

November 16, 2022  
O'Neill, Nebraska

The Holt County Board of Supervisors met as a Board of Equalization with all members present. County Assessor Tim Wallinger, County Treasurer Shelly Ross and Deputy County Clerk Janet Sorensen were also in attendance. This meeting publicized pursuant to Section 84-1411 R.R.S. 1943. Notice of meeting given in advance thereof by publication in paper as shown by Affidavit of Publication on November 3, 2022, in the Atkinson Graphic. Chairman Frahm convened the meeting at 9:30 A.M. with the flag salute. Motion by Butterfield, 2<sup>nd</sup> by Paxton, to approve the minutes of the October 31, 2022, meeting as printed. Voting Aye: Treptow, Keyes, Butterfield, Breiner, Paxton, Tielke and Frahm. Voting Nay: None. Motion carried. Chairman Frahm adjourned the meeting at 9:37 A.M.

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Doug Frahm, Chairman

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Janet Sorensen, Deputy Clerk

November 16, 2022  
O'Neill, Nebraska

The Holt County Board of Supervisors met in regular session as per adjournment with all members present. This meeting publicized pursuant to Section 84-1411 R.R.S. 1943. Notice of meeting given in advance thereof by publication in paper as shown by Affidavit of Publication on November 3, 2022, in the Atkinson Graphic. Chairman Tielke convened the meeting at 9:45 A.M. and informed the public of the location of the Open Meeting Poster. Motion by Keyes, 2<sup>nd</sup> by Frahm, to approve the minutes of the October 31, 2022, meeting as printed. Voting Aye: Treptow, Keyes, Butterfield, Breiner, Paxton, Frahm and Tielke. Voting Nay: None. Motion carried. The Board reviewed claims on file. Treasurers Report was presented and placed on file. Motion by Paxton, 2<sup>nd</sup> by Breiner, to acknowledge the Distress Warrant report for 2021 has been issued and given to the Holt County Sheriff on November 1, 2022. Voting Aye: Keyes, Butterfield, Breiner, Paxton, Frahm, Treptow and Tielke. Voting Nay: None. Motion carried. The Finance Committee reported that the County Officials had remitted their monthly fees to the County Treasurer as required. Motion by Butterfield, 2<sup>nd</sup> by Treptow, to void check #22100194 to Emme Enterprises for \$1,000.00 due to duplicate payment. Voting Aye: Butterfield, Breiner, Paxton, Frahm, Treptow, Keyes and Tielke. Voting Nay: None. Motion carried. Motion by Keyes, 2<sup>nd</sup> by Paxton, to accept the Holt County Audit Report for July 1, 2021 through June 30, 2022 as prepared by the Nebraska State Auditors. Voting Aye: Breiner, Paxton, Frahm, Treptow, Keyes, Butterfield and Tielke. Voting Nay: None. Motion carried. Supervisor Treptow reported on a potential managed service contract with Applied Connective Technologies. Correspondence was reviewed. Motion by Frahm, 2<sup>nd</sup> by Keyes, to approve the following claims. Voting Aye: Paxton, Frahm, Treptow, Keyes, Butterfield, Breiner and Tielke. Voting Nay: None. Motion carried.

**General Fund Claim Total: \$216,227.73**

A & J Tire & Auto Repair, LLC, Rep, \$190.49  
American Express, Off Equip, \$31.78  
Anson Insurance Services, Inc., Ins, \$446.00  
Antelope County Sheriff, Serv, \$80.00  
Appearra, Serv, \$190.64  
Applied Connective Technologies, Serv, \$886.50  
Arvest Bank, Equip Rental, \$7,925.00  
Atkinson Graphic, Print/Pub, \$2,196.91  
Babutzke, William, Travel, \$22.03  
Biglin's Mortuary, County Burial, \$6,000.00  
Black Hills Energy, Serv, \$338.16  
Boettcher, Ron, Witness Fees, \$57.50  
Bomgaars, Supp, \$281.38  
C&S Repair, Rep, \$79.00  
Century Link-Probation Office, Serv, \$133.28  
Century Link-Sheriff & Courthouse, Serv, \$810.13  
Charm-Tex, Off Supp, \$122.60  
Chavez, Maria Izabel, Interpreter, \$75.00  
City of O'Neill, Serv/DMV Rent, \$943.56  
Clearly Communications, Serv, \$331.99  
Clerk of District Court, Passport Postage Reimburse, \$138.60  
Connot Tire Service, Rep, \$20.00  
DAS State Accounting, Data Process, \$432.88  
Doerr, Jeffrey, Atty Fees, \$1,819.68  
Dollar General, Supp, \$75.55  
Douglas County Sheriff, Serv, \$18.00  
Eakes, Off Equip Lease, \$177.69  
Election Systems & Software, Print/Pub/Off Supp, \$9,280.61  
Elkhorn Valley Family Medicine, Medical, \$508.00  
Ertz, Dave, Travel, \$45.37  
Fire Protection Services, LLC, Maintenance, \$135.00  
Forker, Don, Travel, \$73.12  
Fox, Tami, Supp, \$1.79  
Fox's Food Plaza, Fuel, \$156.71  
Fusion Cloud Services, LLC, Serv, \$260.23  
Gokie Oil Co. - Courthouse, Fuel, \$100.61

Gokie Oil Co. - Extension, Fuel, \$161.02  
 Great America Leasing Co., Off Equip Lease, \$1,408.79  
 Great Plains Communications, Inc., Serv, \$227.22  
 Greater Sandhills Family Healthcare, Medical, \$185.00  
 Holt County Independent, Print/Pub, \$1,591.19  
 Holt County Court, Court Costs, \$806.03  
 Holt County Treasurer, Positive Pay, \$21.00  
 Justice Clearinghouse, Member Renew, \$129.00  
 KBRX Radio Station, Farm & Home Show, \$322.50  
 Knox County Treasurer, Hazard Mitigation, \$3,796.46  
 Liewer, Mark, Travel, \$508.00  
 Mathison Heating & Air, LLC, Rep, \$82.50  
 Meritain Health, Health Ins, \$125,000.00  
 Microfilm Imaging Systems, Inc., Off Equip Lease, \$369.00  
 MIPS, Inc., Data Process, \$2,073.95  
 National Association of Counties, 2023 Dues, \$450.00  
 Nebraska Association of County Officials, Member Dues, \$3,557.78  
 Nebraska Health & Human Services, Serv, \$183.00  
 Nebraska Notary Association, Notary Renewal, \$106.18  
 Nebraska Public Power District, Serv, \$2,557.30  
 Nebraska Sheriffs' Association, Member Dues, \$250.00  
 Nebraska Tech & Telecommunications, Inc., Serv, \$456.22  
 Nebraskalink Holdings, LLC dba OPTK, Serv, \$280.00  
 Netcom, Inc., Off Supp, \$80.00  
 Niobrara Valley Electric, Serv, \$22.70  
 O'Neill Car Wash, Serv, \$89.39  
 O'Neill Electric Motor Services, Misc, \$70.56  
 O'Neill Family Pharmacy, Medical, \$248.30  
 O'Neill Printing Co., Off Supp, \$386.00  
 O'Neill Shopper, Print/Pub, \$49.00  
 Office Products Center, Off Equip/Rep, \$256.25  
 Ogden's Ace Hardware, Supp, \$177.55  
 One Office Solution-Assessor, Off Supp, \$33.16  
 One Office Solution-Brent Kelly Law, Off Supp, \$126.38  
 One Office Solution-Clerk, Off Supp, \$75.44  
 One Office Solution-Jail, Off Supp, \$17.63  
 One Office Solution-Probation, Off Supp, \$1,103.47  
 One Office Solution-Public Defender, Off Supp, \$260.05  
 One Office Solution-Sheriff, Off Supp, \$22.93  
 One Office Solution-Treasurer, Off Supp, \$19.55  
 Petty Cash-Clerk, Postage Reimburse, \$5.52  
 Petty Cash-Sheriff, Postage Reimburse, \$12.65  
 Postmaster-Probation, Postage, \$608.00  
 Prairie Hills Ford, Rep, \$128.97  
 Price, Tara, Misc, \$147.92  
 Quill Corporation-CDC, Off Supp, \$174.90  
 Quill Corporation-Clerk, Off Supp, \$307.95  
 Quill Corporation-County Court, Off Supp, \$355.21  
 Quill-Extension, Off Supp, \$60.81  
 Ranchland Auto Parts, Rep/Travel, \$294.68  
 Rotherham Tire Service, Rep, \$54.50  
 Sandhills State Bank, Loan Payment, \$5,715.55  
 Smith, Darla, Contract Labor, \$1,500.00  
 Smith, Rodney, Training/Misc, \$140.50  
 Stenka, Ken, Travel, \$587.59  
 Summerland Advocate, Print/Pub, \$204.20  
 The Sidwell Company, Data Process, \$320.00  
 Three River Communications, LLC, Serv, \$221.75  
 Timmerman, Amy, Dues/MIFI Card, \$230.04  
 Torpin's Rodeo Market, Supp, \$158.24  
 UNL 4-H Assistant, FY23 1st Qtr, \$11,774.65  
 US Bank, Off Supp/Post/Off Equip, \$3,205.91  
 Verizon Wireless, Serv, \$313.63  
 Village Market, Supp, \$1,450.07  
 Walnofer, Deb, NCEA Membership, \$145.00  
 Werth, LaDonna, NCEA Membership, \$287.50  
 Wex Bank, Fuel, \$2,775.70  
 Wm. Krotter Co. - Home & Appliance, Rep, \$55.00  
 Zelle Human Resource Solutions, Serv, \$3,000.00  
 4 Seasons Lawn Care, Main/Rep, \$45.00  
**Road Fund Claim Total: \$429,969.99**  
 AKRS Equipment, Parts, \$510.93  
 Appeara, Serv, \$342.27  
 Applied Connective Technologies, Serv, \$15.30  
 AT&T, Serv, \$64.18  
 Atkinson Graphic, Print/Pub, \$92.00  
 Atkinson Lumber, LLC, Fencing, \$119.68  
 Atkinson Sand & Gravel, Inc., Gravel, \$7,723.76  
 Avera St. Anthony's Hospital, Medical, \$912.00  
 B's Enterprises, Inc., Culverts/Grader Blades/Supp, \$34,407.52  
 Black Hills Energy, Serv, \$109.49  
 Blackstrap, Inc., Snow Removal, \$17,942.50  
 Bomgaars, Parts/Supp, \$1,603.22  
 Braun's Food Center, Supp, \$57.60  
 Breiner Welding & Fabrication, Parts, \$52.32  
 Brewer, Kip, Misc, \$150.00  
 Carroll Olson Enterprises, Parts/Supp, \$285.23

Century Link-2377 Road, Serv, \$77.81  
 Century Link-2831 Road, Serv, \$77.81  
 Century Link-3888 Road, Serv, \$172.04  
 Century Link-5440 Road, Serv, \$62.51  
 Circle M Feed & Trailer Sales, LLC, Parts, \$154.21  
 City of Atkinson, Serv, \$79.54  
 Cole Petroleum, Fuel, \$37,310.61  
 Cole Sand & Gravel, Gravel, \$8,088.15  
 Connot Tire Service, Parts/Rep, \$1,883.45  
 Elkhorn Rural Public Power District, Serv, \$75.19  
 Elkhorn Sand & Gravel, LLC, Gravel, \$37,577.00  
 Emme Construction, Machine Hire, \$20,355.00  
 Emme Sand & Gravel, Gravel, \$38,040.27  
 Ewing Family Foods, Supp, \$14.98  
 Ewing Feed & Supply, Parts/Supp, \$53.75  
 Farmers Pride, Fuel, \$10,834.02  
 First Stop, Fuel, \$90.01  
 Fusion Cloud Services, LLC, Ser, \$52.00  
 Galyen Energy Supply, Fuel, \$6,022.44  
 Great America Leasing Co., Off Equip Lease, \$184.15  
 Great Plains Communications, Inc., Serv, \$53.20  
 Great Western Gas Co., Fuel, \$781.55  
 Green's Service, Fuel/Parts, \$8,153.66  
 Hoffman, Alex, Misc, \$15.00  
 Holt County Independent, Print/Pub, \$45.00  
 J&J Sanitation - 3051-1421, Serv, \$212.17  
 J&J Sanitation - 3051-1859, Serv, \$131.60  
 K & K Welding & Manufacturing Co., Parts, \$43.86  
 K & M Telephone Co., Serv, \$35.99  
 KBRX Radio Station, Adv, \$150.00  
 Mainelli Wagner & Associates, Inc., Engineering Fe, \$73,632.71  
 Mitchell Equipment, Inc., Parts, \$550.90  
 Municipal Power, Serv, \$256.38  
 Nebraska Safety Center @ Unk, Training, \$2,250.00  
 Nebraska Public Power District, Serv, \$267.96  
 Netcom, Inc., Parts, \$82.00  
 NMC - Parts, Parts, \$4,616.04  
 North Central Public Power, Serv, \$87.56  
 Northeast Nebraska Telephone Co., Serv, \$45.78  
 O'Neill Auto Supply, Inc., Parts, \$1,105.11  
 O'Neill Printing Co., Off Supp, \$1,329.50  
 Occupational Health Services, Serv, \$115.00  
 Ogden's Ace Hardware, Off Supp, \$342.92  
 Olberding Tree Service, Machine Hire, \$47,175.00  
 One Office Solution, Off Supp, \$446.54  
 Pomp's Tire Service, Inc., Chains/Tires, \$11,336.18  
 Power Plan, Parts, \$3,257.38  
 Precision IT, Off Supp, \$19.98  
 Quality Alignment & Repair, Chains/Tires, \$41.20  
 Ranchland Auto Parts, Parts/Supp, \$2,777.24  
 Rose Equipment, Inc., Asphalt, \$19,505.66  
 Seger & Sons Repair, Inc., Parts/Rep, \$1,500.00  
 Shamrock Diesel Repair, Parts, \$250.96  
 Sinclair Sand & Gravel, Gravel, \$13,931.19  
 Southside Mini Mart, Fuel, \$825.50  
 Speece Lewis Engineers, Engineering Fees, \$612.00  
 T & J Sand & Gravel, LLC, Gravel, \$3,283.00  
 The Verdigre Eagle, Print/Pub, \$74.25  
 Torpin's Rodeo Market, Supp, \$127.45  
 Triple R Tire, LLC, Parts, \$30.00  
 Truck Center Co., Parts, \$257.71  
 Uline, Supp, \$125.01  
 Us Bank, Post/Parts/Travel, \$1,298.26  
 Verizon - Albany, NY, Serv, \$785.95  
 Verizon Connect NWF, Inc., Serv, \$310.05  
 Verizon Wireless, Serv, \$405.25  
 Village of Chambers, Serv, \$86.50  
 Walters, Susan, Misc, \$19.98  
 Warp Networks, Inc., Nebraska Communications, \$55.00  
 Welsh Welding & Repair, Rep, \$128.00  
 Westend Mini Mart, Fuel, \$454.76  
 White's Service, Fuel, \$293.28  
 Wm. Krotter Co. - Home & Appliance, Parts/Supp, \$111.88  
 WPCI, Serv, \$548.00  
**Construction Asphalt Fund Claim Total: \$138,258.50**  
 A & R Construction Company, Asphalt, \$137,738.50  
 Jebro, Inc., Asphalt, \$520.00  
**Visitor's Promotion Fund Claim Total: \$9,760.04**  
 Chambers Community Center, Hometown Christmas, \$700.00  
 Discover Northeast Nebraska, 2023 Ad, \$1,600.00  
 North Central Performing Arts, Neon Lights Event, \$1,000.00  
 O'Neill Chamber of Commerce, Contract Labor, \$1,460.04  
 O'Neill Ministerial Association, Ball Brothers, \$5,000.00  
**COVID American Rescue Plan Fund Claim Total: \$1,380.00**  
 Marvin Planning Consultants, Inc., Serv, \$1,380.00  
**Jail Commissary Fund Claim Total: \$1,500.00**  
 Encartele, Inc., Inmate Data, \$1,500.00

Motion by Paxton, 2<sup>nd</sup> by Keyes, to approve the Right of Way permit for David Ziems for electrical cable in Sections 4 & 5-25-9 and for Ryan Kelly for natural gas line in Sections 18 & 19-29-12. Voting Aye: Frahm, Treptow, Keyes, Butterfield, Breiner, Paxton and Tielke. Voting Nay: None. Motion carried.

Gary Connot Road Superintendent presented his Department Activity Report.

Discussed a repair quote on the John Deere 644H wheel loader with Murphy Tractor & Equipment.

At 11:51 A.M. Motion by Paxton, 2<sup>nd</sup> by Breiner, to convene in Executive Session to discuss pending litigation.

Voting Aye: Treptow, Keyes, Butterfield, Breiner, Paxton, Frahm and Tielke. Voting Nay: None. Motion carried.

Those in attendance were the Board, the Holt County Attorney and the Holt County Clerk.

Motion by Paxton, 2<sup>nd</sup> by Keyes, to adjourn from Executive Session at 12:25 P.M. and reconvene in open session.

Voting Aye: Keyes, Butterfield, Breiner, Paxton, Frahm, Treptow and Tielke. Voting Nay: None. Motion carried.

Chairman Tielke stated the only item discussed in closed session was a pending litigation issue and no action resulted.

The Board recessed for lunch at 12:35 P.M.

Chairman Tielke reconvened the meeting at 1:30 P.M. with all members present.

Motion by Paxton, 2<sup>nd</sup> by Treptow, to go over the proposed changes presented by the Holt County Planning and Zoning Board line by line on all of the recommended changes. Voting Aye: Butterfield, Breiner, Paxton, Frahm, Treptow, Keyes and Frahm. Voting Nay: None. Motion carried.

Motion by Paxton, 2<sup>nd</sup> by Keyes, to approve the following amendments to Article 6 – Pipeline Construction, Installation, Location & Maintenance to the Holt County Zoning Regulations:

Article 6: Section 2.6. Pipeline Depth.

Except for above-ground piping facilities, such as mainline block valves, pump stations, etc., the Pipeline will be installed and maintained at a depth of no less than four (4) feet below surface to top of the pipe. Installation of pipeline under any moving, running or standing water shall be completed by boring under said water at least 5 feet below the bed of the water.

Article 6: Section 2.7.

If the Pipeline passes within a distance of ~~two hundred and fifty (250)~~ three hundred feet or less from a residence, then Applicant shall implement the following protections: *(the remainder of the section remains with no change)*

Article 6: Section 2.11. *(Proposal of adding an entire new paragraph)*

This would add an entire new paragraph to the article.

Applicant shall maintain a set back from all wells, registered and unregistered, no matter the use of said water supply, of at least 300 feet.

Applicant shall be responsible to locate all unregistered wells, and all drainage tile, upon property and work in cooperation with the landowner to locate wells and tile.

Article 6: Section 1.3.

Pipeline. "Pipeline" means a pipe with a nominal diameter of eight inches or more, located in the county, that is used to transport all petroleum products, including crude oil and tar sands, natural gas, effluents, or water, but does not include a pipe used to transport or store petroleum products, including crude oil and tar sands, natural gas, effluents, or water, within a refining, storage, or manufacturing facility.

Article 6: Section 2.9.

Abandonment of Pipeline. Abandonment of the Pipeline in Holt County shall occur if Applicant ceases to operate the Pipeline for the transportation of petroleum products, natural gas, or water, and fails to obtain or retain necessary state and federal permits, for a period of ~~10 years~~ twelve (12) consecutive months. Upon the abandonment of the Pipeline, Applicant, at its option shall: *(the remainder of the section remains with no change)*

Voting Aye: Breiner, Paxton, Frahm, Treptow, Keyes, Butterfield and Tielke. Voting Nay: None. Motion carried.

Motion by Paxton, 2<sup>nd</sup> by Butterfield, to approve the following addition to the Holt County Zoning Regulations:

**CARBON DIOXIDE RECOVERY PIPELINE OVERLAY DISTRICT - Purpose**

The Holt County Planning Commission and the Board of County Supervisors recognize 1) the carbon dioxide recovery pipeline is important to the long-term economic survival of ethanol plants in Nebraska and other states, and that 2) Holt County can implement safety measures to protect its citizens and sensitive environmental areas within the borders of Holt County though Nebraska State Statutes §23-174 and §81-543.

The Holt County Planning Commission and the Board of County Supervisors recognize 1) that third-party damage and pipeline right of way (ROW) encroachment are significant threats to pipeline safety; 2) that transmission pipelines may pose a risk to public safety and or the environment if ruptured or damaged; 3) that certain land use practices can reduce the likelihood of accidental damage to carbon dioxide pipelines and reduce adverse impacts of pipeline failures located within Holt County.

The purpose of the Carbon Dioxide Recovery Pipeline Overlay District is to protect the public health and safety by reducing the likelihood of pipeline damage and reducing the adverse impact of pipeline failures through risk-based land management decisions. It is the intent to accomplish this, as much as possible by public education, early consultation among stakeholders and securing public cooperation.

The Carbon Dioxide Recovery Pipeline Overlay District will be incorporated into Holt County Geographic Information Systems (GIS) mapping and used primarily when issuing Zoning and Building permits to facilitate discussions among developers, landowners, and pipeline operators.

The CORPOD will enhance and not preclude the requirement of the Nebraska Call Before You Dig System.

Holt County reserves the right to implement the CORPOD on new direct pipelines constructed for non-agricultural and non-residential facilities such as power plants.

Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations.

**DEFINITIONS** (to be incorporated into existing definitions)

**Carbon Dioxide:** a chemical compound occurring as a colorless gas with a density about 53 % higher than that of dry air. Carbon dioxide molecules consist of a carbon atom covalently double bonded to two oxygen atoms. It occurs naturally in Earth's atmosphere as a trace gas. Carbon dioxide has a sharp and acidic odor and generates the taste of soda water in the mouth, but at normally encountered concentrations it is odorless.

**CFR.** Code of Federal Regulations

**Consultation zone:** An area extending a minimum of 500 feet from each side of the transmission pipeline.

**Development Permit:** For the purposes of this section, a development permit shall mean any Conditional Use Permit required for the development of the CORP including development activity that involves construction, grade modification, excavation, blasting, land clearing, or the deposit of earth, rocks or other materials that places an additional load upon the soil within the Consultation Zone. Construction that involves work totally within an existing building footprint and does not involve excavation, such as residential remodeling projects, is specifically exempted from these Consultation Zone requirements.

**Easement:** (1) A legal instrument giving a transmission pipeline operator a temporary or permanent right to use a right-of-way for the construction, operation, and maintenance of a pipeline. It may also include temporary permits, licenses, and other agreements allowing the use of one's property. (2) An easement is an acquired privilege or rights, such as a right of-way, afforded a person or company to make limited use of another person or company's real property. For example, the municipal water company may have an encasement across

your property for the purpose of installing and maintaining a water line. Similarly, oil and natural gas pipeline companies acquire easements from property owners to establish rights-of-way for construction, maintenance, and operation of their pipelines. (3) A legal right, acquired from a property owner, to use a strip of land for installation, operation and maintenance of a transmission pipeline. (4) A legal right defined by Nebraska law including the rights acquired through the use of eminent domain.

**Encroachment:** (1) A human activity, structure, facility or other physical improvement that intrudes onto a transmission pipeline right-of-way. (2) Encroachment refers to the unauthorized use of a right-of-way in violation of the easement items.

**Ethanol Plant:** An agricultural processing facility which converts corn or other plants into ethanol for use in powering motorized vehicles.

**Excavation:** Any operation in which earth, rock or other material, in or on the ground, within 12 inches of grade level is moved, removed or otherwise displaced by means of any tools, equipment or explosives and includes, without limitation, back-filling, grading, trenching, digging, ditching, drilling, pulverizing, rubbleizing, well-drilling, augering, boring, tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, and demolition of structures, except that, the use of mechanized tools and equipment to break and remove pavement and masonry down only to the depth of such pavement or masonry. The tiling of soil for agricultural or seeding purposes shall not be deemed excavation.

**Habitable Structure:** Any building or structure used by people for residential purposes or for the purpose of conducting a commercial or industrial business.

**Nebraska One Call Notification** (also known as Diggers Hotline or 811): to protect underground facilities, the excavating public, and the general public. Creates one point of communication between the excavating public and the Nebraska member underground utilities regarding any upcoming excavation projects in the State of Nebraska.

**Person:** Any individual, firm, joint venture, legal entity, partnership, corporation, association or cooperative, public or private.

**Petroleum:** an oily flammable bituminous liquid that may vary from almost colorless to black, occurs in many places in the upper strata of the earth, is a complex mixture of hydrocarbons with small amounts of other substances, and is prepared for use as gasoline, naphtha, or other products by various refining processes.

**Pipeline:** An underground or above ground system of pipes for the transmission of liquids or gases from one point to another.

**Pipeline Facility:** Means all parts of those physical facilities through which gas, hazardous liquids, or carbon dioxide are moved.

**Planning Zone:** An area around a transmission pipeline.

**Potable Water:** Water that is satisfactory for drinking, culinary, domestic, and livestock purposes.

**Pump Station:** A facility tied into the pipeline in order to push a product to a desired location.

**Right-of-Way (ROW):** (1) A piece of property, usually consisting of a narrow, unobstructed strip or corridor of land of a specific width, which a company and the fee simple landowner both have legal rights to use and occupy. (2) A defined strip of land on which an operator has the right to construct, operate and maintain a specific use. The operator may own a right-of-way outright or an easement may be acquired for specific use of the right-of-way.

**Right-of-Way agreement:** see easement.

**Rural:** An area outside the limits of any incorporated or unincorporated city, town, village or any other designated residential or commercial area such as a subdivision, a business or shopping center or community development.

**Establishment and Delineation of Carbon Dioxide Recovery Pipeline Overlay Districts** Boundaries for the Carbon Dioxide Recovery Pipeline Overlay Districts (CORPOD) are shown on published maps entitled "Holt County Carbon Dioxide Recovery Pipeline Zone Map" dated \_\_\_\_\_ as produced by Holt County Geographic Information Systems (GIS). This map, as updated, will show the overlay district on each pipeline and Consultation Zone. Said map is hereby adopted by reference as part of this regulation as if the map is fully described herein. The overlay district will be utilized by the Zoning Office and Planning Commission for the purpose of issuing all zoning permits, any variances that come before the Board of Adjustment and in the enforcement of the Holt County Comprehensive Plan and Zoning Regulations.

**Compliance with Applicable Laws** Pipeline owners, operators and / or contractors, and their employees, agents, contractors, and invitees, must comply with all applicable local, state, and federal laws and regulations in Construction and operation of the Pipeline 1. Federal Regulations. The provisions of the of 49 CFR Part 195 are hereby incorporated by reference. 2. To the extent any regulation within this section conflicts with state or federal regulations or law, then state and/or federal regulations shall take precedence over these regulations.

**Depth of pipelines** Except for above-ground piping facilities, such as mainline block valves, pump stations, etc., the pipeline will be installed and maintained at a depth that meets or exceeds the requirements of 49 CFR 195.248 All new pipelines built after the adoption of this regulation shall be maintained at a depth of at least five feet. 1. The pipeline owner shall be notified by any landowner when any type of erosion is noticed in order to repair the minimum cover.

**Setback from habitable structures** The Pipeline right-of-way must be consistent with 49 CFR 195.210 such that the location is selected to avoid, as far as practicable, areas containing private dwellings, industrial buildings, and places of public assembly." 1. All new pipelines shall maintain a separation distance of 300 feet from the pipe to any existing habitable structures.

**A waiver signed by owner (and tenant, if applicable) if under the setback/distance requirements may be made a part of the terms.**

2. Said Overlay District shall be 150-feet on each side of the centerline of the pipeline location. 3. All new structures and/or potable water wells constructed by the private landowner after the establishment of the CORPOD shall also maintain a 150-foot separation from the overlay district.

**Special Criteria for CO2 Pipelines** 1. Each operator must prepare, follow, and maintain written procedures to carry out the requirements laid out in 49 CFR 195.210. 2. All existing structures within 500 feet of the CO2 pipeline shall be equipped with exterior grade battery operated CO2 detectors. Batteries beyond the initial installation shall be the responsibility of the property owner. 3. The pipeline owner shall be required to establish a Countywide Emergency Response Plan with the local Emergency Management Officer. The plan shall include: a. Training procedures for local Fire Departments and EMS providers. b. Schedules of necessary safety equipment needed to engage a CO2 leak and/or rupture. c. Knowledge of the equipment being used to monitor the pressure of said pipeline. 4. Individual landowners shall be allowed to plant crops in the overlay district: however, if a leak or rupture occurs the pipeline company shall remove the minimum number of crops to access and repair the leak or rupture. Payment for the lost crop shall be determined by an independent appraiser or crop adjuster. 5. These provisions shall be supplemented by any future legislation passed by the Nebraska Unicameral and signed into law by the Governor. 6. The construction of the CO2 pipeline shall maintain a minimum of 300 feet from all known and disclosed potable water wells. Landowner shall disclose all relevant potable water wells to the Company seeking Right-Of-Way agreement.

**\*\*In the event owner (and tenant, if applicable) agree to a minimum different than prescribed by this provision, a waiver must be signed by the owner (and tenant, if applicable) and agreed to, in writing, by the operator.**

**Severability** Should any article, section or provision of this regulation be declared invalid, such decision shall not affect the validity of this regulation as a whole or any other part thereof.

**Abandonment of Pipeline:** Abandonment of the pipeline in Holt County shall occur in applicant ceases to operate the pipeline for the transportation of Carbon Dioxide and fails to obtain or retain necessary state and federal permits, for a period of 5 years.

Voting Aye: Paxton, Frahm, Treptow, Keyes, Butterfield, Breiner and Tielke. Voting Nay: None. Motion carried.

Motion by Keyes, 2<sup>nd</sup> by Paxton, to send the Solar Energy Regulation proposal back to the Holt County Planning Zoning Board for further review. Voting Aye: Frahm, Treptow, Keyes, Butterfield, Breiner, Paxton and Tielke.

Voting Nay: None. Motion carried.

Motion by Frahm, 2<sup>nd</sup> by Keyes, to request the Holt County Planning & Zoning Board to place the Resolution Opposing Perpetual Land and Water Conservation Easements on their next agenda for further action. Voting Aye: Treptow, Keyes, Butterfield, Breiner, Paxton, Frahm and Tielke. Voting Nay: None. Motion carried.

Motion by Frahm, 2<sup>nd</sup> by Keyes, to approve the following additions and changes to Article 5 - Wind Energy Conversion Facilities to the Holt County Zoning Regulations:

**Article 5: Commercial/Utility Grade Wind Energy Systems – Definitions**

2. Aircraft Detection Lighting System (ADLS): A radar-activated obstruction lighting system designed to turn blinking lights atop wind turbines and tall towers on or off, based on the presence or absence of aircraft in the vicinity. This technology allows “lights out” for up to 98% of the night which significantly reduces the towers’ visual impacts on surrounding communities.

**Article 5: Commercial/Utility Grade Wind Energy Systems – Requirements**

17. All new commercial wind turbine facilities requiring a new Conditional Use Permit shall incorporate an FAA approved ADLS to minimize the impact of the wind turbine lighting.

18. All existing commercial wind facilities shall be required to install an FAA approved ADLS system upon any new repowering agreement.

**Article 5: Setbacks:**

Neighboring Dwelling Units\* change from ~~¼ mile~~ to 1 mile (5280 feet)

**Article 5: Special Safety and Design Standards:**

1. All new projects requiring a new Conditional Use Permit shall be equipped with an FAA approved ALDS system.

2. All existing commercial wind facilities shall be required to install an FAA approved ADLS system upon any new repowering agreement.

***\*\*In the event owner (and tenant, if applicable) agree to a minimum different than prescribed by this provision, a waiver must be signed by the owner (and tenant, if applicable) and agreed to, in writing, by the operator.***

Voting Aye: Keyes, Butterfield, Breiner and Frahm. Voting Nay: Paxton, Treptow and Tielke. Motion carried.

Chairman Tielke adjourned the meeting at 4:05 P.M. until November 30, 2022, at 9:45 A.M.

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William J. Tielke, Chairman

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Cathy Pavel, Clerk