

# Pierce County Board Minutes



## COMMISSIONERS PROCEEDINGS

December 31, 2018

The Pierce County Board of Commissioners met pursuant to adjournment on Monday, December 31, 2018, at 9:10 A.M. with the following members present: Marvin Elwood, Jr., Brad Albers and Terry J. Wragge. Co. Assessor Peggy Wragge, Deputy Co. Assessor Jean Lubke, Co. Clerk Shannon Wragge, Zoning Adm. Heather McWhorter, Co. Sheriff Rick Eberhardt, Clerk of District Court Vickie Prince, Deputy County Attorney Amy Miller, Co. Attorney Elect Ted Lohrberg, County Commissioner Elect Jim Schmit, Richard Koenig, Jim Maas, Krista Schluns, Bryan Kroenke, Patricia Samuals, Ryan Zimmerman, Rick Otto, Bryan Markes, Gene Buss, Kendall Steffensen, Adam Hervert and News Reporter Randee Falter were present.

Notice of the meeting was given in advance as shown by the Certificate of Publication on file in the County Clerk's office. Availability of the agenda was communicated in the advance notice of the meeting. All proceedings hereafter shown were taken while the convened meeting was open to the public. Chairman Wragge called the meeting to order at 9:10 A.M. and presided. Chairman Wragge stated that the Open Meetings Act is posted on the north wall of the board room with more copies available at the County Clerk's office.

Motion by Elwood, seconded by Albers, to approve the agenda. Roll call vote: Aye: Elwood, Albers and Wragge. Nay: None. Motion carried.

The minutes of December 17, 2018 were approved as printed.

The legal was read for the 9:11 a.m. public hearing to receive public comments concerning the possible violation of Krista Schluns' Conditional Use Permit to operate a lodging and recreational venue on property located in pt of the NW  $\frac{1}{4}$  9-25-2.

Chairman Wragge opened the hearing at 9:11 a.m. Chairman Terry Wragge asked if anyone wanted to speak. Krista Schluns Attorney Patricia Samuals spoke asking the Board that no action be taken and both sides come to an understanding and agreement. Kendall Steffensen spoke asking the County Board to vote in favor upon the Pierce County Zoning Board recommendation to revoke the Conditional Use Permit of Krista Schluns due to not taking care of roads and signage as stated in the Conditional Use Permit. Attorney Patricia Samuals spoke again asking the Board that no action be taken. There were numerous written comments and objections against Schluns operating and asking the Board to revoke license because of the conditions of the roads and many people coming into subdivision to venue. Chairman Wragge closed the hearing at 9:16 a.m.

The County Board discussed the Conditional Use Permit (Resolution 2016-3). Deputy County Attorney Amy Miller spoke to the County Board telling them that it is in their best interest to not end up in a lawsuit so do not revoke Schluns' CUP and let her continue to operate and let the subdivision work it out over the roads.

Motion by Wragge, seconded by Elwood, to revoke the Conditional Use Permit (Resolution 2016-3), for Willow Unique Stay, owned and operated by Krista Schluns, effective February 1, 2019, due to the violation of Condition #8. Roll call vote: Aye: Elwood and Wragge; Albers abstained. Nay: None. Motion carried.

Motion by Albers, seconded by Elwood, to approve Hwy 20 in Pierce County to be named Veterans Medal of Honor Highway. Roll call vote: Aye: Elwood, Albers and Wragge. Nay: None. Motion carried.

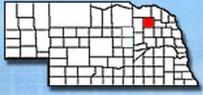
Motion by Elwood, seconded by Albers, to Authorize & Approve the Chairman to sign Pay Application #1 (\$144,699.23) to A & R Construction Co., Plainview, NE for the Foster SW Project #040669. Roll call vote: Aye: Elwood, Albers and Wragge. Nay: None. Motion carried.

The legal was read for the 9:30 a.m. public hearing to receive public comments concerning the amendment of the Pierce County Zoning Regulations to include Solar Energy Regulations.

Chairman Wragge opened the hearing at 9:30 a.m. Zoning Adm. Heather McWhorter and Zoning Board Chairman Ryan Zimmerman were present and answered questions the Board had on the Amendment of the zoning regulations pertaining to solar energy. Chairman Wragge closed the hearing at 9:47 a.m.

Motion by Albers, seconded by Elwood, to approve Resolution #2018-35 as follows:

RESOLUTION #2018 - 35



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A RESOLUTION AMENDING CERTAIN LANGUAGE IN THE PIERCE COUNTY ZONING AND SUBDIVISION RESOLUTIONS UNDER THE AUTHORITY GRANTED BY SECTIONS 23-114.01 THROUGH 223-114.05 AND 23-165 OF THE REVISED STATUTES OF NEBRASKA, 1943.

WHEREAS, having received a recommendation for approval from the Pierce County Planning Commission and proper notice been given and public hearing held as provided by law.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Pierce County, Nebraska, hereby amends the Pierce County Zoning and Subdivision Regulations by adding the following language into the Zoning Regulations, to include 6.04, Supplemental Regulations, Solar Energy as follows:

## **Section 6.04 Solar Energy**

1. A solar panel which is attached to an integral part of the principal building may project two feet into the front yard; six feet into the rear yard; and two feet into the side yard.

2. A solar panel which is freestanding may be located only in the required rear yard provided it is not less than five feet from the rear lot line and not closer than one foot to any existing structure as measured from the closest point of the structure including its foundation and anchorage's, nor shall the solar panel be located in the required side yard or front yard.

No solar panel shall be constructed within the zoning jurisdiction of Pierce County unless a Zoning Permit therefore is approved and is constructed in conformance with the state building codes and the following requirements. For those devices that include electrical, plumbing and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements:

### **Lot and Height Requirements:**

Solar panels shall conform to the required front, side and rear lot setback requirements except as provided herein:

### **Structural Requirements:**

The physical structure and connections to existing structures shall conform to the applicable state building codes.

### **Plot Plan:**

The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

### **Permit Fees:**

Permit fees are required. This permit fee shall be paid prior to the issuance of the zoning permit.

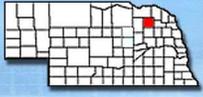
### **Preexisting Solar Panels:**

Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to the adoption of these Regulations, pursuant to a valid building permit issued by the County, may continue to be utilized so long as it is maintained in operational condition.

## **6.04.01 Solar Farms:**

### **Applicability**

The purpose of this subsection is to provide standards for fixed-panel photovoltaic solar farms consisting of ground-mounted solar panels that capture energy from the sun and convert it to electricity. The provisions of this section are based on a ground-mounted photovoltaic facility using a rammed post construction technique and panels that support the flow of rainwater between each module and the growth of vegetation beneath the arrays and limiting the impacts of storm water runoff. The rammed post construction technique allows for minimal disturbance to the existing ground and grading of the site. Based on the assumed solar farm design, Pierce County finds the use to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use is compatible in non-urbanized, low-density areas with other agricultural and scattered industrial uses.



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## Definitions

The following definitions pertain specifically to this section of the Resolution.

**Solar Access:** A property owner's right to have sunlight shine on his land.

**Solar Collector:** An assembly, structure, or design, including passive elements, used for gathering, concentrating or absorbing direct or indirect solar energy, specifically designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid or liquid or to use that energy directly; this may include, but is not limited to, a mechanism or process used for gathering solar energy through thermal gradients, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity.

**Solar Energy:** Solar energy device or design features of a building used for the collection, storage, and distribution of solar energy for space heating, space cooling, lighting, electric generation, or water heating

**Solar Energy System:** A system that uses the power of the sun to capture and store energy and reduce on site consumption of utility power.

**Solar Energy System, Freestanding:** A solar energy system that is not attached to another structure and is ground mounted.

**Solar Energy System, Joint:** A solar energy collector or storage mechanism that supplies energy for structures or processes on more than one lot or in more than one dwelling unit or leasehold, but not to the general public and involves at least two owners or users.

**Solar Sky space:** The maximum three-dimensional space extending from a solar collector to all positions of the sun necessary for efficient use of the collector.

(A) Where a solar energy system is used for heating purposes only, solar sky space shall mean the maximum three-dimensional space extending from a solar energy collector to all positions of the sun between nine o'clock (9:00) A.M. and three o'clock (3:00) P.M. local apparent time from September 22 through March 22 of each year.

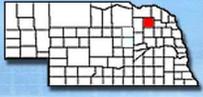
(B) Where a solar energy system is used for cooling purposes only, solar sky space shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun between eight o'clock (8:00) A.M. and four o'clock (4:00) P.M. local apparent time from March 23 through September 21 of each year.

**Solar Sky space Easement:** A right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar sky space of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities. Such right shall specifically describe a solar sky space in three-dimensional terms in which the activity, structures or vegetation are forbidden or limited or in which such an easement shall set performance criteria for adequate collections of solar energy at a particular location.

**Solar Storage Mechanism:** Equipment or elements such as piping and transfer mechanisms, containers, heat exchangers or controls thereof and gases, solids, liquids or combinations thereof that are utilized for storing solar energy, gathered by a solar collector, for subsequent use.

## 6.04.02 Site Development Standards:

1. Lot coverage: No more than five percent of the gross site area shall be occupied by enclosed buildings.



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2. Setbacks: Setbacks: A thirty-foot side and rear setback shall apply only to the setback area measured from a lot line that abuts a residential use or residential zoning district. Setbacks shall be applied as 83' from center of the road, 15' side and 25' rear property lines and applicable intersection setbacks as per Pierce County regulations.
3. Height: The average height of the solar panel arrays shall not exceed 12 feet.
4. Landscaping Buffer: The primary use of the property shall determine the buffer requirement. Where a ground-mounted photovoltaic solar farm is the primary use the property shall be considered agricultural for the purposes of buffer requirements. There is no requirement for screening from public streets.
5. Signage: Signage shall conform to Article 6 of this Resolution as well as any sign limitations of the zoning district.
6. Customer owned on-site power lines shall be buried except where connecting to existing overhead utility lines or substations. This requirement shall not apply to fiber optic connections.
7. Fencing: Due to the unique security requirements of this land use, and to facilitate the educational value of seeing this land use, fencing up to eight (8) feet in height is permitted provided the fencing material is predominantly open as defined in Appendix A.
8. All State and Federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis and historic preservation.

## 6.04.03 Districts

Ground-mounted fixed-panel photovoltaic solar farms may be allowed upon the approval of a Conditional Use Permit as established in Article 5 of this Resolution.

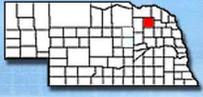
## 6.04.04 Submittal Requirements:

**Conditional Use Permits are required for solar farms. Plans shall contain the following:**

1. A plot plan, drawn to scale, of the property indicating the total site acreage, landscape and buffer areas, tree preservation, location of all structures, the proposed location of the solar panels, the distances of the solar panels to structures on the property as well as distances to the property lines,
2. The plot plan shall include any roads, electric lines and/ or overhead utility lines.
3. A description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated and pre-approved with the appurtenant Power District.
4. A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.
5. Drawings or blueprints of solar panels and arrays in conjunction with the application for a building permit for a solar farm/solar power plant.
6. Structural engineering analysis for a solar panel, array and its foundation, as applicable.
7. Manufacturer's recommended installations, if any.
8. Documentation of land ownership and/or legal authority to construct on the property.
9. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to decommission the site. The Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

## 6.04.05 Compliance with Other Regulations:

1. Zoning permit applications for solar farms shall be accompanied by a line drawing of electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the State's adopted electrical code and that has been pre-approved by the associated power district meeting their Distribution Generation Requirements and Guidelines; and
2. This subsection does not waive any requirements of any state or Federal codes, electrical codes or other technical codes as applicable.



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## 6.04.06 Discontinuation.

A solar farm shall be considered abandoned after one year without energy production. The property owner shall remove all solar farm equipment and appurtenances within 90 days of abandonment. Applicant shall remit an application fee set by the County Board.

A duly advertised hearing was held by the Pierce County Planning Commission on November 19, 2018; and the Pierce County Board of Commissioners on December 31, 2018 after a recommendation for approval by the said Planning Commission.

NOW, THEREFORE, LET IT BE FURTHER RESOLVED, that this Resolution shall take effect and be in force no sooner than the 31st day of December 2018.

THIS RESOLUTION WAS SIGNED AND ADOPTED at Pierce, Nebraska this 31<sup>st</sup> day of December, 2018.

PIERCE COUNTY BOARD OF COMMISSIONERS

/s/ Terry J. Wragge, Chairman

/s/ Marvin Elwood, Jr., District #1 Commissioner

/s/ Brad Albers, District #2 Commissioner

ATTEST: /s/ Shannon Wragge, Pierce County Clerk

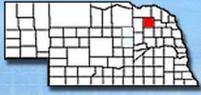
Whereas the original for said resolution is on file at the office of the Pierce County Clerk and available for inspection. Roll call vote: Aye: Elwood, Wragge and Albers. Nay: None. Motion carried.

Discussion was held on NE DHHS office space in the courthouse for child protection service and zoning setbacks for grain bins and ag buildings.

Motion by Albers, seconded by Elwood, to audit and allow the following claims presented for payment and instructed the County Clerk to issue checks for payment of same on the various funds. Roll call vote: Aye: Elwood, Albers and Wragge. Nay: None. Motion carried.

**GENERAL FUND:** Mark Albin-court appointed attorney-\$388.10; Wanda M. Backus-painting-\$127.50; Chris Bahr-reimburse travel-\$186.39; Barco Municipal Products Inc-supplies-\$480.00; Lucinda Law Office-court appoint attorney-\$2,212.80; Black Hills Energy-utilities-\$26.97; Shelby Bretschneider-painting-\$135.00; Comfort Inn-lodging-\$1,209.45; County Veterans Service Officers-registration-\$275.00; DataSpec Inc-yearly fee-\$449.00; Des Moines Stamp-supplies-\$77.40; Ann Fenton-reimburse travel-\$213.00; First Concord-fees, deductible paid-\$820.37; Hometown Market-prisoner food-\$1,027.84; Jenkins Electric-repairs-\$986.27; Kate M. Jorgensen-public defender-\$2,500.00; Keenan Law PC-court appointed attorney-\$1,900.00; Kyle Mattson ITC Supply-repairs-\$548.30; Verlyn Luebbe- reimb. supplies & travel-\$1,452.94; Madison National Life Ins Co Inc-premiums-\$73.15; Manatron Inc-Marshall & Swift rate tables-\$983.27; Midwest Bank-co share-\$3,910.65; Morland, Eastland, Lohrberg PC-public defender & court appointed attorney-\$3,525.50; NE Clerks Assn-dues-\$50.00; NE Law Enforcement Training Center-registration-\$135.00; NE Health & Human Services-Nov. 2018-\$270.00; NE Community College-registration-\$54.50; Brian Oestreich-prisoner food-\$38.00; ONE Source-supplies-\$172.90; Pierce County Sheriff Transportation Petty Cash Fund-mileage, meals, postage, etc-\$78.12; Pierce Automotive Supply-repair parts-\$90.25; Pierce Post Master-stamps-\$250.00; Prime Stop North-gas-\$27.67; Pierce City-utilities-\$3,679.73; Quill-supplies-\$34.98; R & D Welding-repairs-\$13.45; Retirement Plans Division of Ameritas Life Ins. Corp-co. share-\$3,214.70; Brett Rix-mileage-\$228.90; State of NE Networking-service-\$92.88; Thomson Reuters West-law library-\$338.69; Tiger Town-prisoner food-\$516.62; Walmart-supplies-\$18.95; Shannon Wragge-reimburse travel-\$306.51; Payroll-\$51,275.36.

**COUNTY HIGHWAY FUND:** Alpha Workforce Health-employee medical-\$170.00; B's Enterprises-signs & posts-\$1,843.50; Bomgaars-supplies-\$181.92; Carlson Home & Auto-propane-\$3,445.16; CenturyLink-telephone services-\$64.02; CHI Health-physicals-\$261.60; Dinkels-repair parts-\$499.83; Fastenal-repair parts-\$26.65; Inland Truck Parts & Service-repair parts-\$409.51; JEO Consulting Group Inc-engineering-\$10,138.00; Kimball Midwest-supplies-\$111.77; Lawson Products-repair parts-\$601.56; Menards-supplies-\$104.16; Midwest Bank-co share-\$1,946.03; NE Power-utilities-\$264.00; City of Osmond-garbage fees-\$63.52; Pierce Automotive Supply-supplies & repair parts-\$313.69; Pierce City-utilities-\$123.16; Prime Stop North-gas-\$48.75; R & D Welding-repairs-\$7.54; RDO Truck Centers-repair parts-\$55.50; Retirement Plans Division of



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Ameritas Life Ins. Corp-co. share-\$1,685.96; Steinkraus Service-repairs & diesel-\$2,607.53; Payroll-\$25,438.14.

**E911 FUND:** AT & T-service-\$43.90; CenturyLink-service-\$70.10; Plainview Rural Fire-reimbursed Netcom bill for building of Platte Valley tower-\$15,000.00 (re-issued).

**E911 WIRELESS FUND:** CenturyLink-service-\$263.70.

Board Chairman Wragge and Commissioner Elwood recognized and thanked Commissioner Brad Albers for his service to Pierce County.

There being no further business, Chairman Wragge adjourned the meeting at 10:03 A.M. and will meet at a regular meeting on Monday, January 14, 2019 at 9:10 A.M. as County Board of Commissioners, said meeting is open to the public. An agenda for such meeting, kept continuously current, is available for public inspection at the office of the County Clerk.

/s/ Terry J. Wragge  
Chairman, Pierce County  
Board of Commissioners

/s/ Shannon Wragge  
Pierce County Clerk

I, Shannon Wragge, Pierce County Clerk, do hereby certify that all the subjects contained in the foregoing proceedings are contained in the agenda for the meeting kept continuously current and available for public inspection at my office; that such subjects were contained in said agenda for at least 24 hours prior to the meeting; that the minutes of said meeting were in written form and available for public inspection within 10 working days and prior to the next convened meeting of said body; that any news media requesting notification concerning said meetings or said County Board were provided advance notification of the time and place of said meetings and the subjects to be discussed at said meeting.

/s/ Shannon Wragge  
Pierce County Clerk

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