

MINUTES  
JOINT PUBLIC HEARING  
2040 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
CITY OF LINCOLN CITY COUNCIL  
TUESDAY, OCTOBER 18, 2011 AT 5:00 P.M.  
555 S. 10<sup>TH</sup> STREET, LINCOLN, NE

LANCASTER COUNTY COMMISSIONERS

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

CITY OF LINCOLN CITY COUNCIL MEMBERS

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

OTHERS PRESENT

Dan Nolte, County Clerk; Joan E. Ross, City Clerk; Cori Beattie, Deputy County Clerk; Kerry Eagan, County Chief Administrative Officer; Gwen Thorpe, Deputy Chief Administrative Officer; Rod Confer, City Attorney; Brittany Behrens, Deputy County Attorney; Marvin Krout, Planning Director; Nicole Fleck-Tooze, Long Range Planning Manager; Sara Hartzell, Planning Department.

CALL TO ORDER

The Joint Meeting of the Lancaster County Board and the Lincoln City Council was convened at 5:01 p.m.

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

Lincoln City Council Chair Eugene Carroll made introductions and called the Lincoln City Council Members to order.

ELECTION OF JOINT BODY CHAIR

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

OPENING STATEMENT

Chair Deb Schorr made brief introductory remarks regarding the Public Hearing procedures & protocol and announced the location of the Nebraska Open Meetings Act. She clarified the County Board would not be taking action on amendments 5B (build-through), 6B (20-acre rule) and 7 (Bennet corner) on October 25 and asked City-County Planning Director, Marvin Krout to comment further on these issues prior to public testimony.

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

PUBLIC TESTIMONY AND VOTING SESSION

Marvin Krout, Director of Planning, gave a brief overview of the 156-month Comprehensive Plan review process. He explained the County Board is scheduled to take action on October 25 and the City Council on October 31, 2011. Krout noted four non-controversial amendments have been submitted for consideration as part of the Plan approval process. Proposed Amendment #2 is solely within the City's jurisdiction and addresses street trees. The remaining three amendments are within both the City's and County's jurisdiction. Proposed Amendment #1 removes the financial and project prioritization details from the Transportation chapter; Proposed Amendment #3 strikes four new references to "highly productive farmland"; and Proposed Amendment #4 is a technical correction which strikes a reference to all proposals for new acreage development being considered at one time as part of the annual review. Krout said the County Board has proposed that three other items within their jurisdiction be considered as amendments to the Plan. These include removing the "20-acre rule" (one unit per 20 acres density); "build through requirements" (pre-planning County development to more easily accommodate future City expansion); and the "Bennet corner" (changing the land use designation to commercial and/or industrial on approximately 300 acres on the north side of Highway 2 between 148th to 162nd Street). Krout explained the County Attorney recommended that these issues first be reviewed by the Planning Commission prior to any County Board action. He expected the Planning Commission public hearing to be on December 14, 2011 and County Board action some time in January, 2012.

Chair Schorr entered a memo into the record dated October 12, 2011, from Marvin Krout to the County Board which outlined the time frame for the future hearings on the three new County amendments (Exhibit A).

Council Member Camp mentioned previous discussions surrounding the actual legality of the Comprehensive Plan and the idea that it is more of a guideline or planning tool. He asked Krout to provide his interpretation to minimize any future misunderstanding. Krout said the Plan is a policy document which provides guidance. When considering certain planning issues, State Statutes require review by the Planning Commission and reference that local governments should weigh their Comprehensive Plan, along with other considerations, every time a decision is made.

Commissioner Hudkins noted that even if the County Board changed the land use designation at the Bennet corner, there would still need to be a change of zone before anything could be constructed. With regard to changing the 20-acre rule, Hudkins added the County Board has not made any specific recommendations at this time. Krout agreed that a change in the Comprehensive Plan does not automatically change the County's zoning resolution.

Commissioner Smoyer recommended that verbiage be included in the Comprehensive Plan to clarify its intent. Krout said this is a good idea and such language may already be included.

Dr. Bryan Van Deun, 8940 S. 28<sup>th</sup> St., appeared and said he is concerned with the term "sustainability" and introductory comments in the Plan supporting this concept. He referenced the City of Lincoln's membership to the International Council on Local Environmental Initiatives (ICLEI) and distributed a handout from the Democrats Against United Nations (U.N.) Agenda 21 web site (Exhibit B). Dr. Van Deun said the article implies that sustainable development and Agenda 21 call for governments to take control of all land use and not leave any decision making in the hands of private property owners. He voiced his opposition to such language in the Plan.

Kyle Fischer, 1135 M St., appeared on behalf of the Lincoln Chamber of Commerce and asked elected officials to keep in mind that the only way to continue providing services and growing jobs is by growing the tax base. He said the Chamber, its members and Board, support the Plan. With regard to the three County amendments (20-acre rule, build-through and Bennet corner), Fischer said the Chamber remains neutral at this point. He added if residents and businesses are truly being lost to other counties, then these issues need to be addressed.

Harry Muhlbach, 14305 N. 56<sup>th</sup> St., appeared to address the 20-acre rule. He distributed a copy of his comments for the record (Exhibit C). Muhlbach said the 20-acre rule has not really worked, in his opinion. Larger pieces of land have been taken out of production, youth have lost agricultural learning opportunities and prices have increased

dramatically making it too expensive for most families to live in rural areas. Muhlbach felt a past study indicating the increased cost to taxpayers for maintaining county roads is flawed. Additionally, he pointed out that not all landowners want to sell their property but should be allowed to do so in smaller quantities. In response to Commissioner Raybould's inquiry regarding the study's flaws, Muhlbach said it was performed in only a generalized area.

Mike DeKalb, 6015 Huntington, appeared and provided copies of his comments and a map (Exhibit D). He gave an overview of his 40 years of planning and zoning experience in Lancaster County. He urged support of the Comprehensive Plan as proposed. With regard to the three County amendments, he said the County has always maintained a good working relationship with its neighbors and encouraged the Board to consider the Village of Bennet's desires and to work with them on future development along Highway 2. DeKalb noted the build-through County language "to consider" is to address basins. Lastly, he pointed out many of the surrounding counties have matched or exceeded Lancaster County's 20-acre rule and current agricultural zoning allows property owners to do a variety of things.

Commissioner Raybould said she heard comments that Lancaster County is losing residents to neighboring counties, although they appear to have the same or larger density requirements. Additionally, according to the 2010 Census, Lancaster County ranked in the top three in the State in population growth. In response to Raybould's inquiry, DeKalb said during his tenure in the Planning Department he did not receive a lot of calls with regard to reducing the 20-acre size. The majority of questions dealt with land use options. DeKalb added once property owners understood why the rule was in place, they thought it was a good thing.

Joanne Elliott, 7632 Phares Dr., appeared and distributed information on sustainable development and Agenda 21 (Exhibit E) and ICLEI-Canada (Exhibit F). She was concerned with the Comprehensive Plan's emphasis on walking and biking provisions and felt the City already had adequate trails.

Peter Katt, 1248 O St., appeared on behalf of the Realtors Association of Lincoln. He noted a letter was previously sent to elected officials regarding Amendments 5B and 6B stating that the Realtors support the efforts of the County Board to revisit these issues and would be willing to assist with the review process.

William Collins, 1419 N. 59<sup>th</sup> St., appeared and distributed information from the ICLEI web site (Exhibit G). He questioned if officials really want Lincoln to be a cookie cutter city designed by U.N. policies.

Jan Gauger, 1404 N. 40<sup>th</sup> St., appeared on behalf of herself and former County Commissioners Joe Edwards, Kathy Campbell, Marcia Malone, Bob Workman and Ray Stevens. She provided a copy of her remarks for the record (Exhibit H). With regard to rural density, Gauger said the 20-acre rule has served Lancaster County well for the last 32 years, providing both the opportunity for rural development and managed growth. She noted these former Commissioners are pleased that the draft 2040 Plan retains the 32 dwellings per square mile language and urged its adoption. Commissioner Hudkins inquired how Lancaster County can compete with surrounding counties while retaining this density. Gauger indicated there are many existing lots available and those buying 20 acres could subdivide.

Dave Nielsen, 7100 Raymond Rd., appeared and voiced his concern with proposed changes to the 20-acre rule. He discussed acreage impacts to schools, road maintenance and agricultural opportunities and distributed copies of information related to the cost of community services (Exhibit I). He stressed the need to look at the factors impacting Lancaster County's future farmers and to not make decisions based on personal gain.

Jack Nebelsick, 6040 Old Farm Rd., appeared and thanked officials for their public service. He distributed information from the ICLEI web site (Exhibit J) and voiced his concern about maintaining citizenship and sovereignty.

Sharon Ellermeier, 1801 E St. #1, appeared and voiced her concern with sustainable development and the U.N.'s Agenda 21.

Wayne Smith, 6345 S. 35<sup>th</sup> Ct., appeared and said after noticing the Comprehensive Plan includes language on global warming and climate change, he feels local officials are pushing a renewable energy agenda. He requested these references be removed from the Plan.

Wayne Nielsen, 14000 N. 70<sup>th</sup> St., came forward and said he is concerned with proposed changes to the 20-acre rule. He felt it has served the City and County well over the years. He added the demand for acreage development has inflated the price of farmland, thus, compromising the future of agriculture. Mr. Nielsen provided a copy of his remarks for the record (Exhibit K).

Shawn Ryba, 4411 N. Park Blvd., appeared and voiced his general support of the Comprehensive Plan with the exception of sidewalks. He displayed a chart he received from the Planning Department which showed a funding breakdown of various long range transportation plan items (Exhibit L) and encouraged the City to increase sidewalk funding and to make maintenance a top priority. Ryba said he heard there is currently a 10-year backlog on sidewalk repair. Council Member Camp asked Mr. Ryba to forward his information on the sidewalk backlog to the Council as he heard different figures.

Rosina Paolini, 1850 Dakota St., came forward in support of the Comprehensive Plan. She specifically appreciated how it addressed the future and promoted bicycling and walking as healthy activities.

Nancy Russell, 3710 F St., appeared and voiced her concerns about ICLEI and global warming. She said she was also uncomfortable hearing that Bennet is not on board with the County's proposed amendment. She distributed an American Alert handout (Exhibit M).

Art Althouse, 8650 N. 134<sup>th</sup> St., Waverly, appeared in opposition to changing the 20-acre rule. He felt additional housing development should be primarily in cities and small towns. In response to Commissioner Heier's inquiry regarding the 20-acre rule, Althouse said he heard there may be possible reductions in acreage size. Heier stated the County Board has said nothing about any changes in the sizes of acreages. Althouse reiterated that if there is an effort to reduce the size, he would be opposed.

Merle Jahde, 3600 NW 126<sup>th</sup> St., appeared in support of Amendments 5B and 6B. He felt the build-through standards serve a purpose in the City's jurisdiction but not the County's. With regard to the 20-acre rule, he said if language is not included in the Comprehensive Plan it is often thought of as not being approvable. Jahde thought reviewing this density requirement would be a welcome change and offer some flexibility in areas where acreages would be better suited than using up larger quantities of farmland.

Faith White, 4940 S. 48<sup>th</sup> St., appeared and discussed the repeal of Florida's Smart Growth Law as it was driving up the pricing of housing and hurting business. She distributed information on this law (Exhibit N) and felt similar references in the Comprehensive Plan should be re-examined.

Jerry Fletcher, 5330 S. 67<sup>th</sup> St., appeared in support of commercial development at the Bennet corner but not industrial. He encouraged further study of this area. He also did not support the 20-acre rule as it takes too much farmland out of production.

Mary Reeves, 3236 Dudley St., appeared in support of increased sidewalk maintenance. She suggested property owners help fund repairs on a pro-rated basis if they have the ability.

Larry Evermann, 2636 S. 13<sup>th</sup> St., appeared in support of additional sidewalk funding and discussed his experience with a sidewalk repair on his property. He encouraged officials not to lose sight of deteriorating infrastructure and hoped additional funding for sidewalks could be allocated.

Charlotte Ralston, 12105 W. O St., appeared and voiced her concern with the cost to obtain a copy of the Comprehensive Plan (\$40) and suggested future copies be printed in black and white and made available to the public for free. She felt there was an underlying assumption in the Plan that government can make better decisions than private citizens. With regard to green space, she wondered if area landowners realized this was included and questioned how it would be acquired and funded. She challenged elected officials to consider how the Plan impacts individuals and their property rights. She also asked that more limitations be placed on the Plan's scope.

Chair asked if anyone else wished to testify on the Comprehensive Plan (LPlan 2040). Seeing no one, Chair Schorr closed the public hearing.

**CALL TO ADJOURNMENT**

County Chair Deb Schorr, as Joint Body Chair, closed the public hearing.

HEIER Moved to adjourn the Joint City/County meeting of October 18, 2011.  
Seconded by Hudkins & carried by the following County Commissioners vote:  
AYES: Heier, Hudkins, Raybould, Schorr, Smoyer; NAYS: None.

CAMP Moved to adjourn the Joint City/County meeting of October 18, 2011.  
Seconded by Eskridge & carried by the following City Council vote: AYES:  
Camp, Carroll, Emery, Eskridge, Schimek; NAYS: None; ABSENT: Cook, Hornung.

**ADJOURNMENT**

The Joint City/County meeting adjourned at 6:47 p.m.

Prepared by:  
Cori Beattie, Deputy County Clerk

---

Joan E. Ross, City Clerk

