

DOUGLAS COUNTY PLANNING COMMISSION

3015 MENKE CIRCLE  
OMAHA, NE 68134

June 8, 2005  
6:00 p.m.

The meeting was called to order by Chairperson Hayes with roll call vote.

Members Present: Bob Bruhn, Bob Boozer, Michael Gerdes, Barbara Hayes, Anne Houlihan, Dave Lanoha, Joe Roberts and Milo Vacanti.

Members Absent: Luke Janke

Other County Officials and Staff Present: Barb Frohlich and Kent Holm (Douglas County Environmental Services), and Bernie Monbouquette (County Attorney's Office), and Dan Kutilek (Engineer's Office).

Chair Hayes welcomed Anne Houlihan as the new Planning Commissioner.

Motion by Commissioner Roberts, seconded by Commissioner Lanoha to approve minutes of the May 11<sup>th</sup>, 2005 meeting.

Voting Yes: Bruhn, Gerdes, Hayes Janke, Roberts Vacanti.

Voting No: None

Abstain: Boozer (not present at May meeting) & Anne Houlihan (not a member of Planning Commission at May meeting).

Election of Officers

Commissioner Boozer nominated Barbi Hayes for Chair, seconded by Commissioner Lanoha.

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Houlihan, Lanoha, Roberts, and Vacanti.

Voting No: None

Abstain: None

Chair Hayes nominated Dave Lanoha for Vice Chair, seconded by Commissioner Roberts.

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Houlihan, Lanoha, Roberts, and Vacanti.

Voting No: None.

Abstain: None.

**APPLICATION**

**G-7-05**

REQUEST: Adopt Douglas County Six Year Improvement Plan F.Y. 2006 to F.Y. 2011

APPLICANT: Tom Doyle, Douglas County Engineer

Dan Kutilek, Douglas County Engineer's Office, made the following comments representing Tom Doyle, Douglas County Engineer:

1. Annually, cities and counties throughout the State of Nebraska are required to submit a One in Six Year Improvement Plan.
2. It is an effort to organize capital improvements to be as efficient as possible and coordinate with other jurisdictions in Douglas County.
3. The one year plan, fiscal year 2006, is very aggressive with a total of \$45 million worth of projects.
4. A lot of the projects are due to western expansion of suburbs. About \$16 million of the \$45 million is being contributed by developers.
5. One of the larger projects is North 72<sup>nd</sup> Street from I-680 up to Highway 36. There have been problems with right-of-way purchases so the project will probably be let this fall or winter. We don't want to close roads down later and have them closed all winter because of the inconvenience it will create for people in this part of the County.
6. 144<sup>th</sup> Street is under construction right now between "F" and old "L" Street. It is the first Phase of 144<sup>th</sup> Street improvement which ultimately will go down to Stoneybrook Blvd. It is a very large project. The City of Omaha is responsible for the bulk of that project but the phase that is under construction right now is actually in Douglas County. It will be completed this year.
7. The following year the portion from Old "L" to "Q" Street will take place and the road will have to be closed next year during that phase of construction which will certainly cause some inconveniences to people.
8. 180<sup>th</sup> & Dodge Street is a very active area for commercial development. The State is working on the interchange. The State Department of Roads state the 180<sup>th</sup> & Dodge project will not be completed until June of 2006 next year.
9. Douglas County has projects both north and south of Dodge on 180<sup>th</sup> Street. The roads are being widened to a 4-lane urban type section to accommodate the traffic anticipated by those two new large commercial developments. We intend to have those road projects done this year if everything goes according to plan.
10. A large commercial development on 192<sup>nd</sup> & Center is driving the need for those improvements. We intend to start that project this August.
11. Douglas County is part of the Western Douglas County Trails project that was recently approved by a number of local jurisdictions. The Highway Bill has to be approved before the Federal money is available to start that project. The Highway Bill is still in committee and there is not a lot of hope that that's it is going to approved anytime soon so that job could be delayed.

12. The trail that will be constructed by the NRD from River Road, north of Ponca Road, up to Washington County line is also listed because Douglas County is involved in right-of-way issues but is not directly funding any of the project.
13. A number of traffic signals, seven or eight, are in the plan as an indication of the growth in western Douglas County.
14. The City of Omaha & Douglas County has entered into an arrangement to collect fees for an Arterial Street Improvement Program. Basically money is generated through building permit fees for homes and commercial business built outside the City of Omaha. A tax that could be levied through an SID's mechanism at a certain point to collect additional revenues. It is anticipated that this fund could collect as much as \$3½-\$4 million a year. This money would be earmarked for projects outside the city limits of Omaha and within the suburban growth area, all of which is in Douglas County.
15. The "Q" Street corridor and 156<sup>th</sup> Street corridor are the first corridors that we would use these monies for. We anticipate enough money to hire a consultant to start the design of the first mile on "Q" Street.
16. The City currently has plans to improve 156<sup>th</sup> to 168<sup>th</sup> Street in a couple of years. These large projects take a lot of time and require very large sums of money.
17. The plan attempts to keep up with the growth that we are having in Omaha and Douglas County. A study showed that our spending on the roads is at least \$15 million too little every year. We believe the program is a good as we try to keep up with growth and keep the public moving in the county.

Questions, Comments, and Discussion among Commissioners:

1. Commissioner Vacanti asked about the improvements on 192<sup>nd</sup> Street and Street? Mr. Kutilek responded that the improvements would be about ¼ mile to the north with the developer paying 80% of the cost and the County 20%.
2. Commissioner Vacanti asked what entrances would be on 192<sup>nd</sup> Street for the commercial development. Mr. Kutilek stated there would be a right in or right out entrance.
3. Commissioner Vacanti stated he would like to make a motion to lay over the application for 30 days in order to study the plan.
4. Commissioner Roberts pointed out that the plan is simply a guideline, changes can be made depending on circumstances that might arise.

Chair Hayes opened the public hearing. No one from the public spoke for or against the application. Chair Hayes closed the public hearing.

Chair Hayes asked for a second to Commissioner Vacanti's motion to lay over the application for thirty days. The motion failed for lack of a second.

Motion by Commission Lanoha to recommend approval, seconded by Commissioner Boozer.

Commissioner Lanoha suggested that in the future the plan be delivered to Planning Commissioners earlier. Ms. Frohlich stated that would be done in the future.

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Houlihan, Lanoha, Roberts.

Voting No. Vacanti.

Abstain. None

**APPLICATION**

**G-8-05**

REQUEST: Review and approval of proposed Valley zoning map

APPLICATION: Douglas County Planning & Zoning (Environmental Services)

Ms. Frohlich made the following comments regarding this application:

1. This proposed zoning map has been discussed with the City of Valley for several years.
2. The City of Valley brought staff a map to review that squares off their jurisdictional boundaries.
3. Staff reviewed the map and made several suggestions that have been incorporated into the map you have for review.
4. Staff believes it will be easier to determine which jurisdictions property is located in.
5. An interlocal agreement will accompany the map to the County Board.
6. Mr. Monbouquette will review the interlocal agreement before the application is presented to the County board.
7. The interlocal agreement can be reviewed by the Planning Commission at the July 13, 2005 meeting or Mr. Monbouquette can review it before it is submitted to the County Board.

Chair Hayes opened the public hearing. No one from the public spoke for or against the application. Chair Hayes closed the public hearing.

Questions, Comments, and Discussion among Commissioners:

Commissioner Roberts made the following comments:

1. As Ms. Frohlich stated, the County and City of Valley have been working on this for several years.
2. On your map, there is an area known as Sokol Camp and another area called Timber Lodge Lake. For several years there have been interlocal agreements on those areas because parts of each were in both jurisdictions. Douglas County was taking care of Sokol Camp and the City of Valley was taking care of Timber Lodge Lake.

3. The proposed map squares everything up and makes it less confusing for landowners to know what jurisdiction they are located in.

Motion by Commissioner Gerdes to recommend approval of the proposed map with the interlocal agreement to be approved by Mr. Monbouquette, seconded by Commissioner Roberts

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Houlihan, Lanoha, Roberts, and Vacanti.

Voting No. None

Abstain: None

## **APPLICATION**

**P-7-05**

**REQUEST:** Approval of preliminary and final plat for Annalena, Lot 1- 5.0 acres and Lot 2- 6.00 acres, zoning to remain AF-1.

**LEGAL:** Part of the SE ¼ of the SE ¼ of Section 10, Township 124 N, Range 10 E of the 6<sup>th</sup> P.M.

**LOCATION:** 22920 Harrison Street

**APPLICANT:** Scott Vala, 16585 Hascall Street, Omaha, NE 68154

Scott Vala, 16585 Hascall Street, Omaha, presented the application with the following comments:

1. We have an acreage that we want to divide it up into 2 lots.
2. We want to move the existing farmhouse to the other side of the acreage and build a new home approximate where the current farmhouse is located.

Ms. Frohlich commented that the proposed subdivision has several quirks. Mr. Vala is buying some property from the landowner to the east so their names are also on the final plat as signers. Also Mr. Vala did not know when he bought the property that there is a 50 foot easement along his entire property on Harrison Street that is owned by another person. As part of preparation for this subdivision application, we reviewed that easement to make sure it provided legal access so a building permit could be obtained. The County Engineer's office also had an issue with the right-of-way dedication on that 50 feet so the preliminary and final plats were revised to reflect that right-of-way dedication.

Chair Hayes opened the public hearing. No one from the public spoke for or against the application. Chair Hayes closed the public hearing.

Questions, Comments, and Discussion among Commissioners:

Commissioner Vacanti asked Mr. Vala if he had access for a new driveway on Harrison Street. Mr. Vala responded that there is currently one driveway but another driveway could be added in the future. It is planned to share the current driveway.

Mr. Vala added that one of the reasons they want to save the original farmhouse is that he was told by the Historical Society that it is the oldest registered house in Douglas County and was built in 1864. It has been updated and is in fantastic condition.

Motion by Commissioner Vacanti to recommend approval of the application, seconded by Commissioner Gerdes.

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Houlihan, Lanoha, Roberts and Vacanti.

Voting No: None

Abstain: None

**APPLICATION**

**C-5-05**

**REQUEST:** Conditional Use Permit for commercial hunting preserve including operation of a controlled shooting area for shooting upland game, gun dog training and field trials. (A complete list of requested conditions is available at the Douglas County Permits and Inspections.)

**LEGAL:** E ½ of the SE ¼ of Section 22, Township 16 N, Range 10 E of the 6<sup>th</sup> P.M.  
SW ¼ of Section 23, Township 16 N, Range 10 E of the 6<sup>th</sup> P.M.  
N ½ of NW ¼ of Section 26, Township 16 N, Range 10 E of the 6<sup>th</sup> P.M.  
SW ¼ of NW ¼ of Section 26, Township 16 N, Range 10 E. of the 6<sup>th</sup> P.M. less and except Whitetail Ridge.

**LOCATION:** 9191 North 225<sup>th</sup> Street

**APPLICANT:** Scott E. Bruhn Enterprises, Inc. d/b/a Pheasant Haven  
P.O. Box 650  
Elkhorn, NE 68022

Lee Hamman, 1601 Dodge Street, Omaha, made the following presentation on behalf of the applicant:

1. This application is for renewal of the conditional use permit for another five years.
2. No changes from the previous conditional use permit are being requested.

Chair Hayes opened the public hearing.

Sherry Leaders, 22310 Edgewater Rd., Elkhorn, NE spoke in favor of the application by stating that her property borders Pheasant Haven and they have been good neighbors. We have had no problems and the borders are very well maintained.

Brad Underwood, 8605 N. 225<sup>th</sup> St., Elkhorn, NE, stated he is a newcomer to the area and spoke in favor of the application. Further stated that Mr. Bruhn has been very responsive to any concerns and he would like to see Pheasant Haven continue.

Nancy Armburst, 8902 N. 216<sup>th</sup> St., Elkhorn, NE, also spoke in favor of the application stating their property borders Pheasant Haven on the east and that they have not had any problems in the last five years.

Chair Hayes closed the public hearing.

Motion by Commissioner Vacanti to recommend approval of the application with the same conditions as before, seconded by Commissioner Boozer.

Commissioner Roberts asked if there have been any violations or complaints during the last five years. Ms. Frohlich stated there had been no complaints and a yearly unannounced visit is made to the property to inspect boundary markers and general overview of the property.

Voting Yes: Boozer, Gerdes, Hayes, Houlihan, Lanoha, Roberts, and Vacanti.

Voting No: None.

Abstain: Bruhn.

## **APPLICATION**

## **G-9-05**

**REQUEST:** Revoke conditional use permit for sand and gravel operation, David Iske, 24617 W. Center Road, Waterloo, NE 68069 approved by Douglas County Board of Commissioners on November 16, 2004

**LEGAL:** NE ¼ NW ¼ of Section 33, Township 15 N, Range 10 E of the 6<sup>th</sup> P.M.

**LOCATION:** 24617 W. Center Road

**APPLICANT:** Douglas County Planning & Zoning (Environmental Services)

Ms. Frohlich stated that she outlined the history of inspections on the property in the staff report and visited the site on June 7, 2005 and showed pictures of the property to

Commissioners (pictures shown to Commissioners are attached to the minutes). She also stated that one of the conditions of the Conditional Use Permit granted to Mr. Iske was that everything be removed from the property except what was related to the sand and gravel operation. Mr. Iske was not given a specific date but we have been working with him and no significant progress has been made so the issue was placed on tonight's agenda.

Chair Hayes asked Mr. Iske to comments and he made the following comments:

1. Stated he would like to review the pictures and describe what items are.
2. Stated that he had constructed temporary storage for personal items like snowmobiles and cars until he can construct a permanent building.
3. Has been working on the property for the last three weeks.
4. Has pictures of the mining equipment on the property.

Chair Hayes opened the public hearing.

Sam Murante, 2411 "O" Street, Omaha, NE made the following comments:

1. He is a real estate developer in Omaha.
2. A mutual friend asked him if he would allow Mr. Iske to store some materials on his industrial zoned property in Omaha and he has agreed to help with storage space and also funding for Mr. Iske to have time to remove items from the property.
3. He has explained the regulations and possible consequence of violations to Mr. Iske.

Chair Hayes closed the public hearing.

Questions, Comments, and Discussion among Commissioners:

1. Commissioner Vacanti said he would make a motion to lay over the request in order to give him time for compliance.
2. Commissioner Boozer questioned if 30 days would be enough time. Mr. Iske responded that 60 days would be better.
3. Commissioner Lanoha asked what he does with old cement trucks. Mr. Iske stated that he takes off the hopper and installs dump boxes.
4. Commissioner Gerdes asked if he had sold any concrete last year. Mr. Iske stated that he had not but was planning to use concrete on his shop, proposed house, and driveway. He also estimated that he would save \$20,000 by having the trucks available on site.
5. Commissioner Lanoha asked if the trucks were viable. Mr. Iske asked if could point out some of the items in the pictures.
6. Commissioner Boozer pointed out that Mr. Iske was about ready to get his extension and didn't think he needed to point anything out.
7. Ms. Frohlich suggested that Mr. Iske be given 60 days (until the August 19, 2005 meeting) because of the amount of items on the property.

8. Commissioner Lanoha asked if he would have to get a building permit for a storage building. Ms. Frohlich stated he would need to have an elevation certificate and development permit because the property is located in the floodplain.
9. Chair Hayes asked Mr. Iske if he understood what need to be removed. Commissioner Roberts asked if Ms. Frohlich could make that determination. Ms. Frohlich stated she believed there would be some argument on what should be removed. Some of the equipment that he says is to be used to build a storage building has been there for 4 ½ years. That is a long time to have stuff sitting out that you might use someday. Commissioner Gerdes has been to the site so she asked if he agreed with that concern. Commissioner Gerdes stated that he agreed.
10. Mr. Iske asked that someone inspect the property that is familiar with equipment for a sand and gravel operation. Ms. Frohlich suggested that Commissioner Gerdes accompany Ms. Frohlich and building inspector, Jim Secord. Commissioner Gerdes agreed.

Commissioner Vacanti made a motion to layover the application until the August 10, 2005 meeting and that Ms. Frohlich and Commissioner Gerdes will decide what is to remain and what is to be removed, seconded by Commissioner Roberts.

Ms. Frohlich stated she would make an appointment with Mr. Iske for an inspection.

Commissioner Bruhn asked when the Conditional Use Permit was to expire. Ms. Frohlich stated the conditional user permit was granted in November, 2004 and the term is for three years.

Voting Yes: Boozer, Gerdes, Hayes, Houlihan, Lanoha, Roberts, and Vacanti.

Voting No: Bruhn.

Abstain: None

Chair Hayes emphasized to Mr. Iske that this is the last time the Planning Commission is going to want to deal with this issue. Commissioner Lanoha stated that for 12 to 15 years he had never seen a reoccurring problem like this.

Mr. Iske asked if he could reapply for another Conditional Use Permit in three years. Ms. Frohlich pointed out that he does not have three years to clean up the property. Commissioner Lanoha emphasized that once it is cleaned up, it has to stay that way, it can't be back to this state again in six months.

## **APPLICATION**

## **G-10-05**

REQUEST: Review and adoption of By-laws

APPLICANT: Douglas County Planning & Zoning (Environmental Services)

Ms. Frohlich stated a copy of the By-Laws with suggested changes was sent to Commissioners for review. The major suggested change is the elimination of the position of Secretary. The other change is to officially say there will be no meeting in December.

Chair Hayes commented that typically there is not a meeting in December but it has not officially been in the By-laws. She also expressed concern that if that language is added to the By-Laws then if an application needs to be heard, it couldn't.

Commissioner Roberts suggested that a special meeting could be called.

Commissioner Lanoha suggested that the language be left as it is for flexibility.

Mr. Monbouquette made the following comments regarding the By-Laws:

1. Stated he was thinking about commenting on conflicts of interest but didn't think it needed to be included in the By-laws.
2. He reviewed the Nebraska State Planning Handbook and recommended it to Commissioners for review.
3. Recommended to Commissioners that if they feel that they have conflicted interests such as you are a landowner who land is going to be affected by whatever action is taken by the Planning Commission or if you are part of an ownership group whose land is being affected, it would be prudent for you to announce that as soon as the application is brought before the Commission rather than at the end.
4. Also recommended that instead of saying "abstain" at the time of voting, declare "I have a conflict of interest and I will not be participating. I will not be on the Commission when the discussion is going on and I will not be voting."
5. Some Boards actually require that you leave your chair and sit in the audience but he doesn't believe that is totally necessary.
6. Also stated that the State Planning Handbook mentions that even if the applicant is one of your best friends or a neighbor that might not be enough of a reason for you to actually not participate because you really don't have a conflicted interest. It might be better to say "I would like to state on the record that \_\_\_\_\_ is my neighbor but I still plan to
7. vote on this application."
8. The State Planning Handbook states that if someone doesn't vote on an application because of a friendship, you might only delay action because of the inability to maintain a quorum.

Ms. Frohlich asked Mr. Monbouquette to clarify if a quorum is five people or five people voting?

Mr. Monbouquette stated that five people are required to have a meeting and that for voting purposes you need a majority of the people who are voting for approval.

Ms. Frohlich suggested that language in the By-Laws should not include "and voting".

Chair Hayes opened the public hearing. No one from the public spoke for or against the application. Chair Hayes closed the public hearing.

Motion by Commissioner Boozer to approve the By-Laws with the following changes: elimination of the Secretary position and deleting the “and voting” language in Article IV, Section 3, seconded by Commissioner Vacanti.

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Houlihan, Lanoha, Roberts, and Vacanti.  
Voting No: None  
Abstain: None

**APPLICATION      G-11-05**

**REQUEST:** Adopt 2005 National Electrical Code as adopted by the State of Nebraska (4-25-05)

**APPLICANT:** Douglas County Planning & Zoning (Environmental Services)

Ms. Frohlich stated after the State of Nebraska adopts a new electrical code, Douglas County adopts the same code

Chair Hayes opened the public hearing. No one from the public spoke for or against the application. Chair Hayes closed the public hearing.

Questions, Comments, and Discussion among Commissioners:

1. Commissioner Vacanti asked if this code complied with City of Omaha electrical code. Ms. Frohlich stated the City of Omaha adopts the code that the State adopts.
2. Commissioner Vacanti asked if electricians have to be licensed. Ms. Frohlich stated electricians are checked for licenses when building permit applications are submitted.

Motion to Commission Boozer to recommend approval, seconded by Commissioner Lanoha.

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Houlihan, Lanoha, Roberts and Vacanti.  
Voting No: None.  
Abstain: None.

5. Discussion - Comprehensive Plan Update

Mr. Holm made the following comments regarding the Comprehensive Plan Update:

1. The initial committee meeting was held today. The schedule was reviewed and some issues were discussed.
2. A public meeting will be held on July 7 at the Valley City offices.

Ms. Frohlich stated the July 7, 2005 meeting will be advertised in the Post Gazette and also the Post Gazette will do an article on the Comprehensive Plan Update process.

6. Announcements

Ms. Frohlich stated an application for a wireless telecommunications facility would be on next month's agenda.

Meeting adjourned at 7:00 p.m.

Minutes approved July 13, 2005.