

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, June 11, 2014, 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: Cathy Beecham, Michael Cornelius, Tracy Corr, Maja V. Harris, Chris Hove, Jeanelle Lust, Dennis Scheer, Lynn Sunderman and Ken Weber; Marvin Krout, Steve Henrichsen, David Cary, Brian Will, Tom Cajka, Brandon Garrett, Sara Hartzell, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission meeting

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

Lust requested a motion approving the minutes for the regular meeting held May 28, 2014. Harris moved approval, as amended, seconded by Scheer and carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

June 11, 2014

Members present: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, Sunderman and Weber.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 14012, SPECIAL PERMIT NO. 14013 and WAIVER NO. 14006.**

There were no ex parte communications disclosed.

The clerk announced that **Item No. 1.2, Special Permit No. 14013**, had been withdrawn by the applicant. **Item No. 1.1, Comprehensive Plan Conformance No. 14012**, was removed from the Consent Agenda and scheduled for separate public hearing.

Cornelius moved approval of the remaining Consent Agenda, seconded by Hove and carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'.

Note: This is final action on Waiver No. 14006, unless appealed to the City Council within 14 days.

COMPREHENSIVE PLAN CONFORMANCE NO. 14012,
AMENDING THE PUBLIC WORKS & UTILITIES,
WATER SUPPLY AND DISTRIBUTION
CAPITAL IMPROVEMENTS PROGRAM (CIP)
FOR FY2014/15 THROUGH 2019/20.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 11, 2014

Members present: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, Sunderman and Weber.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

There were no ex parte communications disclosed.

This application was removed from the consent agenda at the request of Russell Miller.

Staff presentation: **Sara Hartzell of Planning staff** explained that the Lincoln Water System has an amount of money put aside each year for growth projects which is then distributed over seven different areas of the city broken up by impact fee districts. Generally, when there are projects that are certain to come along during that 6-year period, they will be listed under the list of projects. If they know what year that project is actually going to be constructed, there will be a corresponding dollar amount in the funding table. If the year of construction is not yet determined, it is shown as “tbd” (to be determined) and the funding is not shown in the table.

Hartzell referred to Area 3 and Area 5 which have blank funding tables. The projects are listed as “tbd”. The computer program used to build the report filters any projects out of the printed report that have no funding or no activities in the 6-year CIP period. It was important for these projects to come before the Planning Commission and be reviewed for conformity because at any point during the 6-year period, a developer may want to move forward. This way, the Planning Commission has already made the recommendation of conformance. In summary, the projects being reviewed today were actually in the program but they had been filtered out previously.

Opposition

1. Russell Miller, 341 S. 52nd Street, submitted his testimony in writing. His testimony referred to Item 0031 (Selected Main Replacement), which is not included in this CIP amendment. However, the item for Selected Main Replacement refers to replacing mains that have exceeded their useful life and/or are breaking frequently. 4.3 million dollars is being allocated in 2014 and 4.6 million dollars in 2015.

Miller served on the Water System Master Plan Stakeholder Committee and they were told that it is currently costing approximately \$800,000 per mile for residential main replacement. The 4.3 million dollars equates to about 5.3 miles or about 63 blocks per year. Compared to the past 10 years, that is a large number but Miller believes it is totally inadequate to correct the huge backlog of over 300 miles of mains that should be replaced. The reason for this huge backlog is that water utility revenues were being used for growth items instead of main replacement. This year's CIP is using 3.2 million dollars of utility revenues for growth projects but only \$950,000 from impact fees. Miller urged that the Commission make a very strong recommendation that the water department always allocate 7 million dollars for main replacement (or 8 miles) each year.

Miller believes that the money should go to main replacement instead of new development, and let the new developments pay their own way.

Staff response

Nick McElvain of Lincoln Water System acknowledged that Miller makes some very good points. How do we define the failure of a water main? As the staff worked with consultants, one of the ways that failure of the system was defined was more than three breaks when the customers are out of service. When we see that we have had the third main fail, then we would chalk that up to the list of segments that have failed. There is currently 50 miles of failed mains on the backlog. They are currently replacing 5 miles a year. The goal in the CIP is that that number not get up to 60. It will continue to rise until we get up to the funding level. McElvain indicated that they are "ramping it up", but to say, 1) we're not going to fund any growth is probably not acceptable, and 2) to fund at that level today would require rate increases that most likely would not be politically accepted. The CIP takes that into account. It just doesn't get us there in year one. We are showing a little bit over 10% increase each year to get up to a rate that would be acceptable.

McElvain further explained that more mains are being replaced each year than what is being replaced today, but we are not getting to the rate that the master plan suggests until 7 to 8 years out. We will probably get up to a backlog of 60 miles of mains before we start gaining on it, but we do see that happening in the 8 to 10 year period.

Beecham inquired about the issue of flammability of construction materials. McElvain stated that he is not an expert, but the standard that is required is to provide 1500 gallons per minute at the fire hydrants in residential neighborhoods. But, not every hydrant in Lincoln would meet that standard because they were built long ago. When they are replaced, they do meet the standard.

Beecham inquired whether we know which hydrants do not meet the standard. McElvain advised that they do flow tests and it would be less than 10% that do not meet the standard.

Hove wondered how many residents would be without water service in their homes at any one time. McElvain stated that the worst year on record was 2012 with 240+ broken water mains. Each one of those lasts anywhere from 2 to 6 hours, and the average time out of service would be 3.5 to 4 hours. It would result in 10 to 18 customers being without service during each one of those shutdowns.

Corr asked how much it would cost to go from 7 miles/year to 8 miles/year for the replacements. McElvain indicated that it is about \$800,000/mile. Seven million dollars would get us up to 8 or 9 miles per year.

Beecham assumes that when there are road projects, the mains that are close are taken into account. McElvain stated that those are called "opportunity main replacements". The City has almost 30 years of water main break history. That history is reviewed to determine whether we have any mains that may not be highest priority but we would be foolish to wait to tear the paving up. He referred to Union College from 47th Street to 48th Street. The water main was replaced in the same contract so that we would not have to replace it later.

ACTION BY PLANNING COMMISSION:

June 11, 2014

Hove moved to find the proposed CIP amendment in conformance with the Comprehensive Plan, seconded by Cornelius.

Cornelius noted that it appears that we have a similar problem in our water system as we do in our sidewalk system with a backlog of deferred maintenance and not enough funds to catch up in the immediate future. But, it sounds like the city is working toward a time when we can meet that, and all we can do is continue to urge elected officials to find the funds to make it possible to maintain infrastructure that we already have and be careful not to sacrifice the existing infrastructure in the name of growth unnecessarily.

Corr pointed out that this particular amendment just adds those two projects back into the CIP and is not necessarily a discussion about the master plan.

Motion for a finding of conformance with the Comprehensive Plan carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 14003
AMENDING THE 2040 LINCOLN-LANCASTER COUNTY
COMPREHENSIVE PLAN TO ADOPT THE
2013 LINCOLN WATER SYSTEM FACILITIES MASTER PLAN.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 11, 2014

Members present: Beecham, Weber, Scheer, Sunderman, Harris, Corr, Cornelius, Hove and Lust.

Staff recommendation: Approval.

Ex parte communications: Corr disclosed that she exchanged emails with several parties, including Shawn Ryba, Pat Anderson-Sifuentez and Russell Miller.

Beecham disclosed that she had received emails from the same individuals. She responded by encouraging the individuals to come to the public hearing.

Staff presentation: **Brandon Garrett of Planning staff** explained the proposed Comprehensive Plan Amendment to add a subarea plan. Chapter 12 of the Comprehensive Plan lists plans which are appended to the Comprehensive Plan, p.12.16. This Master Plan is another one of those appendices.

Garrett explained that currently, the Comprehensive Plan includes a Water System Facilities Master Plan which was adopted in 2007. The Lincoln Water System has gone through the process of updating that plan over the last year and is now submitting a brand new Master Plan. Garrett stated that the new plan is in step with the current Comprehensive Plan. Lincoln Water System keeps an eye on the Comprehensive Plan and as soon as a new Comprehensive Plan is adopted, Lincoln Water System sort of re-calibrates their own plan so that they keep in step with the Comprehensive Plan.

Beecham stated that she attended the briefing held before the City Council. As we talk about the Missouri River as a potential resource, she is curious whether the Missouri River was considered as part of the modeling done to look at what we might run into if other people are interested in the Missouri River as a resource. **Nick McElvain of the Lincoln Water System** acknowledged that one of Omaha's three treatment plants draws directly from the Missouri River, as well as St. Joe, Kansas City, and St. Louis. However, McElvain pointed out that the amount of demand compared to the amount of water going down that river is probably a fraction of 1%. The river is managed for recreation and for barge traffic, so they keep enough flow in it at certain times to move the barges up and down the river and the amount needed for those functions is so much more than any of the municipal demands. There could be irrigation requests, but we don't see a lot of that kind of development on the horizon right now. Yes, it could happen, especially if our Platte River resources get less and less. On the other hand, the State enacted some laws that call for integrated management plans, which require

the local NRD, which governs groundwater, and the State Department of Natural Resources, which governs surface water, to get together for any drainage basin that is considered over-appropriated, and there are some in western Nebraska. Those integrated management plans are geared toward the management of the water and how to conjunctively use the water. We don't necessarily see the Platte totally drying up, but we cannot avoid years like 2012. What we do know about the modeling of our well field is that today the capacity is 110 million gallons per day. If the river is dry for 60-90 days, that capacity would fall in half, and we were close to that in 2012. That is why, over time, the Missouri looks attractive rather than buying more land along the Platte River.

Beecham inquired whether there are interstate agreements in place or a regional plan. McElvain indicated that there are such agreements and they are referred to as "compacts". He then referred to three different compacts that are in place and there are national level hearings held on those compacts.

Beecham then inquired whether the modeling was only based on today's levels and supply. Was there any modeling done to take into account potential changes in climate, drought, etc.? In other words, did we take any specific forecast or any specific shortage into account? McElvain stated that the modeling looked at zero river flow. The Missouri River basin is very large, and there is a lot of stored water but those storage facilities can be depleted, and they have been. In addition, we have variable weather conditions. There is no model that will tell us what the next 100 years might be, so we base it on the current date and current pool of information, but we look at the highs and lows. We model at the lowest conditions.

Lust noted that in the briefing they heard numbers like a 500 million dollar project with regard to the Missouri River. Are we certain that the Missouri River is going to be a reliable source of water into the future? McElvain responded by stating that we have 30 years of planning to continue to keep an eye on those weather trends. If the basin is that dry, the Missouri River is going to be more reliable than the Platte River. It will give us two sources – today we have one. It gives us options. Going further to the Mississippi or the Rocky Mountains is probably not an option at this stage.

Harris referred to page 9 of the Executive Summary, under "Long-term (2041-2060) horizon,it is recommended that field investigation for well field site selection be conducted in 2016 and that land acquisition for the well field facility occur in approximately 2018 in order to secure a site for future source development." Harris wondered whether the pricing for the rights can be locked in at that point, and how long do those prices last? It is McElvain's understanding that options to purchase can be bought. Our intent would be to acquire enough land to begin a well field once we determine the location of a site. He then discussed the staging of the process.

Harris then referred to page 21 of the Executive Summary which talks about a reserve fund. Would the reserve fund be used to service any debt payments? McElvain then reminded that this is a financial feasibility study. It is definitely not a plan. They are just saying, if the City took this project on in this amount by itself, would it be financially feasible? The recommendation in 2018 would be to budget one million dollars for the reserve fund, which takes a rate increase – the next year two million – the next year three million and so on. So as you get out 30 years, you've got a large pool of money. The City puts money into the reserve fund and that becomes the downpayment on this five hundred million dollar project.

Harris then confirmed that this study assumes the City's water system is taking that on all by itself. Any other sources or partnerships that might be formed to help fund it have not been considered in this study. McElvain reiterated that it is a feasibility study. It is not a plan.

Corr asked for further explanation of the previous discussion about the backlog for the water mains being fixed going from 5 miles to 7 miles. McElvain explained that it is a tiered/step-up approach in the CIP so that each year we are growing it by ½ million dollars and ¾ of a mile each year. We would be moving towards that number. We do not know what the amount of inflation will be.

Corr inquired whether the Lincoln Water System is proactive or more reactive. Are you fixing the water mains before they break or just reactive in nature? McElvain stated that all repairs are reactive. The replacements are proactive. We look at the history of breaks and the risk of leaving a particular pipe in service. Some get higher priority, such as hospitals or arterial streets. There are some projects that they do not get to and there are some with snags or issues.

Opposition

1. Russell Miller submitted his testimony in writing. He believes this Master Plan should receive much greater emphasis than it is. He discussed the material types used in making the mains called, "unprotected ductile and thin walled cast iron". The study points out that the deterioration trend for these materials is very steep and the overall performance is poor relative to the pipe age. A substantial peak is evident at 55-59 years of age. In other words, the pipes tend to fall apart at 60 years of age. The table in the study shows that there are 300 miles of this pipe and it was installed from 1948 to 1972. This means Lincoln has 300 miles of pipe with life expectancy being attained between 2008 to 2030, which means we should be replacing 15 miles of this type of pipe per year. There are approximately 20,000 homes being served by this type of pipe, or approximately 20% of Lincoln's housing units. He is sure that is why essentially all of last year's water main replacement was in areas of this type of pipe.

Because of the magnitude and seriousness of this situation, Miller urged the Planning Commission to direct the City Council to make sure adequate water department revenues are always available to replace 8 to 10 miles of mains each year, and increase it to 15 miles in the next budget cycle. We're never going to catch up. We have 45 miles of 100-year-old mains. We have to attack this problem vigorously. It will never be pleasant, but it's going to get worse as the years go by.

Staff questions

Corr wanted to understand the difference in the quality of the pipes. Is the City finding those that are being replaced the ones of not that high quality. McElvain stated, "not really." In the same year, we replaced a 130-year-old pipe, and replaced another segment that was 30 years old. The biggest issue is corrosion, and there are areas of Lincoln that have much more corrosive soils. The average over 3 years replaced was 80 years of age. Some were 60-year-old pipes and some 100-year-old pipes.

McElvain then stated that Miller was a great asset to the stakeholder group and asked the hard questions. How do we define "failure"? If three breaks is an acceptable definition, then we only have 50 miles of failed pipes in the system. We're still providing water. The key question is: What is an acceptable backlog of failures? Our goal is to not let that get over 60. Five years from now, we will update this master plan to review and determine how we are doing with the predictions of the master plan. McElvain agreed that "we did not invest enough early enough".

ACTION BY PLANNING COMMISSION:

June 11, 2014

Hove moved approval, seconded by Weber.

Beecham suggested that we get into trouble when we don't take care of our aging infrastructure and she would certainly support a more aggressive approach to funding the repair of the old pipes. She has some concerns about looking at our long range planning based on our water supply for today. People worry when we talk about potential changes in local temperatures, but it is our job to look at those options. The models are critical to look at how it is now and how it may be. She would like to see more consideration, discussion and debate and would encourage that more models be included. She does, however, agree that this master plan is in conformance with the Comprehensive Plan.

Corr expressed appreciation for all of the work that has gone into this. This is a balancing act where we need the main replacements, so we have to balance the money need on one side with how much we can get done on the other side. She believes that the Lincoln Water System is doing a pretty good job with that. The national average is

23 to 27 breaks per 100 miles and she knows that Lincoln is below that. It would be great to go up to 8 miles of replacement per year. We know that we are going to have to do something about water capacity in the future so we should start saving now.

Motion for approval carried 9-0: Beecham, Weber, Scheer, Sunderman, Harris, Corr, Cornelius, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

Commissioner Hove left at this point in the meeting.

ANNEXATION NO. 14003

and

CHANGE OF ZONE NO. 04075E,

AN AMENDMENT TO THE VILLAGE GARDENS

PLANNED UNIT DEVELOPMENT, ON PROPERTY

GENERALLY LOCATED AT SOUTH 63RD STREET

AND YANKEE HILL ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 11, 2014

Members present: Beecham, Weber, Scheer, Sunderman, Harris, Corr, Cornelius and Lust (Hove absent).

Staff recommendation: Approval of the annexation and conditional approval of the amendment to the PUD.

There were no ex parte communications disclosed.

Staff presentation: **Brian Will of Planning staff** explained that this is the fifth major amendment to the Village Gardens PUD. This amendment adds approximately 34 acres to the existing PUD to accommodate an additional 68 lots and one large lot for an elderly retirement housing facility located at approximately S. 63rd Street and Yankee Hill Road. The existing Village Gardens development is adjacent to the north and to the west.

Will suggested that this amendment is consistent in all respects with the original PUD. We are talking about this for one main reason, i.e. the elderly retirement facility being proposed was not something that was shown on the original PUD per se; however, it was a use that was contemplated in the original development plan. It was a use that was already allowed. They just had not identified the specific location.

Will then explained that during the review, an issue arose that has been raised before relating to a high pressure natural gas pipeline in Yankee Hill Road. The recommendation from the Health Department was that no habitable residential structure be located within 221 feet of that pipeline. The effect is that the Health Department recommendation for the separation from the pipeline eliminates four lots east of the retirement facility and two lots on the west. The applicant is not ready to make revisions subject to that recommendation, so the area to the east is being shown as an outlot. A portion of the retirement facility lot and two lots to the west remain in that separation area, and staff has agreed to allow those lots to be developed. The remaining lots to the west line up with the lots on the east so it made some sense. However, the development could be reoriented to accommodate the required separation.

Will then stated that the site plan has been revised with the area to the east being an outlot and staff is recommending conditional approval.

Corr referred to the two lots to the west that fall into that hazard area, assuming that the house can be built on the northern part of the lot so that it would not be affected. Will explained that the majority of a dwelling on that lot would be north of that hazard area.

Corr then inquired whether that hazard area would have to be disclosed when that lot is sold or the house is built. Will explained that there is not any requirement to disclose anything that we are talking about today. Staff has the responsibility to delineate the hazard area, and he agreed that staff needs to do a better job of letting folks know where these pipelines exist. This 221 ft. hazard area on either side of the pipeline varies by pipe, what is inside of it, the pressure and all sorts of variables. There is not a regulatory requirement, but we do have the responsibility. Staff has agreed that it seemed reasonable to allow the lots to be developed.

Corr noted that the Commission did receive a letter about potential street connections, and she knows there have been some problems. Will stated that the staff is trying to figure out the best place to make the street connections to Yankee Hill Road. The Access Management Policy sets forth that the street connections shall be every quarter mile. We are trying to get those at the best and right location, but we also want to respect the existing development pattern. We want to line those connections up with the acreages to the south. We would be looking for at least one to two more connections to provide that quarter mile spacing, but it's a timing issue. We do not know what is going to develop on some of the property. The concept plan has shown 68th Street as a conceptual street connection, which would be acceptable; however, depending upon the way that property develops, it may not be the best location and we might want the connection on South 65th Street. We are trying to keep our options open and this may be a case where we might get two more connections.

Proponents

1. **Danay Kalkowski** appeared on behalf of the applicant, **1640 LLC**, the developer of this site and some of the surrounding area. The applicant is requesting annexation and a change of zone for 34 acres at about 63rd Street and Yankee Hill Road. It is really just a continuation of the Village Gardens PUD and property anticipated to be annexed as part of their original annexation agreement. The only difference is the lot for the retirement housing. 63rd Street off of Yankee Hill Road will be a full access intersection, so the property to the east is a good location for a little higher density use and good transitional use. That area was originally shown in an outlot to the east as part of the plan. When they received the Health Department comments, the applicant requested to have that area shown as an outlot. The developer needs to redesign that area to see how and if they can accommodate the hazard area. If 65th Street is put through, it wipes out four lots, which is a huge issue. They are going to be looking at an alternative way to lay it out and may be removing the access to Yankee Hill Road to have flexibility for some green space.

Kalkowski stated that the applicant is accepting all of the conditions of approval; however, the pipeline hazard area is a huge, huge deal and has huge implications for development on the rest of Yankee Hill Road. Kalkowski pointed out that when the developer buys land (and when he bought this land), there was no notice of this hazard area. In fact, there was no notice of the pipeline being in Yankee Hill Road because it is in the right-of-way and there is no easement. The pipeline does not show up on the title search. It does not show up until a plan is submitted. The notice provision needs to be taken into consideration.

Secondly, Kalkowski pointed out that we appear to have a situation where the recommendation of a 2006 committee of the Planning Commission and the Health Department is being turned into a condition that actually regulates and limits the land use on a piece of property without ever having the benefit of a public hearing process. There needs to be more community input versus taking a committee recommendation and turning it into a regulation limiting what can be done on someone's property.

Kalkowski requested the Planning Commission's approval. This amendment is in conformance with the original plan. The applicant will be back before the Commission to talk about the property to the east and there will be some comment from property owners as they develop further along Yankee Hill Road.

There was no testimony in opposition.

Sunderman asked the Health Department representative to address the pipeline issue. **Scott Holmes of Health Department** explained that many years ago, when they were working on the build-through concepts for the county, the issue of pipelines came up. That issue was eventually addressed through a group that met for many months which

included four Planning Commission members and four members of the Board of Health. They reviewed pipelines, hazardous materials in the community in industrial and residential areas, as well as designs for a healthy lifestyle. Within those recommendations, in essence, the group affirmed what has been being recommended by Health for quite some time, i.e. that residential homes should not be built in the hazard area of a pipeline. The hazard area of the pipeline is the area where there will be total destruction. These are high pressure transmission lines. This recommendation has been made and at times the Planning Commission has selected not to follow this recommendation. Health has made recommendations on the location of housing near railroads that have not been followed. Health makes many recommendations to protect people's health. Holmes believes that to suggest the Health Department is creating a public policy by making a recommendation is a bit of a stretch.

Sunderman stated that he served on that committee and he recalled that the discussion at that time was more about notification than avoidance as far as developing the houses. He knows this issue has been investigated with little success. Holmes suggested that there seems to be unanimity that there is no simple way to provide notification. He does not believe it does any good to provide that notification at time of closing. He also cautioned that the issue of releasing such information to the public has been somewhat looked upon negatively by the Department of Homeland Security. There is a reason that they do not want the information out there. Holmes did advise that the pipelines are clearly marked when they cross a major street, creek, fence line, etc., but that marking does not indicate the type of pressure.

Cornelius wants to know how to find a hazard area as a potential buyer of property. Holmes suggested that there is information publicly available, such as the pipeline in Yankee Hill Road. Cornelius believes it is critical as a potential buyer to know in advance. Holmes stated that a simple contact with the Planning Department can result in communication with the Health Department, and the Health Department will provide the information. There have been several situations with anhydrous ammonia, none of which the Planning Commission has seen because they have been contacts to the Health Department. Developers are contacting the Planning Department.

Corr wondered whether the signs include a number to call for more information. Holmes stated that the pipeline company number is on the sign. Corr wondered if the pipeline company could provide the information being asked. Holmes did not know what specific information the company will provide. They will tell you that there is an easement for the pipeline, but the easement is not the hazard area.

Corr noted that the houses along Chatsworth Lane are already built and are in the hazard zone. Holmes concurred, and that was by action of the Planning Commission. There are several examples where the Health Department provided the same information and the action was approved.

Response by the Applicant

With regard to the comments by the Health Department, Kalkowski acknowledged that Health has been making this recommendation for some time. The difference here is that all of a sudden, it is becoming a condition of approval and the developer is being asked not just to disclose it but to not put any dwellings there. Kalkowski understands that the Health Department will not support development that locates occupied dwellings in a hazard area. But, when you make that a condition of approval and the developer comes forward with a plan that they have by right, that starts to look like a regulation that we have to try to overcome without having the benefit of a discussion on the fact of whether that should be a condition of approval of the development.

ANNEXATION NO. 14003

ACTION BY PLANNING COMMISSION:

June 11, 2014

Sunderman moved approval, seconded by Scheer.

Sunderman believes this is a good plan and a continuation of what was master planned. It is a great concept. With regard to the pipeline, he feels discomfort from either side, each doing what they think is best. This issue is probably something we need to move forward with and put down on paper. It has gotten good individuals in bad situations where there is no real guidance.

Lust agreed. Several years ago, the Planning Commission had a briefing on the recommendations of the committee but there were no action items. It was more of an awareness. The point is well taken that we need to have more public input. We were initially concerned about notification and several different avenues have been researched but found not to be feasible. We need more public input on the question of whether we are going to prohibit building in the hazard area or whether we are going to require notification. It is a concern. She would want to know if her house was on top of a hazard area.

Motion for approval carried 8-0: Beecham, Weber, Scheer, Sunderman, Harris, Corr, Cornelius and Lust voting 'yes'; Hove absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04075E

ACTION BY PLANNING COMMISSION:

June 11, 2014

Scheer moved to approve the staff recommendation of conditional approval, seconded by Cornelius.

Corr stated that she does have concerns about the pipeline, but she believes it is a tough situation at this time, not only for the developer but for someone who is going to

buy that lot to build a house. She agrees we need to work on the notification process and figure out a better system.

Motion for conditional approval carried 8-0: Beecham, Weber, Scheer, Sunderman, Harris, Corr, Cornelius and Lust voting 'yes'; Hove absent. This is a recommendation to the City Council.

COUNTY CHANGE OF ZONE NO. 14014
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
ON PROPERTY GENERALLY LOCATED AT
S.W. 29TH STREET AND WEST MARTELL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 11, 2014

Members present: Beecham, Weber, Scheer, Sunderman, Harris, Corr, Cornelius and Lust (Hove absent).

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** presented the proposed application for a change of zone from AG to AGR. Part of the property is within the jurisdiction of the Village of Sprague. The Village of Sprague has approved a change of zone to AGR on the lots lying within the Village of Sprague's jurisdiction. The intent is to have AGR zoning over the entire area of ownership and then split into five 3-acre lots.

Hartzell explained that the Future Land Use Plan does show this area as future urban density residential. The Sprague land use plan shows the lots in its jurisdiction as being residential in the future and the remainder as agricultural. None of the lots, however, would meet the requirement of NDEQ for minimum lot size for an individual wastewater system. Martell does not have a community wastewater system. The existing homes located on lots of well under three acres have their own individual wastewater systems, and occasionally, there are issues. These systems have been in place for some time.

While this proposal does not exactly follow the land use plan, it does make logical sense. The lots are not large enough to be a 20-acre AG lot. The best use for this land would be AGR in both jurisdictions. Now that Sprague has approved the portion in its jurisdiction, it would be in Lancaster County's best interest to support their decision by this change of zone to AGR.

Corr inquired as to the size of the lots across Martell Road to the north. Hartzell believes there is one that is about one acre. Most are less than an acre. There is smaller cluster development just to the north with AGR zoning which are more in the neighborhood of 3 acres.

Proponents

1. Mike Eckert appeared on behalf of the applicant, Bruce Pester, who has several acreage developments in this area. This application would not be before the Planning Commission if it weren't for the corner that lies in the Lancaster County jurisdiction. He acknowledged that the change of zone has been approved by the Village of Sprague. It is a unique community. There is not a house on each one of the lots shown on the exhibit. He believes that acreages are a logical choice for this land. The alleyway will stay for the neighbors to the east to continue to use.

Harris noted that the County Engineer indicated that the access to S.W. 29th Street would not be approved. Is this acceptable? Eckert believes they can work out another location in terms of sight distance.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

June 11, 2014

Corr moved approval, seconded by Cornelius.

Cornelius believes that this is pretty straight forward. The split jurisdiction is a complication and the village has approved it, and we have heard that they can resolve any issues.

Motion for approval carried 8-0: Beecham, Weber, Scheer, Sunderman, Harris, Corr, Cornelius and Lust voting 'yes'; Hove absent. This is a recommendation to the Lancaster County Board of Commissioners.

**SPECIAL PERMIT NO. 1665C,
AN AMENDMENT TO THE
VAN DORN MEADOWS COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 70TH STREET AND HOLMES PARK ROAD.
ACTION BY PLANNING COMMISSION:**

June 11, 2014

Members present: Beecham, Weber, Scheer, Sunderman, Harris, Corr, Cornelius and Lust (Hove absent).

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

It was stated that the public hearing was closed on May 28, 2014, and that the Commissioners have received no additional information since the close of the public hearing.

Cornelius moved to approve the staff recommendation of conditional approval, seconded by Scheer.

Cornelius indicated that his comments today are the same as they were at the hearing on May 28, 2014. The argument made in opposition was that this amendment does not conform with the Comprehensive Plan and he does not believe that is true. There may be elements that are in conformance and some that are not in conformance. Based on the arguments he made two weeks ago, Cornelius stated that he is still inclined to support this application.

Beecham stated that she will still oppose. She believes that this particular location is not compatible with the Comprehensive Plan. We have the layering in place – the layout where we are trying to do single-family, then single-family townhomes, then apartments, then commercial. She does not believe it is compatible to put an apartment building right across from the driveways of the layer of single-family.

Lust stated that she did review all of the testimony at the public hearing and she will support the application. Every time we want to put an apartment development in an existing neighborhood, the neighbors do have concerns and that is understandable. But looking at the overall application, it is actually less than the allowed density would be otherwise. The applicant has agreed to several conditions that are mitigating several issues that many of the neighbors raised. She believes the applicant did a good job in repeatedly attempting to lower the density and make the development more neighborhood-friendly, so she believes the way it has been presented deserves the Planning Commission's support.

Motion for conditional approval carried 6-2: Weber, Scheer, Sunderman, Harris, Cornelius and Lust voting 'yes'; Beecham and Corr voting 'no'; Hove absent. This is final action, unless appealed to the City Council within 14 days.

There being no further business, the meeting was adjourned at 2:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 25, 2014.