

**PLATTSMOUTH PLANNING COMMISSION MINUTES**  
**May 16, 2013**

Meeting convened at 7:30 p.m. on May 16, 2013 at Plattsmouth City Hall, 136 N. 5<sup>TH</sup> Street, Plattsmouth, Nebraska. A copy of the agenda for the meeting is attached to these minutes. Notice of the meeting, which communicated the availability of the agenda, was published in *The Plattsmouth Journal*, Plattsmouth, Nebraska, on May 2, 2013, with the Affidavit of Printer as proof of publication attached to these minutes. Notice of the meeting and the agenda were provided to all members in advance, and their acknowledgment of receipt is attached hereto. All proceedings were taken while convened with attendance open to the public.

ITEM 1

Chairman Marc Nichols called the meeting to order at 7:30 p.m.

ITEM 2

Nichols announced the location of the Open Meetings Act and of documents pertaining to the planning agenda.

ITEM 3

Answering roll call were Angie Minahan, John Baroni, Robert Rice, Dewayne Prince, Sharon Kief, Jeff Kindig, Karen Weaver, Marc Nichols. Absent were Billy Hale, Rich McKinley.

Also present was City Inspector Kevin Larson and City Attorney Roger Johnson.

ITEM 4

MOTION BY PRINCE, SECONDED BY BARONI, TO APPROVE THE MINUTES OF THE APRIL 18, 2013 MEETING. A voice vote in favor was unanimous, MOTION CARRIED.

Nichols explained the hearing process and asked the audience for a show of hands as to who wished to speak during the hearing. Nichols asked for testimony to be limited to three to four minutes.

ITEM 5

Nichols read from the agenda, "A public hearing regarding a request for a special use permit in a RR (Rural Residential) zoning district by Tom Harter on property located at 17705 Pioneer Trail, Plattsmouth, legally described as 01-12-13 Swallow Hills Estates Lot 39, SW1/4 06-12-14 & NW1/4 07-12-14, 9.45~ acres."

Nichols opened the public hearing at 7:35 p.m.

Tom Harter, applicant, 17705 Pioneer Trail, said he was concerned about having his pets taken from him and about being labeled as a commercial dog breeder. He categorized himself and his wife as hobby breeders. Stating the planning commission has the power to change the law, suggested the commission to lay the special use permit over and add a Hobby Breeder category to the Land Development Ordinance.

Karen Campbell, 17668 Pioneer Trail, spoke of a March 20, 2013 encounter she had with the Harter's dogs in her own yard. She and her dog were surrounded by four aggressive mastiffs and two smaller dogs, were blocked from her house, and were only able to escape when a neighbor heard her screams and came to her rescue. She also presented a statement regarding dogs in packs prepared by Patricia McConnell, PhD, Certified Applied Animal Behaviorist.

Jody Distefano, 18006 Pioneer Trail, presented the commission with a series of emails sent between Swallow Hills residents and others regarding the Harter's dogs running at large on March 20, 2013, and again at a later date. She said the Harter's are downplaying the incidents and they lack respect for their neighbors.

Bruce Dolan, 17820 Pioneer Trail, presented a petition with 42 signatures objecting to the granting of the kennel special use permit.

Sam Distefano, 18006 Pioneer Trail, said the Harters only applied for a kennel special use permit because they were forced to. He said the kennel was a public safety issue and asked that the special use permit be denied.

Vicki Francis, 17670 Pioneer Trail, said she was the neighbor who helped Karen Campbell escape from the Harter's dogs. She called it a truly frightening experience, adding that the dogs had been loose on three different occasions and that was too much.

Barry Trouba, 17633 Pioneer Trail, asked that the special use permit be denied as it was a violation of the Swallow Hills Covenants, and added that it was a safety issue, as the City of Plattsburgh does not provide animal control to the area.

District Two Cass County Commissioner Janet McCartney, 19705 Shoreline Cr., asked that the special use permit be denied, as the issuance of special use permit for a kennel is a city issue, but if there are problems with the animals running at large, it will be the county's responsibility to respond.

Mike Schuldt, 17691 Pioneer Trail, is an adjacent neighbor to the applicant and said he can hear the dogs barking. He said he did not want to see the Harters lose their dogs, but felt the breeding crosses a line and at this time does not support the application.

Scott Gourley, 18621 Deer Ridge Dr., said the dogs could be trained to stay on their property and he feels terrible about the Campbell incident, but doesn't believe anyone has

a right to break up a family and their pets. He supported the application

Roberta Young, 17630 Pioneer Trail, said she doesn't want the Harter's dogs taken away but wants some consideration for safety through restrictions.

Heather Anschutz, 17943 Pioneer Trail, presented a picture of an English Mastiff and spoke about Mastiffs that have killed people. She said these are huge dogs, do not know about boundaries, can't be trusted, and the owner's can guarantee they won't get out again.

Karen Adkins, 17990 Pioneer Trail, said there has been misleading information and exaggeration of the situation, and asked that a different route be taken regarding the Harter's dogs.

Cheryl Gourley, 18621 Deer Ridge Dr., said the Swallow Hills Covenants have nothing to do with the city, that she has been bitten by dogs of different sizes and breeds, and that if puppies are kept until four months of age, the applicant would not be able to attain the, "...for sale, exchange, lease, or in any way transfer more than thirty dogs in a 12-month period" as stated in the application.

Tim Adkins, 17990 Pioneer Trail, said he was opposed to a commercial kennel but wished to keep the dogs together, stating there must be another solution.

Jann Bergerson, 17937 Pioneer Trail, said this is not about family pets, this is a business. She said she has two children is afraid every day when they go outside.

Jeff Onsager, 17733 Pioneer Trail, said he an adjacent neighbor to the applicant and has not complaints, but he would prefer not to live next door to a kennel.

No one else spoke to the issue and Nichols closed the hearing at 8:34 p.m.

## ITEM 6

Nichols read from the agenda, "Consider a recommendation to the Plattsmouth City Council regarding a request for a special use permit in a RR (Rural Residential) zoning district by Tom Harter on property located at 17705 Pioneer Trail, Plattsmouth, legally described as 01-12-13 Swallow Hills Estates Lot 39, SW1/4 06-12-14 & NW1/4 07-12-14, 9.45~ acres."

Larson summarized his report based on Table 12.1 of the Land Development for the City of Plattsmouth, which provides criteria for the consideration of special use permit applications.

Following discussion, MOTION BY RICE, SECONDED BY BARONI, TO LAY OVER TO THE JUNE, 2013 MEETING OF THE PLATTSMOUTH PLANNING COMMISSION THE REQUEST FOR A KENNEL SPECIAL USE PERMIT IN A RR

(RURAL RESIDENTIAL) ZONING DISTRICT BY TOM HARTER ON PROPERTY LOCATED AT 17705 PIONEER TRAIL, PLATTSMOUTH. LEGALLY DESCRIBED AS 01-12-13 SWALLOW HILLS ESTATES LOT 39. SW1/4 06-12-14 & NW1/4 07-12-14, 9.45~ ACRES.

On roll call: VOTING YES. BARONI, RICE, KINDIG. VOTING NO. PRINCE, KIEF, WEAVER, NICHOLS, MINAHAN. ABSENT AND NOT VOTING, MCKINLEY, HALE. MOTION FAILED

Following discussion, MOTION BY KIEF, SECONDED BY RICE, TO RECOMMEND TO THE PLATTSMOUTH CITY COUNCIL DENIAL OF THE REQUEST FOR A KENNEL SPECIAL USE PERMIT IN A RR (RURAL RESIDENTIAL) ZONING DISTRICT BY TOM HARTER ON PROPERTY LOCATED AT 17705 PIONEER TRAIL, PLATTSMOUTH, LEGALLY DESCRIBED AS 01-12-13 SWALLOW HILLS ESTATES LOT 39, SW1/4 06-12-14 & NW1/4 07-12-14, 9.45~ ACRES.

On roll call: VOTING YES, RICE, PRINCE, KIEF, NICHOLS, MINAHAN. VOTING NO, KINDIG, WEAVER, BARONI. ABSENT AND NOT VOTING, MCKINLEY, HALE. MOTION CARRIED.

ITEM 7

MOTION BY BARONI, SECONDED BY PRINCE, TO ADJOURN. A voice vote in favor was unanimous, MOTION CARRIED. Meeting adjourned at 9:16 p.m.

  
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Jeff Kindig  
Secretary

Minutes recorded and typed by Kevin Larson