

Minutes  
May 09, 2022  
Planning Commission Meeting

The agenda for this meeting was posted in the legal paper of record, the Plattsmouth Journal, on April 28, 2022. Planning Commission Members Althouse, Tesar, Staben, Mueller, Dennis, Felthousen, Sullivan and Widick met as advertised. Oehlerking was not present.

The Chairman, Alan Mueller, opened the public meeting at 7 pm & stated that the open meetings act is posted on the wall. Staben made a motion to approve the April 11, 2022 minutes as read. Seconded by Felthousen. A voice vote followed with all present voting aye.

Mueller then stated that the first item on the agenda is the introduction of L. Javier Hernandez, President and CEO for OPPD. L. Javier Hernandez came up to speak. Hernandez stated that he has been in this position since July 2021. He spoke of his prior positions before he became President and CEO for OPPD. The intent of the meetings is to build a strong partnership between OPPD and the community they serve. He provided a brief update on their strategic initiatives. One of those initiatives is Power with Purpose which is a short-term plan that is part of a much larger "Powering the Future 2016" from which OPPD strives to continue delivering reliable and affordable energy services and the achieve Net Zero carbon emissions by 2023. Power with Purpose's goal is to establish a diverse power portfolio for the next 5 years or so by acquiring 600 megawatts of utility-scale solar generation and 600 megawatts of modern natural gas fire generation. OPPD is currently in the process of building two natural fire energy balancing plants – one in Sarpy County – Turtle Creek Station – which is a 450 megawatt system, and one in the City of Omaha which is a 150 megawatt facility. These are quick firing engines that enable quick start up of these plants. They have also contracted for 81 megawatts of generated power in Eastern Saunders County. Hernandez stated that our Cass County Balancing generation station is a critical asset – it's about 340 megawatt total of power generation. It provided power during the most critical times – like the 2019 flood and the 2021 winter storm. There are about 150,000 people whose lives depend on power being generated. Hospitals, water treatment facilities, public safety, schools - as our assets age and some of them come to the end of life, it is imperative that we plan ahead to invest in our asset base to continue powering the lives of customer owners for many years to come. Solar energy plays a key part in our Power with Purpose strategy. The cost of new utility scale solar – even without the benefits of tax credits – is cheaper than the cost of building new coal fire generation. The capital cost of building a new coal facility is estimated to be up to 5 times more expensive than the capital cost of constructing a new solar facility. We rely on coal fire generation as well as natural gas generation. It is, however, important that we diversify into other resources. His goal is to work with all public officials in a long term partnership to identify opportunities and concerns together – to collaborate and implement mutually beneficial solutions to secure affordable and reliable and resilient and environmentally friendly Power Purpose parameters. His team has kept him apprised of the recent solar energy project near Murray. He wanted to make it clear that OPPD is not affiliated with that project but they know that partners like these have considerable value to local communities. He stated that they would be interested in many other projects and other developers that will come into not only Cass County but many other resource service areas. He stated that he would make his team available as we continue to work through what solar land use regulations should look like and to provide research and answers to help guide your journey to what is right for Cass County. In closing, Hernandez reiterated that OPPD is a long-term partner – they have been here for 75 years and plan on being here for a real long time to continue to serve our community. Their goal is to insure that every time you need heat or air conditioning, that you are receiving the most reliable, affordable power that they can provide for generations to come. At this point, Hernandez asked if there were any questions. Mueller asked how quick the Turtle Creek station starts up. Hernandez stated that it can be started up within 10 minutes – and the Omaha Plant can be started up in 5 minutes. He also stated that the coal facility in Nebraska City takes up to 12 hours to start up and another 12 hours to get it to full capacity. Mueller asked how much of the electricity they produce do they sell on the grid? Hernandez stated that it depends on the time of day. Market sales are about \$130,000,000 per year. Mueller asked if it was fair to say that as our local demand expands, will we have to increase production or will rates have to go up? Hernandez stated that our communities grow and our demand for electric grows, the additional demand has to be met with resources. The natural gas facilities and the addition of solar generation will help meet those demands. Widick asked what keeps Net Metering from being a more competitive option. Hernandez stated that the first thing that comes to mind is our low rates. Their rates are pretty competitive and about 16% lower than the national average. Staben asked if OPPD's solar is online yet. The smaller one in Fort Calhoun is but it is contracted through a developer. The Eastern Saunders County one is not online yet. Sullivan asked if the North Omaha plant was coal and natural gas. Hernandez stated there were 5 units in the plant. Units 1, 2 and 3 were built in the early 1950's and run off of coal. They are approaching 75 years of life. The OPPD board a number of years ago decided to stop running those units on coal but

can run on gas. They still operate and can be run every now and then on gas. They are only ran when needed now. Units 4 and 5 operate now on coal. Since they have limited gas availability, they plan to retire units 1, 2 and 3 when it's safe to do so. Felthousen asked what they are seeing the other utility companies doing. Hernandez stated that they are moving in the same direction and looking to expand their generation capabilities. He also stated that OPPD is the envy of many utilities across the country because – in addition to pursuing solar energy – they are building two new natural gas peaking stations. He stated that this is not happening anywhere else in this country. Nobody is building new coal plants because of the exorbitant cost to build them. Jensen asked about the large reliance on wind in Texas. Hernandez explained that with the unusually cold snap last year, the planners were relying on coal, nuclear and natural gas. It got so cold that the water needed to cool the coal generators froze – and once they froze, it takes 24 hours to bring them back online. There wasn't enough natural gas to run them because the wellheads froze. The wind wasn't strong enough to depend on. This is why they are adding different sources of energy be it wind, solar or battery. Mueller stated that OPPD historically made "in lieu of taxes" payments – which he believed they aren't required to do but have chosen to do so. Hernandez stated that they are required to do so.

The next item on the agenda is the regulations corrections and updates with Jeff Ray of JEO Consulting. Ray came up and with a summary of revisions – these are items that came up during the initial adoption of regulations in August 2021 and additional adoptions that came up that were confusing or didn't come across the way they were intended to during the adoption. These items are:

- Page 10 – Add Brew Pub and Brewery to definitions as a potential use.
- Page 32 – changed self-service storage to Storage, self-service.
- Page 33 – add short term rental. Mueller asked about limiting the number of guests in the short term rentals as the parties were an issue. Ray suggested it was limited by the number of beds but it is challenging because of get-togethers where guests are invited. A certain number of occupants could be helpful. Tesar stated that in the lake communities, this is problematic as they guest are under the misconception that they have access to the lakes – which is only granted to the property owner. He doesn't want to encourage problems by allowing these in the lake communities. By the time they realize this is going on, the people are gone. Althouse stated that these should be allowed in the AG areas – not TA. Beaver Lake does not have a problem with this because they are private. HOA restrict these in their covenants. Jensen stated that – traditionally – these are not regulated.
- Page 36 – revise indoor and outdoor storage facility.
- Page 37 – delete storage unit.
- Page 48 – delete MUD as Overlay and add to CUP in 7.06. These should be designated as to what the uses are going to be on each individual lot. The paperwork for this was never really there. They decided to remove it from the overlay district and make an MUD as a Conditional Use permit.
- Page 50 – delete MUD.
- Page 51 – add "C"s for MUD. This allows for flexibility in the different districts for restaurants, marinas, apartments, etc. Tesar wants to see corrections made in the GIS to match what they should have been. Jensen stated that we would have to verify the zoning and have the GIS update it. Tesar has the maps to show what they originally were.
- Page 52 – add short term rental cabins, indoor storage, winery and brew pubs. Tesar asked if the Fire Marshall has anything to do with the short term rentals. Jensen stated with AIRBNB's they do not because they are considered a house. Ray also stated that the brew pubs and wine tasting rooms would be part of the growing of the hops and grapes. Althouse asked if they were allowed in the TA or AG districts and whether they should be added in there.
- Page 53 – add outdoor storage, and several other items that can be added as "C"s for MUDs. Tesar stated that this is not in AG – and it has always been in AG. Jensen stated he was under the impression that they were going to take this out of AG. Ray stated that it was removed in August. Storage units will be allowed in TA. Jensen stated that he thought the intention was to keep them near hard-surfaced roads.
- Page 54 – several items can be added as "C"s for MUD.
- Page 57 – Ray stated - in AG - we changed the minimum lots size to 20 acres instead of 40 acres. Due to State statute, we have no control beyond 20 acres; therefore, we would be unable to enforce this. Subdivision over 20 acres do not have to come through our office. Add Footnote 7 - In TA, if you have community water, community sewer and are within ½ mile of a hard surface road, you can have a lot as small as 1 acre. If these three criteria can't be met, then lot size has to be 3 acres. Deed restrictions would be done on the remaining acres. Deed restriction language needs changed to reflect number of lots, not residences.

- Page 59 – Add deed restriction language here also. Change residences to lots. Delete Compatible Land Use Categories (and in all other District sections). Standards for LFO's were moved to the Standards section 8.23.
- Page 59 – add residential limit.
- Page 62 – instead of enclosed storage, changed to indoor and outdoor storage. Add in definitions.
- Page 65 – Compatible Use categories removed. Deed restrictions, lots. Conditional Use Permits - referencing article 7, Conditional Use Permits, Article 8, standards.
- Page 69 – limit residential added MUD. Conditional Use Permits - referencing article 7, Conditional Use Permits, Article 8, standards. Ray stated that residence density max not less than 20 acres are limited to two residence per quarter section. Tesar stated that if person 1 owns 20 acres in a quarter-quarter (40 acres), and person 2 owns 20 acres in a quarter-quarter (40 acres), side by side, if you're saying two residences – if person 2 separates out 3 acres and builds a house and then sells the other lot to someone else to build a house, does that mean that person 1 can't build on his lot? Ray stated potentially, yes. Tesar stated that he doesn't think we can do that – we can't make it "first come, first serve". Jensen stated that this is why the language is so important because he believes if we have an established lot, we have to allow someone to build a house on it. Jensen stated that the intention is to not restrict a house being built on the remaining acres, but to keep it from being split again. He stated with it being in the Recreational Agricultural district, he believes it is 100% justifiable to put a deed restriction on the remaining acres because it is RA and they are trying to preserve it.
- Page 125 – add 7.07 Mixed Use Standards.
- Page 131- Section 8.07 under Campgrounds, add comfort station waiver for the campgrounds that have full sanitary hook-ups. Tesar asked if they were referring to the portable toters? Jensen stated that these were for the campgrounds that have full sanitary hook-ups.
- Page 132 – delete phone requirement.
- Page 133 – replace with previous zoning regulations for Wireless Communications from prior regulations before the August strike-out. Discussion followed about 5G being placed in public right-of-ways and being considered a utility.
- Page 179 – delete Article 9 Performance Standards.

Since Ray had nothing else, Mueller stated that since there were still items that needed discussed, he felt this should be tabled until the next meeting. Mueller asked how quickly they could get the changes back. Ray stated that he would talk to Colin Palm and hopefully have something back to them by the end of next week – around May 20<sup>th</sup>. Mueller then asked if there was any more discussion. A gentleman in the audience asked to speak on OPPD. The board decided to let him speak. David Begley, a lawyer from Omaha, stated that he was against solar. He stated that the solar data was flawed and inadequate and based solely on predictions. He claims Cass County would end up being a dumping yard for all the obsolete equipment. He claims that Net Carbon Zero is a giant money spending scheme. He suggests we look at this real hard when it comes up again. One more person came up to speak and stated that one item in the regulations needed fixed – to separate your commercial solar from your neighborhood solar. Then put it appropriately in the correct columns for Conditional Use permits. Mueller than asked for any more comments. Since there was none, he asked for a motion to adjourn. Tesar made a motion to adjourn, seconded by Widick. A voice vote followed with all voting aye. Meeting adjourned at 8:45 pm.

Linda Brouhard  
Recording Secretary

\*These minutes will not be approved until the next Planning Commission Meeting and are subject to change.