

BUTLER COUNTY PLANNING COMMISSION
September 16, 2026

An open meeting of the Planning Commission of Butler County, Nebraska, was held on the 16th day of September 2026 at the Butler County Highway 92 Building, 3190 N Road, David City, Nebraska, at 6:00 p.m. Present: Roger Topil, Kevin Hotovy, Will Reiter, John Kobza, Jesse Hough, Steve Barlean, and Devin Jakub. Absent: None.

Notice of the meeting was given in advance thereof by publication, a designated method for giving notice. Notice of this meeting was given to all members of the Planning Commission. Availability of the agenda was communicated in the advance notice and in the notice to all members of the Planning Commission of this meeting. All proceedings shown hereafter were taken while the convened meeting was open to the attendance of the public. The Pledge of Allegiance was recited by all present. Chairman Roger Topil announced that a copy of the Open Meetings Act was available at the meeting.

Moved by Reiter, seconded by Kobza, to approve the minutes from the last meeting. All aye; motion carried.

Discussion/Possible Action Regarding the Comprehensive Plan

Section 1.2, page 8. Members reviewed the description of Butler County and the counties bordering Butler County. The language had been revised to include counties that border the County at a corner; members agreed that the current language was accurate.

The Commission also reviewed the language describing the composition of the Planning Commission. The requested language stating that there is one commissioner from each rural district and two at-large commissioners had been incorporated.

Section 2.3, page 12. Members reviewed the change from “marketing” to “guiding” or “promoting.” The requested change had been incorporated.

Section 2.5. Members reviewed revisions concerning agricultural lands, including the addition of the words “or lands.” The requested changes had been incorporated.

Section 2.6. Members reviewed the revisions to the parks and recreation language and agreed that the requested changes had been made.

Section 2.6, paragraph 5. Discussion was held regarding the paragraph concerning a conservation district. Members noted that the acreage previously identified for the conservation district had been reduced to zero, but the language establishing or identifying the conservation district remained in the Comprehensive Plan.

Hough expressed frustration that the Commission was again reviewing portions of the Comprehensive Plan without having received a revised document showing the changes made since the previous review. He stated that the Commission should not have to go through the entire document again to determine which changes had been incorporated. Hough stated that the professional approach would be to provide a redline document showing the changes made to the previous draft.

Hotovy similarly questioned why changes previously requested by the Commission were not reflected in a revised plan and noted that the definitions previously requested by the Commission had also not been provided.

Discussion was held regarding whether the conservation district had actually been deleted or whether the acreage had simply been reduced to zero. Reiter explained that the acreage had been reduced to zero, but the conservation district itself had not been eliminated and should remain identified in the Comprehensive Plan.

Kobza stated that he did not want a conservation district and expressed concern about the broad area that could potentially be affected. He stated that he was not opposed to addressing specific problems but preferred that restrictions be addressed through zoning and setbacks rather than by establishing a broad conservation district in the Comprehensive Plan. Kobza also expressed concern about the effect of a conservation district on private property and agricultural operations.

Barlean questioned why the County would not want to retain some mechanism for protecting waterways. Reiter stated that protection of waterways and the siting of development were appropriate considerations for the County.

Hough expressed concern that a conservation district could result in restrictions on people who live near waterways. He stated that he would prefer to address a problem through zoning if and when the problem develops rather than placing broad restrictions on property owners through the Comprehensive Plan. He also reminded Reiter that he (Reiter) had described the Comprehensive Plan as a working or living document and that it can be changed.

Discussion was held regarding existing regulation of water quality by the Lower Platte North NRD and other governmental agencies. Hough and Kobza noted that the NRD already monitors certain water-quality concerns and regulates activities such as fertilizer application. Barlean acknowledged that the NRD was addressing the particular risks being discussed, while Reiter maintained that the County still has responsibility for considering the location or siting of new development.

Kobza moved to eliminate the paragraph concerning the conservation easement/conservation district, and Hough seconded the motion. During discussion, members questioned the use of the term "easement." Kobza explained that an easement generally has defined boundaries and is recorded against property. County Surveyor Brian Foral was asked about the use of blanket easements and stated that blanket easements can extend over property without a specifically defined route and are commonly used. Foral indicated that "easement" appeared to be an inappropriate term for what the Comprehensive Plan was attempting to describe.

Discussion continued regarding whether the language should instead refer to a conservation district. Reiter proposed amending the motion to replace "conservation easement" with "conservation district." County Attorney Julie Reiter explained that the amendment would need to be handled according to parliamentary procedure. She further explained that the County could identify a conservation district in the Comprehensive Plan without immediately establishing regulations or acreage within the district, but the district would need to be identified in the Comprehensive Plan if the County intended to regulate it through future zoning.

County Attorney Reiter also explained that the Planning Commission's responsibility is to develop and recommend a Comprehensive Plan and that the Board of Supervisors ultimately has authority over adoption of the plan and zoning regulations.

Hotovy again questioned how the Commission could effectively review the plan without having a current draft showing the changes. County Attorney Reiter agreed that a redline copy would be useful and stated that she would communicate the request to the planning consultant.

Kobza expressed concern that the Commission had previously submitted requested changes but did not see all of those changes reflected in the subsequent draft. County Attorney Reiter explained that the planning consultant develops the Comprehensive Plan using information from the Planning Commission, community survey results, public comments, data, planning practices, and applicable law. She stated that the Board of Supervisors would ultimately determine whether to approve, modify, or reject the recommended plan.

Kobza subsequently withdrew his motion concerning elimination of the conservation district.

Discussion then returned to the language concerning prohibited uses and whether the Comprehensive Plan should prohibit certain uses or establish strong zoning regulations and setbacks instead. Hough stated that he wanted a meaningful discussion about the difference between a strong zoning regulation and an outright prohibition. He expressed concern about placing outright prohibitions in the Comprehensive Plan when circumstances and technology could change in the future.

Hough specifically discussed solar development and data centers. He questioned whether the County should completely prohibit these uses or whether appropriate zoning standards could be established to regulate them. Hough expressed concern that future technological developments could change the circumstances surrounding solar energy and data centers and that the County should avoid unnecessarily limiting future options. He also questioned the legal distinction between a prohibition and stringent zoning requirements and stated that he wanted the Commission to understand the legal consequences before making a final decision.

Hough's comments were discussed in the context of the five uses included in the development moratorium: commercial wind, commercial solar, battery energy storage facilities, data centers, and landfill expansion. Kobza stated that he did not want to use the word "prohibit" anywhere; that he would rather regulate with setbacks than prohibit outright. Reiter stated that he continued to support prohibiting those five uses. He noted that the community had identified those uses as concerns and that the Comprehensive Plan identifies agriculture as the primary land use. Reiter questioned why the County would allow large-scale uses such as solar or data centers to compete with agricultural land when the County's stated objective is to preserve and promote agriculture. Barlean agreed with Reiter, noting that most of the public would also agree.

Hough responded that his concern was not simply whether the Commission should regulate those uses, but that the Commission should understand the distinction between strong zoning restrictions and an outright prohibition before deciding how the Comprehensive Plan should address them. He questioned whether the County could establish stringent standards that would address the concerns raised while preserving the ability to consider a future proposal that might satisfy those standards. He suggested that the Planning Commission obtain legal advice regarding banning vs. strong zoning.

County Attorney Julie Reiter stated that, in her legal opinion, counties may prohibit certain industries and that the Commission's legal advice comes from the County Attorney. She explained that she represents Butler County as a whole and cautioned members about relying on outside legal advice concerning the Commission's duties. She stated that, by statute, the County Attorney is to serve as the only legal advisor to the Planning Commission.

Barlean supported obtaining a redline version of the Comprehensive Plan before continuing the detailed discussion. He stated that the Commission had spent considerable time reviewing the plan and that having the changes clearly identified would make the process more productive. Jakub expressed frustration with continuing the review without seeing the requested changes incorporated and stated that he wanted the Commission to reach a finished product.

Discussion returned to the conservation district and how it might affect agricultural operations. Kobza asked whether an agricultural or livestock operation would be able to expand within a conservation district. Reiter stated that the answer would depend on the zoning regulations that had not yet been adopted.

Hough stated that this was one reason he wanted the Comprehensive Plan and zoning regulations developed together so that the Commission could understand how the provisions would work together. He expressed concern that if an existing confined animal feeding operation could not expand, the restriction could substantially affect the value of the operation.

Jakub referenced Cuming County and stated that its conservation district allows agricultural uses as compatible uses. Jakub stated that he would be more comfortable with a conservation district if agriculture were expressly protected as a permitted or compatible use. He stated that agricultural landowners should not effectively have a target placed on them by the conservation district.

Barlean agreed that the Commission could potentially establish a conservation district while excluding agricultural uses from additional restrictions. Reiter explained that the State's authority involves environmental regulation, while the County's authority involves land-use siting. He stated that agricultural use could be identified as a permitted use so that agricultural operators would not need additional County permission for an otherwise permitted agricultural activity.

Commission members discussed whether a conservation district could be identified using existing GIS or floodplain mapping rather than requiring individual property surveys. County Surveyor Foral stated that Seward County uses mapping to identify its conservation area and that a GIS or floodplain map could potentially serve a similar purpose in Butler County. He also stated that keeping the conservation district identified in the Comprehensive Plan, even with zero acreage, would make it easier to establish or expand the district in the future if the County later determined that it was necessary.

Chairman Topil asked whether Commission members agreed that the changes identified in his correspondence should be forwarded to the planning consultant; members agreed. Kobza requested that the revised redline copy be provided approximately one week before the next meeting so members would have sufficient time to review it; members agreed.

Public Comment

Joe Peterson, Bellwood, stated that he supported the Commission's work and the use of a redline document to identify changes to the Comprehensive Plan. He discussed the importance of clearly

defining commercial and industrial wind and solar uses and distinguishing those uses from personal or residential alternative energy systems. Peterson also discussed local regulation of activities affecting waterways, manure stockpiles, and concerns that may arise for local fire departments when responding to large agricultural operations.

Laird Nygren, Brainard, thanked the Commission for its work and expressed support for retaining a mechanism to protect waterways. He discussed the purpose and potential effect of a conservation district and stated that public education regarding the purpose of such a district could help address concerns about its implementation.

Dannie Steager, Surprise, asked about the relationship between County zoning regulations and regulations adopted by townships. County Attorney Reiter stated that she represents the County and therefore could not provide legal advice to a township. She advised Steager to consult the township's attorney. County Attorney Reiter stated that township regulations had been provided to the planning consultant for consideration and explained that the County Board of Supervisors is the entity authorized under Nebraska law to adopt the County Comprehensive Plan and County zoning regulations.

There being no further public comment or business, Chairman Topil adjourned the meeting at 7:29 p.m. The next meeting of the Planning Commission is scheduled for October 14, 2026, at 6:00 p.m.

Lori L. Aschoff, County Clerk
Roger Topil, Chairman