Pekarek stated when he was doing research, he spoke to Cass County about their density situation. Cass County has two full time inspectors. 1 is the Zoning Administrator and the other is an inspector. They inspect 4 to 8 properties a day and are self-funded. Cass County has 27000 people, Seward County is 17600, Saunders County has 22700 people in 2021. This is something we can learn from other Counties as Seward is growing in population that might be used in the future. Ahmic stated that there is a regulation in Hamilton County that might be helpful. Hamilton County is smaller than Seward and has something in their regulations.

Section 10.06 Certificate of Zoning Compliance No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a certificate of zoning compliance stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Resolution. Within three days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a Certificate of Zoning Compliance if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Resolution, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. Discussion. This would be a step in the direction of growth. This is zoning compliance not occupancy. The motion

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was repeated. Medinger made a motion not to adopt a building inspection program. Pekarek seconded the motion. Roll call voting 6 for, 0 against and 3 absent not voting.

Delcamp asked to make a statement. Seward County is the only County that has a water conservation district and a regulation that has only 2 homes in a quarter section. Seward County creates its own problem and that is why we have so many people trying to skirt the density issue. Delcamp has run in to this before that somebody wants to sell their property as a buildable lot, and the neighbor pulls a permit to block them. Pekarek stated this conversation is about the water conservation district. Discussion. A water study was done before 2007 when the conservation area was developed. The Dakota aquifer does not replenish itself like the Ogallala aquifer. Chad Fritz spoke on the Dakota aquifer and a University of Nebraska Study that says the water table has rose from 2011 to 2021. Discussion on rural water and maintaining a rural atmosphere. Discussion. Eberspacher asked for a motion on occupancy. Pekarek stated that the board should have time to look this over. Daniel made a motion to table the certificate of Zoning. Medinger seconded the motion. Voice acclamation 5 for 1 against and 3 absent not voting.

Discussion on registering contractors will be on next month's agenda.

Item 9: Discussion/Action: Zoning Regulation updates. Ahmic brought forth a starting definition of a shouse. Shouse: A combination of a dwelling unit and a machine shed under a common or connecting roofing system. For purposes of a shouse, these structures when on a farm, agricultural, or acreage shall not be classified as a farm building. The residence portion of the facility shall meet the minimum housekeeping facilities for a single-family home. In addition, the shouse must meet the following standards:

- a. The entire structure shall have no less than 900 square feet of floor area, above grade, for single story construction.
- b. The shouse shall have no less than 600 square feet of finished living space to include a kitchen, bathroom, and a living/sleeping quarters. If the living space exceeds 600 square feet, the shouse is the Primary Residence.
- c. The shouse shall have no less than an 18-foot exterior width.
- d. The roof, unless covered by at least two feet of earth shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run.
- e. The shouse shall have a non-reflective roof material.
- f. The shouse shall be placed on a continuous permanent foundation(poured concrete or laid masonry with a footing of a

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minimum of 36 inches below the final ground level) and cannot have wheels, axels, transporting lights, or removeable towing apparatus attached. Allowable in A-1, TA-1, RR1.

Discussion. Eberspacher asked for a motion to approve the definition of a shouse. Niemann made a motion to table this item for further discussion until next month. Schuckebier seconded the motion. Voice acclamation voting 6 for, 0 against, and 3 absent not voting.

Item 10: Discussion and updates on final draft: Waiting for final updraft to be reviewed.

Item 11: Communication: Next Meeting date. **April 17th, 2023**

Item 12: Adjourn: Pekarek made a motion to adjourn. Medinger seconded the motion. Voice acclamation voting 6 for, 0 against, and 3 absent not voting to adjourn at 9:48 p.m.

Paulsen
3/24/2023