

**MINUTES**  
**LANCASTER COUNTY BOARD OF COMMISSIONERS**  
**COUNTY-CITY BUILDING, ROOM 112**  
**TUESDAY, FEBRUARY 4, 2020**  
**9:00 A.M.**

*Advance public notice of the Board of Commissioners meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska, web site and emailed to the media on January 31, 2020.*

Commissioners present: Sean Flowerday, Chair; Rick Vest, Vice Chair; Deb Schorr; and Christa Yoakum

Commissioners absent: Roma Amundson

Others present: Kerry Eagan, Chief Administrative Officer; Ann Ames, Deputy Chief Administrative Officer; Jenifer Holloway, Deputy County Attorney; Dan Nolte, County Clerk, Cori Beattie, Deputy County Clerk; and Leslie Brestel, County Clerk's Office

The meeting was called to order at 9:01 a.m., the Pledge of Allegiance was recited and the location of the Nebraska Open Meetings Act was announced.

**1) MINUTES:**

- A.** Approval of the minutes of the Board of Commissioners meeting held on Tuesday, January 28, 2020.

**MOTION:** Yoakum moved and Vest seconded approval of the minutes. Vest, Yoakum and Flowerday voted yes. Amundson and Schorr were absent. Motion carried 3-0.

**2) CLAIMS:**

- A.** Approval of all claims processed through February 4, 2020.

**MOTION:** Vest moved and Yoakum seconded approval of the claims. Vest, Yoakum and Flowerday voted yes. Amundson and Schorr were absent. Motion carried 3-0.

Schorr entered the meeting at 9:03 a.m.

**3) SPECIAL PRESENTATION:**

- A.** Proclaiming February 11 as 4-H Achievement Day - Karen Wobig, Extension Educator Unit Leader (See correlating Item 5A)

Wobig introduced Tracy Anderson, 4-H Urban Program Development Coordinator Extension Educator, and Vicki Jedlicka, Publication and Resource Assistant.

Anderson stated during the past year 35,000 youth in the County were involved in 4-H programs, 27,000 of them due to school enrichment programs. She discussed the embryology program.

**NEW BUSINESS:**

- A. Resolution proclaiming February 11, 2020 as 4-H Achievement Day (R-20-0009)

The Clerk read the proclamation.

**MOTION:** Schorr moved and Yoakum seconded approval of the resolution. Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

- 4) **CONSENT ITEMS:** These are routine business items that are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:

- A. Amendments to the following contracts:

1. Amendment to County Contract C-13-0232 with Keefe Commissary Network, L.L.C. for Inmate Commissary Services. (The amendment revises the agreement to reflect a 2% price increase.) (C-20-0053)
2. Amendment to County Contract C-18-0285 with Mahoney Sprinkler for the Inspection, Testing and Maintenance of Fire Sprinklers. (18-102. The amendment adds additional services with estimated expenditures for this contract to increase by \$1,930.00 for the remainder of the contract term with a revised total amount of \$12,330.00) (C-20-0061)
3. Amendment to County Contract No. C-14-0606 with Sarpy County to provide microfilming and scanning services. (The amendment extends the term of the agreement from February 1, 2020 through January 31, 2021.) (C-20-0063)

- B. Right-of-way contracts with the following:

1. Susan C Boswell, c/o US Bank-Farm Management Dept, Southwest 56<sup>th</sup> Street and West Old Cheney Road, in the amount of \$219. (two contracts) (C-20-0055) (C-20-0056)
2. Alan G and Janice Culver, North 1<sup>st</sup> Street and West Bluff Road, in the amount of \$2,876. (C-20-0057)

- C. Received and placed on file the County Engineer's quarterly report for October 1 – December 31, 2019.

**MOTION:** Schorr moved and Yoakum seconded approval of the consent items. Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

5) **NEW BUSINESS:**

- B. Ratification of refund of property tax for tax years 2017 and 2018 requested by Loren Lindahl on September 24, 2019, on behalf of John Otte Oil & Propane, Inc., in the total amount of \$338.30 due to clerical error pursuant to Neb. Rev. Stat. § 77-1734.01.

**MOTION:** Vest moved and Yoakum seconded approval of the ratification. Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

- C. Memorandum of Understanding between the United States Marshals Service (USMS) and Lancaster County on behalf of the Lancaster County Sheriff's Office (LSO) to participate in the Violent Offender Task Force (VOTF) to investigate and apprehend local, state, and federal fugitives. (C-20-0054)

**MOTION:** Yoakum moved and Schorr seconded approval of the memorandum of understanding. Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

- D. Agreement with Calibre Press to conduct Conditional Use of Force training being hosted by the Lancaster County Sheriff's Office on July 1, 2020. The cost to the County is \$6,500. (C-20-0058)

**MOTION:** Yoakum moved and Vest seconded approval of the agreement. Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

- E. Memorandum of Understanding between the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Homeland Security Investigations – Kansas City, Lancaster County on behalf of the Lancaster County Sheriff's Office, and the City of Lincoln on behalf of the Lincoln Police Department to participate in a Criminal Interdiction Task Force. The Memorandum of Understanding will become effective for one year upon execution by the Special Agent in Charge. (C-20-0062)

**MOTION:** Yoakum moved and Vest seconded approval of the memorandum of understanding. Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

- F. Utility Permit No. 1930 allowing Lincoln Wastewater System to install a water main within the northerly right-of-way line of Old Cheney Road from Highway 77 west to South Folsom Street and east to the railroad. There is no cost to the County. (C-20-0059)

Pam Dingman, County Engineer, stated this relates to major construction along Old Cheney Road west of Highway 77.

**MOTION:** Schorr moved and Yoakum seconded approval of Utility Permit No. 1930. Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

- G. Recommendation from the Purchasing Agent and County Engineer to award and execute a Purchase Order to Murphy Tractor using the Sourcewell Contract 032515-JDC for the purchase of two compact tractor mulching heads for a total cost of \$60,608.00. (C-20-0060)

Ron Bohaty, Road Maintenance Superintendent, described how the mulcher is used and emphasized it allows for increased productivity. Dingman added it also is in line with the Engineering Department's continuing effort to be more environmentally friendly.

**MOTION:** Vest moved and Yoakum seconded approval of the recommendation. Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

- H. Recommendation from the Purchasing Agent to enter into a Special Purchase according to the County Purchasing Act for a demo model or slightly used Crawler Loader. (B-20-0002)

Bob Walla, Lincoln/Lancaster Purchasing Agent, described the purchase request stating the model has 320 hours of use, is available immediately, and provides the same warranty as a new unit but will cost less. This request uses the informal quote process.

**MOTION:** Vest moved and Yoakum seconded approval of the recommendation.

Bohaty explained how a crawler operates.

**ROLL CALL:** Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

- I. Resolution in the matter of Street Name Change No. 19002, to rename a portion of Nebraska Highway 2 as Nebraska Parkway, between Calvert Street and S. 120th Street, and to name the proposed future connection from South Beltway to S. 27th Street as Jamaica Avenue. (R-20-0010) (Action on this item will take place after Item 8A)
- J. Resolution in the matter of County Text Amendment No. 19010: Text Amendment to the Lancaster County Zoning Resolution, Article 2 Definitions, Article 4 AG-District, Article 13 Special Permits and Article 22 General Provisions, as provided in Exhibit A (R-20-0011) (Action on this item will take place after Item 8B)

Action on Items I and J was deferred until after the public hearings.

- 6) **PUBLIC COMMENT:** Those wishing to speak on items relating to County business not on the agenda may do so at this time.

No public comments were given.

7) **ANNOUNCEMENTS:**

- B. The Lancaster County Board of Commissioners will hold a Mid-Year Budget meeting on Thursday, February 6, 2020 at 8:30 a.m., in the Bill Luxford Studio (Room 113) of the County-City Building (555 S. 10th Street, Lincoln).
- C. The Lancaster County Board of Commissioners will hold its next regular meeting on Tuesday, February 11, 2020 at 9:00 a.m., in Room 112 of the County-City Building (555 S. 10<sup>th</sup> Street, Lincoln).
- D. County Commissioners can be reached at 402-441-7447 or [commish@lancaster.ne.gov](mailto:commish@lancaster.ne.gov).
- E. The Lancaster County Board of Commissioners meeting is broadcast live on LNKTv City. For the rebroadcast schedule visit [lincoln.ne.gov](http://lincoln.ne.gov) (keyword: LNKTv). Meetings are also streamed live on LNKTv and can be viewed on YouTube (LNKTvcity).

8) **PUBLIC HEARINGS:**

- A. Street Name Change 19002, renaming a portion of Nebraska Highway 2 to Nebraska Parkway, between Calvert Street and South 120th Street, Lincoln, Lancaster County,

Nebraska, generally located on the existing Nebraska Highway 2 within the City limits of Lincoln and the unincorporated area of Lancaster County; and naming a proposed future connection as Jamaica Avenue, from the South Beltway to S. 27th Street. Both street name changes become effective upon opening of the South Beltway. (See correlating Item 5I)

Flowerday opened the public hearing.

Steve Henrichsen, Development Review Manager, Lincoln-Lancaster County Planning Department, took the oath and gave a brief overview of Text Amendment 19009 (Exhibit 1).

There was no testimony in support of, opposition to or in a neutral capacity for the text amendment.

Flowerday closed the public hearing.

### **RETURNING TO NEW BUSINESS**

- I. Resolution in the matter of Street Name Change No. 19002, to rename a portion of Nebraska Highway 2 as Nebraska Parkway, between Calvert Street and S. 120th Street, and to name the proposed future connection from South Beltway to S. 27th Street as Jamaica Avenue. (R-20-0010) (Action on this item will take place after Item 8A)

**MOTION:** Schorr moved and Yoakum seconded approval of the resolution.

Flowerday said he felt Boosalis Parkway would be a good alternative street name; however, he felt it would be too confusing for area business owners.

**ROLL CALL:** Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

- B. County Text Amendment No. 19010, related to Animal Feeding Operations (AFO), also known as Commercial Feedlots, to amend Article 2, Definitions, Article 4 AG-District, Article 13 Special Permits, and Article 22, General Provisions of the Lancaster County Zoning Regulations relating to commercial feedlots. (See correlating Item 5J)

Steve Henrichsen, Development Review Manager, Lincoln-Lancaster County Planning Department, took the oath and gave a brief overview of Text Amendment 19010.

The Board thanked the citizens and staff who participated in the text amendment process.

The following individuals took the oath and testified in support:  
Edison McDonald, 3921 Eagle Ridge Road, Lincoln NE (Exhibit 2)  
Jonathan Leo, 2321 Devonshire Drive, Lincoln, NE (Exhibit 3)  
Terry Langan, 6740 LaSalle Street, Lincoln, NE  
John Hanson, 3540 Sewell Street, Lincoln, NE

Leo reviewed his suggested revisions related to nutrient management plans, siting matrixes, decommissioning plans and well permits (see Exhibit 3). This information was also previously emailed to the County Board (Sean Flowerday), County Attorney (Jenifer Holloway) and Planning Department (Steven Henrichsen) (Exhibit 4). Yoakum asked Leo how the Board can legally regulate water. Leo answered in his conversations with the Lower Platte South Natural Resources District (LPSNRD) they indicated they would have no objection and

there is nothing in their regulations that would constrain a county's ability in requiring an NRD-approved well permit before the AFO special permit being submitted to the county's planning department. The LPSNRD also said it would be acceptable for the County Board or Planning Department to require a longer aquifer test for AFO applicants.

Vest verified the water testing requirements, as presented in Exhibit 3, would be submitted with the initial application. When Vest asked what the argument is against making the change, Leo answered the cost could be a burden; however, he felt it is better to require the party to have critical information available when applying for a permit.

Schorr exited the meeting at 9:54 a.m. and returned at 9:56 a.m.

Yoakum asked Hanson if setbacks could affect water usage. Hanson said the water used would be determined more by the size of the AFO rather than by the size of the setbacks.

The following individuals took the oath and testified in support:

Harriet Gould, 2550 County Road A, Valparaiso, NE

Lori Heiss, 23800 Northwest 27<sup>th</sup> Street, Valparaiso, NE (Exhibit 5)

Tim Kalkowski, 1916 Devonshire Drive, Lincoln, NE (Exhibit 6)

Melissa Baker, 7125 Yosemite Drive, Lincoln, NE (Exhibit 7)

Flowerday asked Kalkowski to expand on his thoughts on water issues. Kalkowski stated he would have proposed the applicant must show there is adequate water available; however, he did not because he felt applicants would have researched the water supply to verify there is enough for the operation. Additionally, he felt water quality and quantity tests could be done at a less prohibitive cost.

When asked if he had seen the amendments as proposed by Jonathan Leo and if they are in compliance with what the working group intended, Kalkowski answered he had not.

Regarding the nutrient management plan, Kalkowski felt the scoring matrix, while subjective, is important due to the questions it asks and it helps the applicant plan.

Leo said in his earlier testimony he incorrectly stated the decommissioning amendment as recommended by the task force is discretionary. The decommissioning plan is required with the application. What is discretionary is that a bond or equivalent financial resource be posted along with the decommission plan. The proposed amendment would make this a requirement.

Kalkowski verified the setbacks in the recommendations were the middle ground consensus of the task force. He added the group had considered other setback distances.

Vest asked Kalkowski how he felt about the proposed water testing. Kalkowski said he found adding well testing acceptable.

The following individuals took the oath and testified in opposition:

Nancy Packard, 3037 Sewell Street, Lincoln, NE

There was no testimony given in a neutral capacity.

Henrichsen clarified the construction operating permit does require a nutrient management plan which is why it is not listed separately in the text amendment.

Regarding the question of “any documentation” versus “all documentation,” he felt either way allowed for requested documents to be provided.

Henrichsen confirmed a decommissioning plan is required; however, a bond is not necessarily required.

Henrichsen reviewed the working group votes regarding setbacks.

In reference to water, Henrichsen noted it is difficult to know how wells could be impacted by new wells.

Schorr asked how Planning Department notifications are handled, especially as they pertain to neighboring counties. Henrichsen answered there are requirements for notification in a public newspaper and to area residents within the County. Holloway added there are statutes for notification standards pertaining to other counties. Those officials are then responsible for notification within their county.

The Clerk read a list of all emails received in the County Clerk’s Office regarding Text Amendment 19010. (Exhibit 8)

Flowerday closed the public hearing.

By order of the Chair the meeting recessed at 10:45 a.m., and reconvened at 11:01 a.m.

## **NEW BUSINESS**

- J. Resolution in the matter of County Text Amendment No. 19010: Text Amendment to the Lancaster County Zoning Resolution, Article 2 Definitions, Article 4 AG-District, Article 13 Special Permits and Article 22 General Provisions, as provided in Exhibit A (R-20-0011) (Action on this item will take place after Item 8B)

Peter Dowben, 12251 Bobwhite Trail, Crete, NE, said the Commissioners are to represent the County and improve its economy. He felt AFOs deteriorate the County.

Flowerday reviewed the issues from the testimony to include (1) increasing the large AFO setbacks from ½ mile to ¾ mile; (2) mandating a bond for large size operations to be attached to the decommissioning plans; and (3) requiring the Nebraska Department of Environment and Energy (NDEE) hydrological testing required as part of the initial application process.

Holloway recommended the Board retain the current bond text, noting that a bond company might not issue a bond at the start of the application process since nothing exists at that time.

Flowerday suggested requiring a bond for large AFOs and referencing that they may be required for medium and small AFOs as conditions for a special permit.

**MOTION:** Yoakum moved that the County Board make a decommission bond a condition of any large AFO and that it could be a condition to any medium or small AFO application.

Holloway suggested the Board make one motion with all final recommendations.

Yoakum withdrew the motion.

Regarding hydrological testing, it was the consensus of the Board to protect natural resources. Holloway recommended the following language: "If the LPSNRD requires a well permit due to the size of the well, the permit(s) shall be submitted with the application." (Exhibit 9)

It was the consensus of the Board to approve the recommended language.

On the issue of setbacks from a dwelling, Schorr indicated she preferred to keep the setbacks as presented. Flowerday, Yoakum and Vest supported a ¾ mile setback for enclosed large AFOs.

Holloway reminded the Board to include an effective date for the recommendations.

**MOTION:** Schorr moved and Yoakum seconded approval of the resolution with the following changes: (1) increase the large enclosed AFO setbacks to ¾ mile from ½ mile; (2) include a decommissioning bond as part of the application process for large AFOs; (3) require NDEE hydrological testing as an initial part of the special permit application; and (4) set the effective date as February 11, 2020.

Holloway asked for clarification on the setback change. Henrichsen said residential setbacks are currently ½ mile for both medium and large enclosed AFOs. He explained that the proposed change would increase the setback to ¾ mile for large enclosed AFOs and retain the ½-mile setback for medium enclosed AFOs.

Henrichsen also noted the well permit would be issued by the LPSNRD not the NDEE.

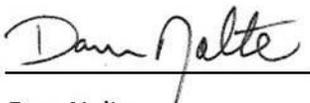
Flowerday clarified that the motion should state that the NRD hydrological testing (well permit) would be required as an element of the initial special permit application.

Holloway said the new language will be drafted and attached to the resolution which will go into effect next Tuesday.

**ROLL CALL:** Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.

## 9) ADJOURNMENT

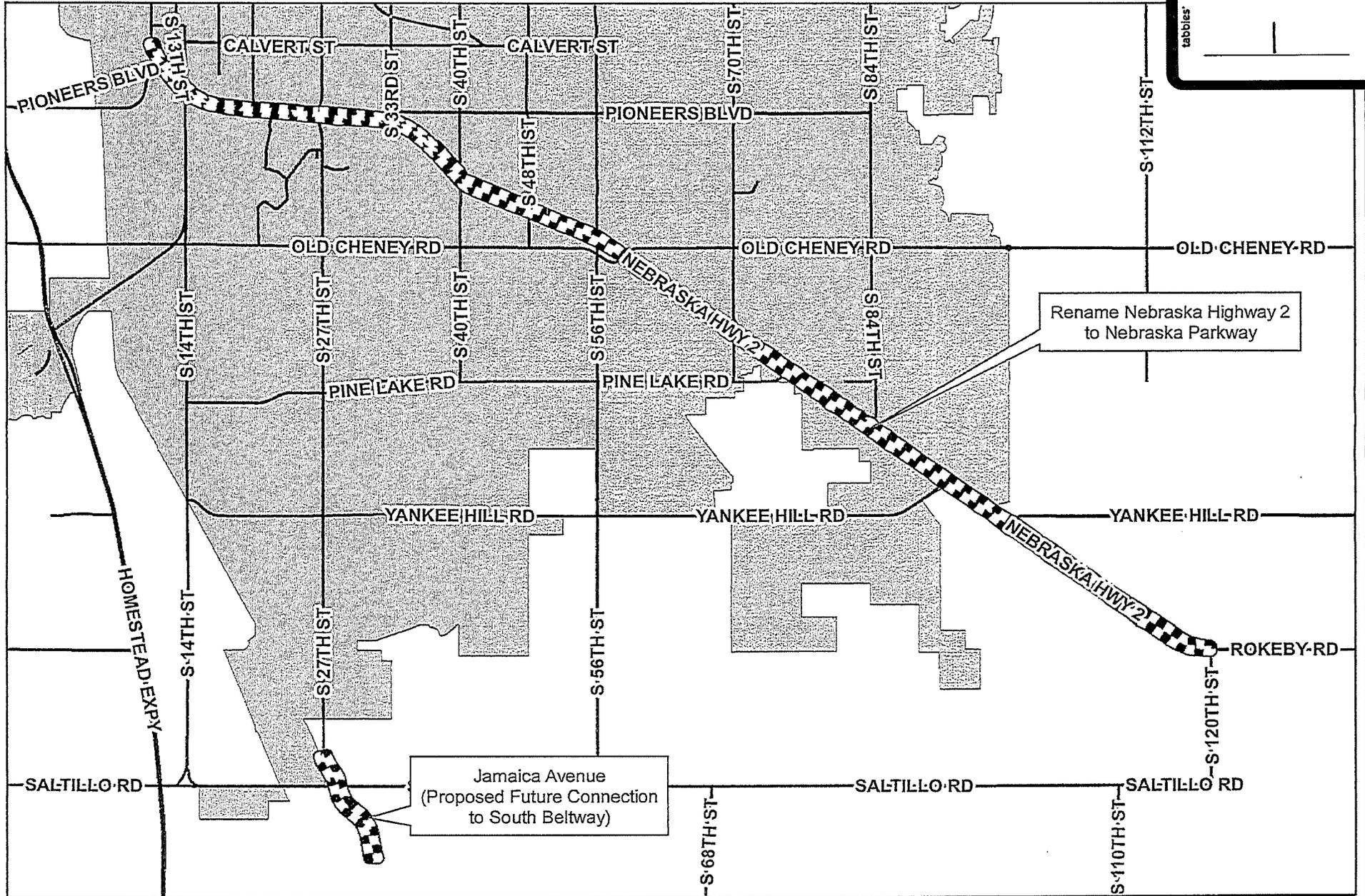
**MOTION:** Schorr moved and Vest seconded to adjourn at 11:25 a.m. Schorr, Vest, Yoakum and Flowerday voted yes. Amundson was absent. Motion carried 4-0.



Dan Nolte  
Lancaster County Clerk



tabbles



Rename Nebraska Highway 2 to Nebraska Parkway

Jamaica Avenue  
(Proposed Future Connection to South Beltway)

# Street Name Change #19002

Current City Limits

**Nebraska CAFO Standards Report:  
Protecting Existing Nebraskans And  
Transitioning To The Next Generation Of  
Farming**



**GC** Resolve

Grassroots Community Development, Mobilization & Education

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### **Nebraska Communities United Introduction**

Costco is developing a new poultry operation housed under the entity of Lincoln Premium Poultry (LPP) and is building approximately 520 massive barns to supply chickens for its processing facility in Fremont. LPP intends that the Fremont processing facility will supply 40% of the entire U.S. (and 100% of the western U.S.) market for rotisserie chickens at Costco's U.S. stores. Each barn holds 47,500 birds per flock, with six flocks per year. This new extreme form of vertical integration, where the retailer controls all aspects of production, is unlike anything seen in U.S. history and is NOT in line with Nebraska values. We need to ensure better standards to protect already existing Nebraska farmers, rural families, and communities.

### **Costco's New Extreme Form of Vertical Integration Violates Nebraska Values By:**

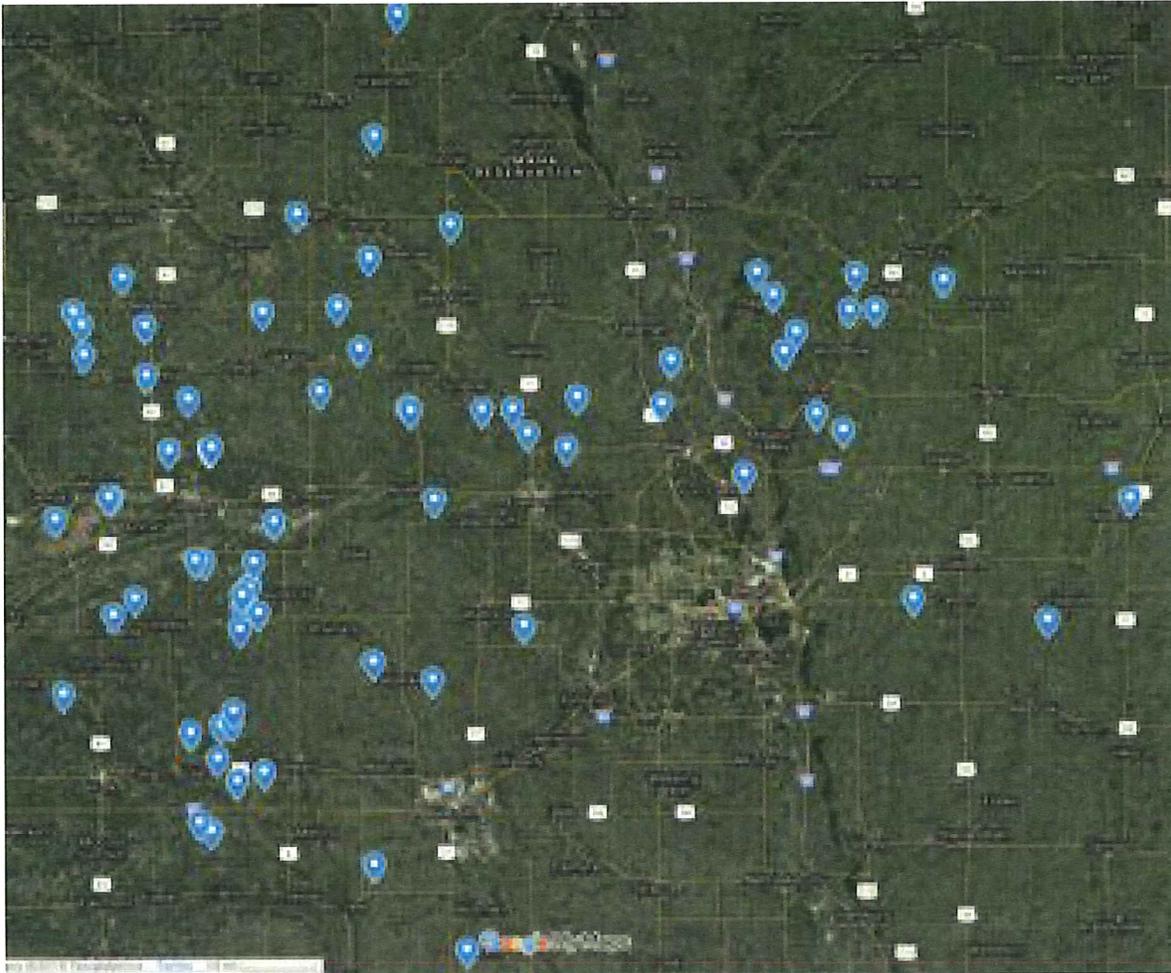
1. Sending money out of state instead of keeping it with local farmers. 25% of the barns are owned by a North Carolina investment fund which means less care for our land, less accountability to neighbors, and more extraction of local wealth.
2. Bad contracts that put Nebraska farmers at serious risk. These industry contracts are similar to contracts that have bankrupted poultry growers in other states.
3. Impeding on existing residents' local control. Costco/LPP has lobbied to take away nuisance rights from Nebraska residents, and they have also lobbied to give preference to out of state electrical contractors over Nebraska, a law which would have weakened worker safety standards.
5. Creating low-wage jobs in poultry barns and processing facilities that deteriorate Nebraska's working middle class.
6. Excessive amounts of chicken litter that put local water resources, and the public's health at risk. According to a John Hopkins Research Letter to Fremont officials, the Costco broilers would produce 3,910,000 pounds of waste per day, or more than twice the equivalent amount of human waste generated daily by the entire City of Omaha.
7. Increased air emissions that increase chances of respiratory illness for those that reside near poultry barns, and continue to pump out new greenhouse gas emissions.
8. Shifting liability and taxes from Costco/LPP towards farmer growers and Nebraska counties.

## **Narrative**

In 2015, the Village of Nickerson, Nebraska was told that a large company would be moving into the area, but the residents of Nickerson were not told much more. Soon, the locals found out that the company was Costco, and that Costco was proposing to develop the largest poultry processing facility in U.S. history. The proposed project would also be the first time a retail giant owned the processing sector with former Pilgrim's Pride reps now operating under a new and more local name of Lincoln Premium Poultry (LPP). The lack of notice troubled the locals, and ultimately the Village of Nickerson voted against the proposed project.

Shortly after, the Fremont Greater Economic Development Corp proposed annexing part of Fremont, Nebraska, which was approved by the Fremont City Council, and the massive 420,000 birds/day poultry processing operation (complete with feed mill and hatchery) went into construction. Over 500 production barns would need to be built in the surrounding counties to support the large volume, forever changing our rural

communities and further putting at risk our long tradition of independent family farming, because all of the chickens and the feed are owned by LPP.



Costco barns are inundating Nebraska and creating new health concerns from litter runoff for Nebraska's downstream cities, especially with the increase in extreme weather precipitation events. The points on the map indicate anywhere from 3 to 24 barns per location.

A coalition, including Nebraska Communities United, was established to fight extreme vertical integration in the food production industry. Other early coalition members included GC Resolve, Nebraska Farmers Union, Farm Aid, Socially Responsible Agricultural Project (SRAP), Farmers Legal Action Group, and the Organization for Competitive Markets. These groups immediately started educating farmers about issues with poultry grower contracts, and those early grower educational activities increased awareness around poultry industry concerns and slowed Costco grower recruitment in Eastern Nebraska.

As Lincoln Premium Poultry recruited potential growers in the surrounding counties, citizens became concerned about the impacts the chicken barns (formally classified as concentrated animal feeding operations (CAFOs) would have on their health and their resources. More local groups began to become informed and organize in LPP's targeted communities: these groups included Washington County Citizens Against CAFOs, Lancaster Hills Alliance, Elmwood First, CARA (Community Advocates for Responsible Agriculture), and RC (Raymond Central) Communities United. Other groups including Nebraskans for Peace, NE Sierra Club, NE Interfaith Power and Light, NE League of Women Voters, Omaha Together One Community, Guardians of the Aquifer, and Food and Water Watch have joined the coalition as well. The formation and engagement of these groups have grown the active local opposition into the thousands, and a 2019 petition calling for a statewide moratorium on new CAFO's, until regulations to protect Nebraska residents can be updated, garnered nearly 1000 signatures in only a few weeks!

This growing network of citizen, state, and national groups has been able to educate the public about the many negative impacts industrial agriculture and the extreme vertical integration scheme, while working to address not only the environmental degradation of air and water, but also public health and economic concerns including disease transmission and bird disposal, low worker wages, property devaluation, road taxes, and the effect to area citizens' quality of life.

It is not uncommon in rural Nebraska, or indeed any rural area, to see signs extolling the virtues of shopping at independently owned local businesses. The argument goes that money spent at local businesses has a multiplier effect on the value of that money to the local economy. For example, a local entrepreneur produces a superior product that he/she sells directly to a local customer. The money from that sale is reinvested into the local economy when that entrepreneur pays a local mechanic for car repair, for his/her daughter's dance lessons, or when he/she buys supplies to produce his next batch of product.

In contrast, a contract poultry grower does not have as much economic impact, because their product is sold to benefit stockholders and corporate executives in Seattle. The money from the retail sale of the chicken goes out of state, let alone out of the local economy. To further exacerbate the extractive nature of contract livestock production, 1/4 of Costco's broiler barns are owned by an investment fund from North Carolina. So any money those barns make through their contracts will not be supporting the local

economy. At best, someone in North Carolina will pay for dance lessons, or a second beach house. Costco's economics extract wealth from rural Nebraska.

## **Growing Health Concerns**

As presented and discussed at length in the American Public Health Association's (APHA) November 2019 policy statement "Precautionary Moratorium on New and Expanding Concentrated Animal Feeding Operations" (APHA Policy Statement No., 20194 (November 5, 2019)), modern large- and medium-sized CAFOs generate enormous quantities of manure and other untreated waste materials whose management and disposal pollute surface and groundwater resources and the ambient air poses risks to the general environment and human health (especially for CAFO workers and nearby residents), and disproportionately and adversely impacts low-income, disadvantaged communities with large numbers of racial and ethnic minority residents. Because the prevailing system of industrial-scale food animal production externalizes the costs of environmental pollution and human health impacts, retail meat prices are kept artificially low while the adverse environmental and health costs they create are passed on to communities and individuals throughout the country.

Further, the scope of local and state regulation of CAFOs are wholly inadequate to responsibly monitor and protect their ongoing environmental and public health impacts and local and state resources are inadequate to enforce even the loose regulations that are in place now. At the federal level, the Safe Drinking Water Act does not regulate private wells, the EPA does not regulate private groundwater wells, and the Clean Water Act applies only to navigable, or surface, waters. CAFOs themselves are exempt from hazardous air emission reporting requirements under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "Superfund"), and the EPA does not require reporting of air emissions from animal agriculture facilities under the Emergency Planning and Community Right-to-Know Act ("EPCRA").

Therefore, as the APHA Policy Statement provides, "federal, state, and local governments and public health agencies [are urged] to impose a moratorium on new and expanding CAFOs until additional scientific data on the attendant risks to public health have been collected, uncertainties have been resolved..." and a series of 12 action steps have been implemented, which include the following requirement: "[D]evelop baseline federal zoning guidelines for food animal production facilities that set a framework for states and require a rigorous, pre-permit environmental impact study and a health impact assessment." In the meantime, and independently, state and local

governments must enact “more comprehensive zoning laws. Impact studies should include assessments of the cumulative effects of food animal production facilities located in vulnerable, low-income, minority, and economically distressed communities.”



The 2019 Bomb Cyclone in Nebraska was a devastating example of an extreme weather event. In this event, large areas of the state were flooded, including the new Costco/LPP processing facility shown above. Poor zoning has put Nebraskans at risk for increased public health issues. If this plant had been in operation during the 2019 Floods, the birds would have been isolated, and wastewater treatment lagoons would likely have run over. The CDC already alerted Fremont residents not to get into the water because the city sewer system and Hormel (currently operating) were flooded. It was fortunate that at the time of the flood the plant was not operational.



The area highlighted in pink shows the location of the Costco/LPP lagoons near Fremont causing concerns for the release of antibiotic-resistant pathogens or superbugs. Not only are Nebraskans at risk for exposure to pathogens or excess nutrients, but the public is also at risk for increased respiratory diseases of which Nebraska already has 1,028 per year according to DHHS. CAFO's create additional emissions including ammonia and harmful greenhouse gases. Further acceleration of greenhouse gases into the atmosphere causes increased extreme climatic events that make it harder for farmers to produce food.

Closer to home, The University of Nebraska Medical Center and the University of Nebraska Department of Civil Engineering have partnered with GC Resolve to develop the Citizen Scientist Water Testing Program to collect before and after (operation) data to better understand what impact Costco will have on our water over time. Furthermore, GC Resolve and the NE Farmers Union Foundation are further logging data on to better understand quickly increasing pathogens in our waterways, and also better understand if Costco will also contribute to this growing problem.

## Summary of Citizen Science Water Monitoring Campaign, Summer 2019

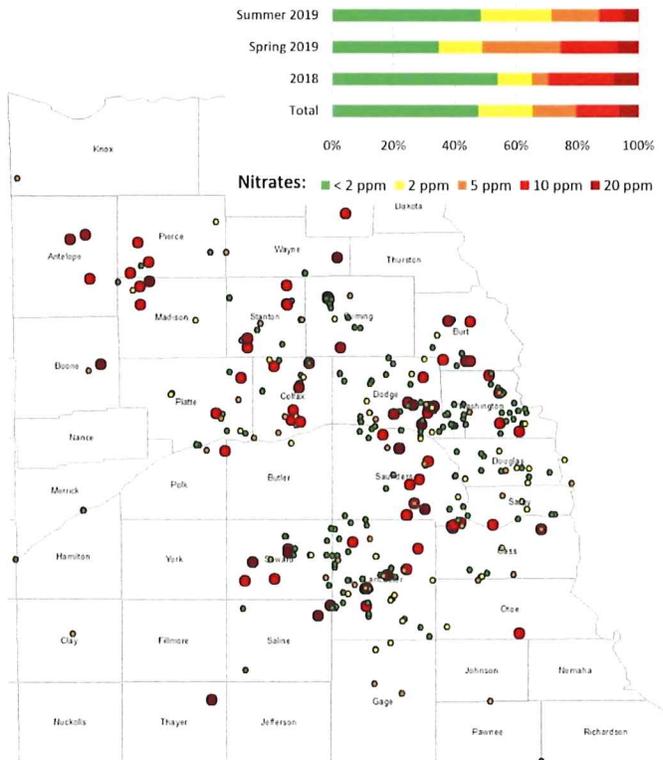


Figure 1. Measured nitrate concentrations in well water with the frequency of detection of measured concentrations for the current year (2019), last year (2018), and the running total for the project.

227 Citizen Scientists collected 225 surface water and 241 well water samples during the Summer 2019 session.

Thank you for your participation. The scale of this project would not be possible without citizen scientists like you.

### How was water quality measured?

Test results were gathered using rapid test strips, described in the following link: <https://go.unl.edu/wqcs>. These tools detect nutrients at the level of parts-per-million (ppm), which is a unit of measure for dissolved chemicals. To put this in perspective, detecting 1 ppm of nitrate in 1 liter of water is like detecting 1 grain of table salt within 1/3 cup of granulated sugar. While this scale of measure is small, changes in nitrates and phosphates at this scale can have serious impacts on water quality.

### Groundwater Quality in Eastern Nebraska

Groundwater quality is of great concern in rural communities as many residents rely on private wells as a source of drinking water. To date, volunteers have collected 524 well water samples across 45 counties in Nebraska.

#### Nitrate (NO<sub>3</sub>) Results

The presence of nitrate in well water is indicative of surrounding groundwater contamination and is a potential public health hazard in the absence of proper filtration equipment for drinking water. Well water samples as high as 20 ppm nitrate were reported in 15 counties; Thayer, Boone, Wayne, Madison, Dodge, Lancaster, Seward, Saline, Antelope, Stanton, Colfax, Cuming, Burt, Cass, and Saunders. To date, 20.5% of wells tested above the U.S. EPA safe drinking water limit of 10 ppm.

#### Nitrite (NO<sub>2</sub>) Results

Nitrite is produced from nitrate and has similar health and environmental impacts as nitrate. However, nitrite is less persistent than nitrate and therefore occurs at lower concentrations. Only 1 sample exceeded the U.S. EPA safe drinking water limit of 1 ppm nitrite during this study.

#### Phosphate (PO<sub>4</sub>) Results

Excess phosphate in well or surface water does not directly impair drinking water quality. During the summer 2019 testing session, phosphate was measured as high as 50 ppm in well water samples.

The 2019 Summer Citizen Scientist summary indicates that about 1/5 of Nebraska wells are already over the legal limit of nitrates set by the EPA, which means that overall, Nebraskans will likely have increased health issues from exposure in the upcoming years.

It should be noted and applauded that several locations have been protected, as citizens were able to stop new Costco poultry barns, further delaying the project. However, even after being turned away from many communities, Costco has continued to expand their footprint putting new communities at risk, including areas as far north as the South Dakota border, south of our Capital City of Lincoln, as far west as Fullerton, and expanding further east into Western Iowa. When local farmers did not sign up to meet the 520 barn quota, not only did Costco/LPP expand their area, they brought in a North Carolina investor to purchase barns and land and in order to import growers.

While Costco has garnered the majority of our attention, and are clearly proposing additional CAFO poultry and dairy operations in our region, they are not the only concern for Nebraskans. Governor Pete Ricketts has made it clear that Nebraska is now open for heavy industrial expansion that includes poultry, hogs and dairy cattle. We fear for the future of our rural communities, and our larger urban communities that lie downstream of the recent activity.

In order to protect existing Nebraska residents from a degrading quality of life, and from increasing health issues from increased exposure to CAFO's, it is our recommendation that the State of Nebraska must prioritize policy that protects residents over industry, bolster local decision making authority instead of weakening it, and also pave the way for increased regenerative farming and ranching activities which will help increase on-farm diversity while prioritizing the surrounding health of our communities and environment. This refocus will be vital to protect our culture, improve our quality of life, all while driving new economic opportunities back into Nebraska's rural communities.

## Comparative Policy

State Initiatives	California Healthy Soils Initiative	Hawai'i Sequestration Task Force	Maryland Healthy Soils Program
Bill Number	SB 859 (2016); SB 1350: Healthy Soils Program Act (2016)	HB1578	HB 1063
Bill Summary	to build soil carbon and reduce agricultural greenhouse gas (GHG) emissions by providing incentives to farmers and ranchers for the adoption of new management practices with climate benefits.	establishes the Carbon Farming Task Force within the Office of Planning to identify agricultural and aquacultural practices to improve soil health and promote carbon sequestration—the capture and long-term storage of atmospheric carbon dioxide to mitigate climate change.	to increase biological activity and carbon sequestration in the State's soils by promoting practices based on emerging soil science; requiring the Department of Agriculture to provide incentives, including research, education, technical assistance, and, subject to available funding, financial assistance to farmers to implement farm management practices that contribute to healthy soils;

Definitions	Healthy soil: soils that enhance their continuing capacity to function as a biological system, increase soil organic matter, improve soil structure and water- and nutrient-holding capacity, and result in net long-term greenhouse gas benefits.	Healthy soils: soils that enhance their continuing capacity to function as a biological system, increase soil organic matter, improve soil structure and water- and nutrient-holding capacity, and result in net long-term greenhouse gas benefits.	Healthy soil: the continuing capacity of soil to function as a biological system, increase organic matter, improve soil structure and water- and nutrient-holding capacity, and sequester carbon and reduce GHG emissions.
Eligible Practices	Cover cropping, no-till, reduced-till, mulching, compost application, and conservation plantings and others. Eligible practices to be expanded in next funding round. The COMET planning tool is used to assess the impact of practices and projects funded by the HSI.	Task force to "identify and study agricultural and aquacultural practices, public land and marine use policies, and on-farm management practices that would increase climate resiliency and improve carbon sequestration in Hawaii"	Planting mixed cover crops, adopting no-till or low-till farming practices, and rotation grazing

State Initiatives	Massachusetts: An act to Promote Healthy Soils	New York Carbon Farming Tax Credit	Oklahoma Carbon Sequestration Enhancement Act
Bill Number	No.3713	A3281	Title 27A, Section 3-4-101
Bill Summary	would establish a fund for education and training for those engaged in agriculture that regenerate soil health. Indicators of healthy soil include levels of carbon, rates of water infiltration and biological activity.	a first-of-its-kind bill to use a tax credit model for farmers who maximize carbon sequestration potential on their land. Although the bill did not pass this past year, Barrett was able to incorporate the Carbon Farming Act into the state budget which is providing \$50,000 to study incentives for carbon farming tax credits, grants and other programs.	Authorized the Oklahoma Conservation Commission (a non-regulatory agency) to establish and administer the Carbon Sequestration Certification Program. The Oklahoma Carbon Program is different from mandatory cap and trade systems. By overlapping existing conservation programs offered by state and federal agencies, including the USDA Natural Resources Conservation Service (NRCS), the program capitalizes on the existing infrastructure of agencies that agricultural producers know and trust.

Definitions	Regenerative agriculture: improves the health of soils, including but not limited to consideration of depth of topsoil horizons, water infiltration rate, organic carbon content, bulk density, biological activity, biological diversity, and bare ground.		“carbon sequestration practices” and “carbon capture and storage practices”: methods of sequestering, displacing or avoiding carbon dioxide emissions (including capture and sequestration or storage of carbon dioxide emissions through carbon dioxide injection in producing oil or gas wells, abandoned oil or gas wells, or other wells)
Eligible Practices			Improved agricultural practices, including, but not limited to, decreasing soil tillage, planting and managing vegetation, growing agricultural crops or managing any existing vegetated area; Improved natural resources conservation practices, including, but not limited to, vegetation, revegetation, forestation, afforestation and reforestation on rangeland and other agricultural and nonagricultural lands

State Initiatives	Utah: Concurrent Resolution on Carbon Sequestration on Rangelands	Vermont Regenerative Soils Program
Bill Number	H.C.R. 8	S.43
Bill Summary	establishes soil carbon sequestration as the state’s preferred approach to climate change. The act requests the President of the United States to direct Federal agencies managing land in Utah to develop specific plans to maximize the amount of carbon sequestered.	to establish a regenerative soils program whose purposes include increasing the carbon sequestration capability of Vermont soils, reducing the amount of sediment and waste entering the waters of the State, and promoting cost-effective and healthy soil management practices. Includes certification program.
Definitions		
Eligible Practices		Pilot will be utilizing the Natural Resource Conservation Service’s (NRCS) new Resource Stewardship Evaluation Tool (RSET)

# Proposed Safeguards

## No New Large CAFO's

### **No NEW Large CAFO (Concentrated Animal Feeding Operation)**

**applications until county regs have been updated** in order ensure the public's health and quality of life. Existing CAFO's should be exempted from these updated regs. Large CAFO's are those as defined in Nebraska Administrative Code Title 130.

## Animal Caps Per Operation

**Put a cap on the number of animals per operation.** These caps should be developed in consideration of the standards set under Nebraska Administrative Code Title 130. Large CAFOs create the most significant issues it makes sense to limit these types of operations. This also helps to protect the family nature of family farming.

## Increase Setback Requirements

**Increase setbacks** from CAFO's to a minimal 3/4 mile and 1.5 miles from Large CAFOs, and 2.5 mile setbacks from public use areas (schools, churches, communities, parks, recreation areas).

## Increased Notice

**At least one-month notice** (prior to the county planning and zoning meeting) to all residents living within 3 miles of a proposed CAFO. Currently, locals are getting as little as 3 days notice leaving long-standing residents scrambling for information.

## Emission Reporting

**Require emission reporting** for ammonia, Volatile Organic Compounds (VOCs) and other GHG (Greenhouse Gas) emissions to protect public health, and understand air quality impact.

## Ground and Water Testing

**Ground and surface water testing** on all sources within 1/2 mile of operation and public reporting of their analytical results should be a required element of the initial application for a special permit.

Nebraska's unique Natural Resource Districts (NRDs) are empowered to monitor and, to an extent, regulate the access to and use of the state's groundwater resources. Many require a pump (or "aquifer") test for any proposed well that will produce more than 50 gallons per minute (gpm). Different lengths of pump/aquifer testing time are required, depending on the amount of water that a proposed CAFO expects to use based on a gpm or acre-feet-per-year calculation. Currently, no County Planning Commission or Board of Commissioners requires that an NRD-approved water well permit be obtained prior to the CAFO application being submitted to a local Planning Department; only after a zoning permit has been issued at the only required public hearing does the CAFO permit applicant have to prove to the NRD that it can pump the required amount of water from the aquifer underlying its facility.

Common sense dictates that the County Planning Department's, Planning Commission's, and Board of Commissioners' time and resources, as well as those of the applicant and the interested public not be wasted on debating the pros and cons of a CAFO permit application without knowing whether or not there will be enough water to supply the CAFO and not drain the water resources of its adjacent and 1/2-1 mile neighbors. The water well permit must be obtained before the CAFO Special or Conditional Use Permit application is deemed complete for full administrative review, hearing, and approval or disapproval

## Nutrient Management Plan

**A Nutrient Management Plan (NMP) should be required for all companies proposing the development of CAFO's and should include cover cropping on all farms applying litter, and buffer strips along all running waterways where litter is spread.**

## Environmental Impact Review

**An 'Environmental Impact Review' in a Nutrient Management Plan (NMP) on all Large CAFO's must be required prior to county process and public hearings.**

## Disaster Funds

**A disaster fund for environmental mitigation and liability should be paid by the parent company (LPP in this case) or other industrial ag companies so liability is not put on the shoulders of the county nor the farmer growers during project operation. It must take into consideration types of livestock, size of CAFO, and their respective practices. This reserve must have a 5 to 1 asset to liability ratio.**

## Decommissioning Requirements

There should be **funds required to be set aside from the parent company for decommissioning** of the barns. In other industrial poultry communities, after the projects closed operation they just left the barns wasting away. This wastes land and makes the countryside look littered and abandoned. Currently, wind and solar companies must create a bond for decommissioning expenses so a precedent has clearly been set.

## Haul Agreements

**Enact a 'Haul Agreement'** so as more company trucks travel on county roads **so the taxpayers are not liable for increased taxes to keep up and maintain roads.** These new taxes should be funded by the respective parent company.

## Disposal Plan

The respective county and state need a **disposal plan for dead birds if Bird Flu or other disease epidemics occur.** We have seen unprepared states, such as Iowa as recently as 2015, suffer from lack of preparation in developing a clearly defined plan.

## We Have A Better Solution

The solution starts with the soil. Nebraskans are very pro-ag, and livestock production. We just don't believe in unethical farming that puts our health and quality of life at risk. We support independent family farmers and ranchers, not industrial ag companies that prey on farmers and our resources alike. That is why we are calling for a redirection of ag to regenerative.

Regenerative agriculture focuses on improving soil health, which helps reduce rising greenhouse gas emissions, cleanses our water, and lessens the farmer's dependence on synthetic inputs which improves their bottom line. Regenerative farming and ranching also advocate for new rural entrepreneurial jobs around the food production system which will help revitalize our state in upcoming years. Regenerative agriculture also puts livestock front and center, and advocates increased biodiversity as well as well-managed grazing systems.

## Regenerative Resources

**CBS News Doc -**

<https://www.cbsnews.com/news/what-is-regenerative-farming-cbsn-originals/>

**GC Resolve -** <https://www.gcreolve.com/regenerate>

**RegeNErate Nebraska -** <https://www.regeneratenebraska.com>

**Project Drawdown -** <https://www.drawdown.org/solutions/food/regenerative-agriculture>

**Regeneration International -** <https://regenerationinternational.org/about-us/>

**Patagonia -**

[https://www.patagonia.com/blog/2019/10/dont-till-on-me/?utm\\_source=em&utm\\_medium=email&utm\\_campaign=102119\\_sweatshirts\\_w&utm\\_term=2007899141&fbclid=IwARoLPEatTg\\_KGbDXOMcGCwdIm5PmhHfTWcC-r7CmGW8mqMXCc1FnFuuofWo](https://www.patagonia.com/blog/2019/10/dont-till-on-me/?utm_source=em&utm_medium=email&utm_campaign=102119_sweatshirts_w&utm_term=2007899141&fbclid=IwARoLPEatTg_KGbDXOMcGCwdIm5PmhHfTWcC-r7CmGW8mqMXCc1FnFuuofWo)

**NTV -**

<https://nebraska.tv/news/ntvs-grow/regenerative-farming-could-be-good-for-soil-and-pocketbook>

**NBC News -**

<https://www.nbcnews.com/news/us-news/can-regenerative-agriculture-reverse-climate-change-big-food-banking-it-n1072941>

**General Mills -**

<https://www.generalmills.com/en/News/NewsReleases/Library/2019/March/Regen-Ag>

**Norfolk Daily News Editorial by NRCS Dan Gillispie -**

[https://norfolkdailynews.com/agriculture/regenerative-agriculture-emulates-natural-system/article\\_bd75de54-e078-11e9-9905-af3de352475f.html](https://norfolkdailynews.com/agriculture/regenerative-agriculture-emulates-natural-system/article_bd75de54-e078-11e9-9905-af3de352475f.html)

## CAFOS, Costco/Lincoln Premium Poultry Resources

**American Public Health Association -**

<https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2020/01/13/precautionary-moratorium-on-new-and-expanding-concentrated-animal-feeding-operations>

**John Hopkins Letter to Fremont Officials -**

<https://otoc.org/wp-content/uploads/2017/01/John-Hopkins-Fremont-NE-Poultry-Processing-and-Production-Letter-final.pdf>

**Food & Power -**

<http://www.foodandpower.net/2019/08/15/one-private-equity-fund-could-own-a-quarter-of-the-chicken-houses-for-costcos-nebraska-project/>

**Food & Water Watch -**

<https://www.foodandwaterwatch.org/news/hidden-costs-behind-costco-chicken>

**CNN -**

<https://www.cnn.com/2019/10/11/business/costco-5-dollar-chicken/index.html?cid=db&source=ams&sourceId=92311>

**Dr Mercola -**

[https://articles.mercola.com/sites/articles/archive/2019/10/29/costco-chicken-farm.aspx?utm\\_source=dnl&utm\\_medium=email&utm\\_content=art1ReadMore&utm\\_campaign=20191029Z1&et\\_cid=DM378536&et\\_rid=739163302&fbclid=IwAR2e-1C8Kcc7EIniUxohjctf3s5lxNMgLhwSOkNBITzlBx6wrUOUtRPk-8M](https://articles.mercola.com/sites/articles/archive/2019/10/29/costco-chicken-farm.aspx?utm_source=dnl&utm_medium=email&utm_content=art1ReadMore&utm_campaign=20191029Z1&et_cid=DM378536&et_rid=739163302&fbclid=IwAR2e-1C8Kcc7EIniUxohjctf3s5lxNMgLhwSOkNBITzlBx6wrUOUtRPk-8M)

**The Food & Environment Reporting Network -**

[https://thefern.org/ag\\_insider/in-nebraska-fight-over-costco-chicken-farms-escalates/](https://thefern.org/ag_insider/in-nebraska-fight-over-costco-chicken-farms-escalates/)

**NTV -**

[https://nebraska.tv/news/ntvs-grow/costco-chicken-plant-prompts-vigorous-debate-over-future-of-livestock-in-nebraska?fbclid=IwARoCNezs5dG\\_ZFMsrfqZVoIuY5eK3HGEj4MiRAAx5dxRWL5wY-FkJQU3bo](https://nebraska.tv/news/ntvs-grow/costco-chicken-plant-prompts-vigorous-debate-over-future-of-livestock-in-nebraska?fbclid=IwARoCNezs5dG_ZFMsrfqZVoIuY5eK3HGEj4MiRAAx5dxRWL5wY-FkJQU3bo)

**NPR -**

<https://www.npr.org/sections/thesalt/2016/01/24/463976110/when-a-chicken-farm-moves-next-door-odor-may-not-be-the-only-problem>

**LJS Editorial Opinion By National Geographic's Joel Sartore -**

[https://journalstar.com/opinion/columnists/local-view-delay-vote-on-poultry-barns-in-lancaster-county/article\\_9658b61a-9c9e-53dc-af39-46f9a1e41219.html?fbclid=IwAR28Md91Wc\\_JomL30YpuTYwIbKpRvOW7E2y2qeAhZto2iFCNMaltadWht7w](https://journalstar.com/opinion/columnists/local-view-delay-vote-on-poultry-barns-in-lancaster-county/article_9658b61a-9c9e-53dc-af39-46f9a1e41219.html?fbclid=IwAR28Md91Wc_JomL30YpuTYwIbKpRvOW7E2y2qeAhZto2iFCNMaltadWht7w)

**Lancaster County Zoning Ordinance Article 13 Special Permits Related to Animal Feeding Operations: Suggested Additional Amendments for January 8, 2020  
Planning Commission Hearing on Text Amendments TX19010  
(submitted by Jonathan S. Leo at January 8, 2020 hearing)**

**I. Proposed Revisions to Article 13 Special Permit  
13.035**

**b. Medium or Large Animal Feeding Operation (Medium or Large AFO)**

A Medium or Large AFO may be allowed by special permit in the AG District if the application is received on or after [FUTURE EFFECTIVE DATE] under the following conditions:

- 2. A Construction and Operating Permit, including a Nutrient Management Plan, approved by the Nebraska Department of Environment and Energy shall be submitted with the application.
  
- 4. A completed Lancaster County Animal Feeding Operation Siting Assessment Matrix and all documentation necessary to verify the accuracy of the completed matrix shall be included with the application. The County may request additional documentation.
  
- 6. A decommissioning plan outlining the means, procedures and cost of removing or reusing the AFO shall be submitted with the application. A bond or equivalent enforceable resource, acceptable to the Planning Director, to guarantee removal or reuse upon discontinuance, decommissioning or abandonment shall be included as part of the decommissioning plan. The permittee or a financially responsible guarantor of the permittee shall annually provide to the Planning Director a certification that the bond or equivalent enforceable resource remains fully funded and liquid. Such annual recertification shall continue to be made until the Director determines and declares in writing that the decommissioning plan has been fully implemented or otherwise fulfilled. For purposes of this Section, discontinuance, decommissioning or abandonment shall mean the

facility has not stabled or confined and fed or maintained animals for at least forty-five (45) days in a twelve (12) month period.

8. A water well permit(s) issued by the Lower Platte South Natural Resources District (Lower Platte South NRD) for the AFO shall be submitted with the application. The permit(s) shall, in the judgment of the Planning Department, provide a supply of water adequate for the care and feeding of the animals for the expected term of operation of the AFO and for the suppression of any fires that may occur at or within the AFO.

**Suggested Additional Amendments to Lancaster County Zoning Ordinance**  
**Article 13 Special Permits Related to Animal Feeding Operations: Suggested**  
**Additional Amendments for January 8, 2020 Planning Commission Hearing on**  
**Text Amendments TX19010**

**(submitted by Jonathan S. Leo at January 8, 2020 hearing)**

**County Attorney's Version of Lancaster County CAFO Working Group's Proposed**  
**Zoning Ordinance Amendments**

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Proposed Amendment to  
LANCASTER COUNTY ANIMAL FEEDING OPERATION (AFO) SITING MATRIX  
for Lincoln/Lancaster Planning Commission January 8, 2020 hearing on  
Text Amendment TX 19010  
(submitted by Jonathan S. Leo)

Add the following "Verification of Accuracy" declaration at the end of every AFO Siting Matrix submitted with a Special Permit application:

"I prepared, or verified the preparation by others, of every element of this AFO Siting Matrix and I declare that I have personally collected and/or reviewed all the documents necessary to verify the accuracy of every element of this AFO Siting Matrix and that I have attached all such documentation to this AFO Siting Matrix."

By:

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Signed Name

\_\_\_\_\_  
Date of Declaration



**Leslie E. Brestel**

**From:** Commish  
**Sent:** Tuesday, February 4, 2020 10:12 AM  
**To:** Dan F. Nolte; Cori R. Beattie; Leslie E. Brestel  
**Subject:** FW: Jonathan Leo's Suggested Amendments to CAFO Working Group Recommendations re Lancaster County CAFO Zoning Regulation Amendments  
**Attachments:** CAFO Working Group\_Suggested Additional Amendments\_Jan 2020\_clean.pdf; CAFO Working Group\_Suggested Additional Amendments\_Jan 2020\_redlined markup.docx.pdf; CAFO Working Group\_Suggested Amendment to AFO Siting Matrix\_Jan 2020.pdf

**From:** Sean H. Flowerday <SFlowerday@lancaster.ne.gov>  
**Sent:** Tuesday, February 04, 2020 9:36 AM  
**To:** Commish <Commish@lancaster.ne.gov>  
**Subject:** FW: Jonathan Leo's Suggested Amendments to CAFO Working Group Recommendations re Lancaster County CAFO Zoning Regulation Amendments

**From:** Jonathan Leo <jonathan.s.leo@gmail.com>  
**Sent:** Monday, January 13, 2020 4:20 PM  
**To:** Jenifer T. Holloway <JHolloway@lancaster.ne.gov>  
**Cc:** Sean H. Flowerday <SFlowerday@lancaster.ne.gov>; Steve S. Henrichsen <shenrichsen@lincoln.ne.gov>  
**Subject:** Jonathan Leo's Suggested Amendments to CAFO Working Group Recommendations re Lancaster County CAFO Zoning Regulation Amendments

Hi, Jen:

As we discussed on the phone earlier today, I've attached three (3) pdf documents for your consideration, in anticipation of my submittal of them to the Board of County Commissioners at its 9:00 AM, February 4, 2020 hearing on the Planning Commission's 9-0 vote recommending adoption of the CAFO Working Group's recommended amendments. (As you know, the Planning Commission declined to consider my suggested four (4) additional text amendments and one (1) amendment to the Livestock Siting Matrix at its January 8, 2020 hearing.)

I've copied Commissioner Flowerday and the Planning Department's Development Review Manager, Steve Henrichsen, on this email -- as we also discussed -- because I have talked with Commissioner Flowerday about these proposed additional amendments and because Mr. Henrichsen recommended to me that I share them with you prior to the February 4, 2020 Board of County Commissioners hearing.

Please let me know if you have any questions about any one or more of them, including my rationale for proposing them.

Thanks in advance for your consideration,

Jon

Jonathan Sebastian Leo

Attorney-at-Law (CA only)  
423-763-8808  
[jonathan.s.leo@gmail.com](mailto:jonathan.s.leo@gmail.com)

**Suggested Additional Amendments to Lancaster County Zoning Ordinance  
Article 13 Special Permits Related to Animal Feeding Operations: Suggested  
Additional Amendments for January 8, 2020 Planning Commission Hearing on  
Text Amendments TX19010**

**(submitted by Jonathan S. Leo at January 8, 2020 hearing)**

**County Attorney's Version of Lancaster County CAFO Working Group's Proposed  
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for Lincoln/Lancaster Planning Commission January 8, 2020 hearing on  
Text Amendment TX 19010

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By:

\_\_\_\_\_

Printed name

\_\_\_\_\_

Signed Name

\_\_\_\_\_

Date of Declaration

**Lancaster County Zoning Ordinance Article 13 Special Permits Related to Animal Feeding Operations: Suggested Additional Amendments for January 8, 2020  
Planning Commission Hearing on Text Amendments TX19010  
(submitted by Jonathan S. Leo at January 8, 2020 hearing)**

**I. Proposed Revisions to Article 13 Special Permit  
13.035**

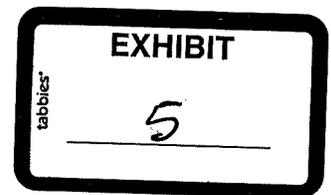
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A Medium or Large AFO may be allowed by special permit in the AG District if the application is received on or after [FUTURE EFFECTIVE DATE] under the following conditions:

2. A Construction and Operating Permit, including a Nutrient Management Plan, approved by the Nebraska Department of Environment and Energy shall be submitted with the application.
4. A completed Lancaster County Animal Feeding Operation Siting Assessment Matrix and all documentation necessary to verify the accuracy of the completed matrix shall be included with the application. The County may request additional documentation.
6. A decommissioning plan outlining the means, procedures and cost of removing or reusing the AFO shall be submitted with the application. A bond or equivalent enforceable resource, acceptable to the Planning Director, to guarantee removal or reuse upon discontinuance, decommissioning or abandonment shall be included as part of the decommissioning plan. The permittee or a financially responsible guarantor of the permittee shall annually provide to the Planning Director a certification that the bond or equivalent enforceable resource remains fully funded and liquid. Such annual recertification shall continue to be made until the Director determines and declares in writing that the decommissioning plan has been fully implemented or otherwise fulfilled. For purposes of this Section, discontinuance, decommissioning or abandonment shall mean the

facility has not stabled or confined and fed or maintained animals for at least forty-five (45) days in a twelve (12) month period.

8. A water well permit(s) issued by the Lower Platte South Natural Resources District (Lower Platte South NRD) for the AFO shall be submitted with the application. The permit(s) shall, in the judgment of the Planning Department, provide a supply of water adequate for the care and feeding of the animals for the expected term of operation of the AFO and for the suppression of any fires that may occur at or within the AFO.



My name is Lori Heiss and I live at 23800 NW 27th. My husband and I attended and spoke at the last 2 CAFO Taskforce meetings and watched as a County Board appointed working group of varied agricultural backgrounds listened to and respected one another's opinions. They negotiated and were able to reach a compromise of what would be best for Lancaster County. They listened to experts, did their homework and took 6 months to formulate regulations that were sorely needed as we didn't have any. They also took into account public places, especially schools, as our county has 3 schools in rural areas. I would never want another school to have to go through what we have gone through the last 8 months and what will likely continue for the next year. We have spent hours in meetings and had to miss our kids school events to discuss the location of these barns and student safety and welfare. All of which could have been prevented if ANY regulations had been in place.

The notification process is seriously inadequate. The 2040 plan reads: Notify surrounding property owners, interested groups, and other appropriate agencies of formal development applications"

We had just a little over a weeks notice and even then we were misled with information that everyone within a mile radius was informed and those who were told were "on board." This did not include those affected in Saunders County as this site is right on the county line. Fortunately, due to the applicant's unpreparedness, our initial hearing was delayed. Twice. The opposition letters to this location reached 200+. Clearly not everyone was on board. Including our elected school board at Raymond Central who voted unanimously against the LOCATION of these barns. Rock Creek Village withdrew their intent to maintain Ashland Road as they were misled by the land owner. Saunders County sided with Rock Creek Village. Valparaiso Fire and Rescue did not sign off on this location due to road access and water availability. Ceresco Village Board voted against this location. Why aren't roads and water figured out prior to getting a permit? If the objective is to "check the boxes", why aren't these vital entities in public safety included in this process?

We reside in the 2nd most populated county in the state. Neighboring and other highly populated counties either don't allow CAFOs (Douglas county) or have much more stringent setbacks. Lancaster County is not even designated as a Livestock Friendly County. 1/4 of a mile is only 1,320 feet. These barns are 600 ft. long. Should we be forced to accept living a little over 2 barn lengths away from 380,000 chickens?? Once built, there is very little regulation or oversight in how they are managed. The Taskforce started with greater distances and "settled" at 1/2 mile from homes and 1.5 miles from schools. Given all I've learned about large CAFO's these past 6 months, I would like to see setbacks from a school at 2 miles.

Water - Our most important natural resource. It should be determined, prior to obtaining a permit, if enough water is available. There was discussion that it was too costly for the farmer's upfront. What about how much it is costing us all at this point? The cost when a Class C school does not have enough water to grow, remain open in 10 years, fight a fire?? Water supply in our area is already a major concern and limited.

Lastly, and above all, the 2040 plan states under purpose and title "to secure safety from fire, panic and other dangers; to promote health and the general welfare". The safety, health and general welfare of students is paramount for Raymond Central and according to the 2040 plan, it should be paramount for Lancaster County as well. Thank you.

1-30-20

## Public Hearing concerning Animal Feeding Operations

I am Tim Kalkowski and I was one of the ten members of the Animal Feeding Operation working group. I would like to give you a little insight as to what my thinking was during the process of creating zoning regulations for Animal Feeding Operations.

I personally believe there needs to be a balance in Nebraska and Lancaster County when it comes to the zoning of AFOs. I am concerned about a clean, safe and healthy environment for my children and grandchildren. I am also concerned about food safety which has recently been highlighted in the world news by what is happening in China. The United States produces the safest food in the world and Nebraska is at the epicenter of that.

Some facts from the Nebraska Department of Agriculture Fact Card dated February 2019:

- 1) Nebraska ranks #1 in the country in commercial red meat production, commercial cattle slaughter, all cattle on feed, great northern bean production, and popcorn production.
- 2) Nebraska ranks #2 in all cattle and calves, all hay production, and bison.
- 3) 3<sup>rd</sup> in corn production.
- 4) 5<sup>th</sup> in soybean production, cash receipts from all crops, sugar beet production, egg and egg product exports, and pork and pork product exports.
- 5) We produce more than 2 billion gallons of renewable fuel annually.

Cash receipts from farm marketing's contribute over \$21 billion to Nebraska's economy and for every dollar in agricultural exports generates \$1.28 in additional economic activities. I think I can safely say agriculture pays the bills in Nebraska.

Lancaster County influences the above facts more than one would first realize. Obviously, Lancaster County is diverse with poultry production, swine production, livestock production, and a lot of crop production. But maybe more importantly, Lancaster County is where our state legislature is located and where our policies and laws are created. It is also the home of our Land Grant University where some of the top agriculture research in the world is conducted. So, Lancaster County is an integral part of what we do in Nebraska.

Our working group tried to use a balanced approach by having solid, well thought out, common sense thinking when considering the zoning regulations for Lancaster County. We differentiated between enclosed AFOs and open AFOs knowing that there is a huge difference in odor and how waste is managed in these types of facilities. We also mirrored what the Nebraska Department of Environment and Energy (NDEE) recognized as large, medium, and small AFOs. We felt that the setbacks for a large open AFO (1 mile) should be more than an enclosed AFO (1/2 mile). We also wanted to take into consideration the traffic flow involved in these operations, so we did an additional set back of 1.5 miles for large AFOs from public structures such as schools, hospitals, and churches (1.0-mile setback for the medium sized AFOs).

We asked that when filing an application that a site plan be provided, a construction and operating permit be approved by NDEE (which includes the nutrient management plan), a road maintenance agreement be in place, and the Nebraska Animal Feeding Operation Siting Assessment Matrix be completed. It will take some work and thought to make application for a special permit for an AFO.

We were concerned about the decommissioning of these facilities when their lifespan is finished so we asked that there be a decommissioning plan in place for removing or reusing all facilities.

We asked for a conservation buffer to be established to help with odor and the surrounding landscape.

We also increased the amount of notification time for a public hearing to 30 days so all parties would have adequate time to prepare.

So, the real question is - by adopting regulations like our group recommended are we leaving this a better place for the next generation? I would argue that we are creating a sustainable economic environment, and the safest food in the world, while also trying to protect our environment. It is a balancing act and there is a place for both sides of the issue.

# Nebraska Agriculture Fact Card

A cooperative effort of the Nebraska Department of Agriculture,  
USDA, NASS, Nebraska Field Office, Nebraska Bankers Association

February 2019

## Nebraska's Top National Rankings

- 1st Beef and beef product exports, 2017 – \$1,264,739,056  
Commercial red meat production, 2018 – 8,108,300,000 lbs. (3,677,863,014 kg)  
Commercial cattle slaughter, 2018 – 7,453,900 head  
Great Northern bean production, 2018 – 975,000 cwt. (49,532,287 kg)  
All cattle on feed, Jan 1, 2019 – 2,750,000 head  
Popcorn production, 2012 – 353,711,118 lbs. (160,440,664 kg)
- 2nd All cattle and calves, Jan. 1, 2019 – 6,800,000 head  
All hay production, 2018 - 6,985,000 tons (6,336,685,409 kg)  
Pinto bean production, 2018 – 1,488,000 cwt. (75,593,890 kg)  
Proso millet production, 2018 – 2,848,000 bushels (77,509,744 kg)  
Light red kidney bean production, 2018 – 268,000 cwt (13,615,029 kg)  
Bison, number of head, Dec. 31, 2012 – 23,152
- 3rd Corn for grain production, 2018 – 1,787,520,000 bushels (45,405,104,260 kg)  
Corn exports, 2017 – \$1,021,300,000  
Cash receipts from all livestock and products, 2017 – \$12,463,811,000
- 4th Beef cows, number head, Jan. 1, 2019 – 1,941,000  
Cash receipts from all farm commodities, 2017 – \$21,334,419,000  
Land in farms and ranches, 2017 – 45,200,000 acres (18,291,791 ha)
- 5th Soybean exports, 2017 - \$1,532,500,000  
Soybean production, 2018 – 333,350,000 bushels (9,072,300,992 kg)  
Alfalfa hay production, 2018 – 3,655,000 tons (3,315,760,225 kg)  
Harvested acres of principal crops, 2018 – 19,419,000 acres (7,858,590 ha)  
Cash receipts from all crops, 2017 – \$8,870,608,000  
Grain sorghum production, 2018 – 15,980,000 bushels (405,910,740 kg)  
Sugar beet production, 2018 – 1,407,000 tons (1,276,408,929 kg)  
Egg and egg product exports, 2017 - \$24,987,246  
Pork and pork product exports, 2017 - \$479,016,596
- 6th All dry edible bean production, 2018 – 3,249,000 cwt. (165,056,820 kg)  
Agricultural exports, 2017 – \$6,397,400,000  
Commercial hog slaughter, 2018 – 7,874,000 head
- 7th Sunflower, production, 2018 – 47,380,000 lbs (21,491,206 kg)  
All hogs and pigs on farms, Dec. 1, 2018 – 3,500,000 head
- 8th Winter wheat production, 2018 – 49,490,000 bushels (1,346,895,095 kg)

## Nebraska Ag Facts

- Cash receipts from farm marketings contributed over \$21 billion to Nebraska's economy in 2017 and 5.7% of the U.S. total.
- Nebraska's ten leading commodities (in order of value) for 2017 cash receipts are cattle and calves, corn, soybeans, hogs, dairy products (milk), wheat, hay, chicken eggs, potatoes and dry beans.
- Every dollar in agricultural exports generates \$1.28 in economic activities such as transportation, financing, warehousing and production. Nebraska's \$6.4 billion in agricultural exports in 2017 translate into \$8.19 billion in additional economic activity.
- Nebraska's top five agricultural exports in 2017 were soybeans, beef and veal, corn, feeds and fodders, and processed grain products.
- Nebraska had 47,400 farms and ranches during 2017; the average operation consisted of 954 acres (386 ha).
- In 2017, Nebraska ranked second in ethanol production capacity, with 25 operating plants having production capacity of more than 2 billion gallons (757,80,242 daL). Approximately 40% of the state's 2018 corn crop was utilized in ethanol production.
- Livestock or poultry operations were found on 49% of Nebraska farms.
- The top five counties ranked by agricultural sales in 2012 were Cuming, Custer, Dawson, Lincoln, and Phelps.
- In 2015, Nebraska was 12<sup>th</sup> nationally in certified organic cropland acres (85,172) (34,468 ha.) and in 2011, ranked 8<sup>th</sup> in certified organic pasture acres (53,174) (21,519 ha).
- 1 in 4 jobs in Nebraska are related to agriculture.
- The average age of a Nebraska principal operator was 55.7 in 2012.
- During the 5-year period between 2007 and 2012, Nebraska experienced a 5% increase in the number of farms and a 10% increase in the number of new farmers.
- From east to west, Nebraska experiences a 4,584 foot elevation difference and the average annual precipitation decreases by one inch every 25 miles, allowing Nebraska to have a diverse agricultural industry from one side of the state to the other.

## Nebraska's Natural Resources

- Nebraska's farms and ranches utilize 45.2 million acres – 91% of the state's total land area.
- Nebraska is fortunate to have aquifers below it. If poured over the surface of the state, the water in those aquifers would have a depth of 37.9 feet (11.6 meters). The state has 96,509 registered, active irrigation wells supplying water to over 8.3 million acres of harvested cropland and pasture. Of the total cropland harvested during 2012, 44 percent was irrigated.
- Nearly 80,000 miles of rivers and streams add to Nebraska's bountiful natural resources.
- There are nearly 23 million acres (9,307,806 ha) of rangeland and pastureland in Nebraska – half of which are in the Sandhills.

Sources: USDA NASS, Lincoln, NE, USDA ERS, USDA FAS  
Nebraska Department of Agriculture - phone 402-471-2341

# WHAT'S IN YOUR WATER?

HARDIN HALL AUDITORIUM  
THURSDAY, FEBRUARY 27TH  
6:30PM - 8:00PM

Learn about Nebraska and Lincoln's water quality and bring a sample of your drinking water to be tested! Free water testing kits will be available.

## SPEAKERS:

Nate Belcher

Dick Ehrman

Dr. Shannon Bartelt-Hunt

Amanda Gangwish

Sponsored by: Conservation Nebraska, AmeriCorps, UNL Department of Civil & Environmental Engineering, GC Resolve, and The Sierra Club



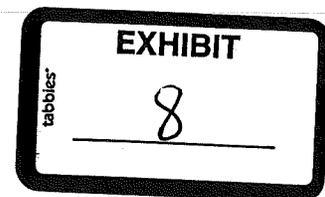
**CONSERVATION  
NEBRASKA**



EXHIBIT

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7



**Communications received by the Clerk's Office regarding Text Amendment 19010**

**Support (Emails)**

Gene Sedivy

Harriet Gould

Angie Peterson

**Opposition**

Letter from Wachiska Audubon Society

IF THE LPS NRD REQUIRES A WELL PERMIT DUE TO THE SIZE OF THE WELL, THE PERMIT(S) SHALL BE SUBMITTED WITH THE APPLICATION.