

**LAKE COUNTY PLANNING COMMISSION AND COUNTY COMMISSION MINUTES  
JOINT MEETING**

**April 26, 2023**

The Lake County Planning Commission and the Board of Lake County Commissioners held a joint meeting on April 26, 2023, at 9 a.m. in the commission room at the Lake County Courthouse.

**PLANNING COMMISSION CALL TO ORDER AND ROLL CALL:**

Chair Johnson called the meeting to order. Zoning Officer Carrie Schiernbeck called roll call: Planning Commissioners Jody Ackerman, Roger Albertson, Daniel Hansen, Aaron Johnson, and Alan Schaefer all present.

**COUNTY COMMISSION CALL TO ORDER AND ROLL CALL:**

Chair Wollmann called the meeting to order. Deputy Auditor Erin Schneider called roll call: Commissioners Corey Johnke, Adam Leighton, Deb Reinicke, Dennis Slaughter, and Kelli Wollmann all present. CAO/HRS Shelli Gust and First District Representatives Todd Kays and Luke Muller were also present.

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was recited.

**COMMUNITY COMMENTS:**

Betty Strom, Rita Brown, Linda Nichols, Charlie Johnson, and Chase Jensen, representing themselves, each spoke as an opponent of the Summit Carbon Solutions pipeline. Trevor Jones, representing Summit Carbon Solutions, spoke as a proponent of the Summit Carbon Solutions pipeline. Betty Strom, Linda Nichols, and Trevor Jones each provided the boards with a handout.

**AGENDA APPROVED:**

Motion by Reinicke, second by Leighton, to approve the joint planning commission and county commission agenda of April 26, 2023. Motion carried.

**WORK SESSION / DISCUSSION ON PROPOSED CHANGES TO ZONING ORDINANCE #06-44, AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR LAKE COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND ALL AMENDMENTS THERETO, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 11-2, 1967 SDCL, AND AMENDMENTS THEREOF:**

Todd Kays with First District gave a brief history of the work that has been done with our zoning ordinance over the past 14 years. In 2009, a comprehensive revision of the zoning ordinance was completed. Those ordinance revisions were referred to a public vote and were defeated in a special election. Approximately 5 years ago, staff and First District began to review a general template of the ordinance. Approximately 1 ½ years ago, staff, First District, former County Commissioner Aaron Johnson, and former Planning Commissioner Dale Thompson began to review the ordinance again and began making comprehensive revisions. Kays advised the boards they have the option to pass sections of the ordinance piecemeal or to pass the entire ordinance at once, and the general pros and cons of each option.

Kays advised that he would be giving a general overview of the sections in the ordinance, and then he would take questions about those individual sections. The boards reviewed the following articles: Article I: Short Title and Application; Article II: Definitions; Article III: Establishment of Districts; Article IV: Nonconforming Uses or Lots of Record; Article V: Appeals, Variance, and Conditional Uses; Article VI: Zoning Official; Article VII: Permits, Schedule of

Fees, Charges, and Expenses, Article VIII: Enforcement; Article IX: Amendments; and Article X: Legal Status Provisions.

Article I: There were no questions.

Article II: There were several questions and discussion about many definitions listed, including but not limited to the following: definition of adjacent property, applicant, cemetery, contingency plans, hazardous materials, leaks and spills, nonstandard uses, aggrieved person, Class V Injection Well, dwelling unit, lot types, REM, runoff control basin, solar energy, special permitted uses, structure, tower, and well.

Article III: There was a question and discussion about whether additional overlay districts, such as a mining overlay district might be appropriate. First District explained how that would work, but did not recommend it as it has the potential to create spot zoning issues, instead recommending that a special permitted use might be a better method to use. There was a discussion about whether the Chair must be the person that signs the official zoning map. First District advised that it is required by state law.

Article IV: There was a question about the discontinuance of a nonconforming use and the time period allowed for discontinuance. First District advised that those requirements are also in state law. First District discussed continuation of nonstandard uses.

Article V: There was discussion about the issues surrounding variances and conditional uses being heard before the Planning Commission and the Board of Adjustment. State law does not require that they be heard before both boards, and Lake County is only one of a handful of counties that are still doing this. First District advised that the County Commission could serve as the Board of Adjustment or a separate Planning Board could serve as the Board of Adjustment. Pros and cons of both options were discussed. There was a question and discussion about the notice requirements for variances and whether additional forms of notice (social media or signs) should be considered.

Article VI: There was a discussion about special permitted uses. No special permitted uses have been identified, but the framework is there. The Planning Commission could take that framework and work later on to identify those uses.

Article VII: There were no questions.

Article VIII: There were no questions.

Article IX: First District explained the four ways that amendments to the zoning district boundaries or regulations can be accomplished as well as whether or not those actions can be referred or appealed.

Article X: There were no questions.

First District assigned the two boards to review pages 59-187 and plan to meet again in the next few weeks. No specific date was set. First District will send CAO Gust their availability and a meeting will then be scheduled with the two boards.

### **ADDITIONAL TOPICS FOR DISCUSSION PROPOSED BY PLANNING COMMISSIONERS OR COUNTY COMMISSIONERS**

#### **CARBON DIOXIDE PIPELINE ORDINANCE AND REGULATIONS (PLANNING COMMISSIONER AARON JOHNSON)**

Planning Commissioner Johnson requested that the County Commission direct the Planning Commission to draft an ordinance regulating carbon dioxide pipelines. Johnson had a 2-slide PowerPoint showing information about a CO<sub>2</sub> pipeline rupture in MS and NE Attorney Paul Blackburn's summary opinion on interstate pipeline preemption. Johnson also provided 3 handouts: a memo from Landowners for Eminent Domain Reform, an example of a last offer to purchase easement, and a letter from DeSmet Insurance. Johnson outlined the reasons why he

feels an ordinance is needed. Johnson advised that Attorney Blackburn has offered to help write an ordinance. Chair Wollmann asked First District to comment on the request. First District advised that up to this point, the County has never regulated anything underground through zoning. emphasized that caution should be taken before passing any ordinance and advised that it is when, not if, you will be sued. First District advised that the county talk to their insurance company to determine what coverage level will be provided and to visit with their attorney about their level of exposure. Chair Wollmann asked for State's Attorney Wendy Kloeppner's opinion. SA Kloeppner advised she agreed with everything that First District said. Commissioner Johnke advised he needed to leave the meeting due to a prior commitment, and that he would be recusing himself from any vote on a proposed pipeline ordinance. Recusal noted for the record. Commissioner Johnke left the meeting at 12:05 p.m. Planning Commissioner Johnson responded to First District's comments. Johnson advised that the costs of a lawsuit could be paid for through a coop with other counties. First District advised they needed to leave the meeting due to a prior commitment. Commissioner Reinicke asked that First District include a draft of a solar energy ordinance for the next meeting. First District left at 12:15 p.m. Planning Commissioner Johnson expressed interest in bringing sample ordinances to the next planning meeting and encouraged Commissioners to make a decision at this meeting to move forward. Commissioners Reinicke, Wollmann, Leighton, and Slaughter expressed that they wanted more time before making any decisions and requested that SA Kloeppner contact our insurance company. Commissioners directed CAO Gust to include this on the agenda for the next joint planning commission / county commission meeting.

**ADJOURNMENT:**

Motion by Reinicke, second by Leighton, to adjourn at 12:21 p.m. Motion carried. The next regular meeting of the Planning Commission will be on Wednesday, May 10, 2023 at 9:00 a.m. The next regular meeting of the County Commission will be on Tuesday, May 2<sup>nd</sup>, 2023 at 9:00 a.m.

/s/Erin Schneider  
Lake County Deputy Auditor

/s/Kelli Wollmann  
Chair, Lake County Commission

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