

### From the President...

It's been a busy summer and fall for me and the NPZA Board. We have been working hard with the Nebraska Chapter of the American Planning Association on planning the 2014 Nebraska Planning conference. We have also been busy revamping NPZA's Constitution and By-Laws. The Board also met for a two day strategic planning session in McCook in July (see Strategic Planning Session).

My goal since becoming president has been to keep on the NPZA mission of providing training on planning and zoning to citizen and professional planners alike. The strategic Plan we are putting together helps accomplish this. NPZA needs to do more than just sponsor the annual conference.

This fall NPZA has co-sponsored a successful workshop with NACO Planning and Zoning on LB 140, the Airport Zoning Bill passed by the Nebraska Legislature and signed into law by the Governor. Close to 70 attendees from counties, cities and airports attended the October 2, workshop.

NPZA will also sponsor a one day Planning Commission training on October 24, in Omaha. NPZA is teaming with Nebraska APA. This is the session so popular at the Conference taught by Harry Milligan. Harry will team up with Dave Ptak to present this session. The following day, APA is offering a program on various topics.

Districts have been also putting together successful workshops. So it's been a good summer/fall for planning training in Nebraska.



### Strategic Planning Meeting

John Johnson

The NPZA Board met July 18 and 19 in McCook to develop a strategic plan for NPZA. Kathy and Kathy from the Nebraska Public Power District were on hand to facilitate this session.

This session determined NPZA had a lot of strengths including:

- A family like atmosphere and the ability to work together,
- New people getting involved,
- A diverse group representing cities, villages, counties and professional planners,
- Successful annual conferences,
- Good state-wide reputation,
- Great partnerships,
- And, a sound financial structure among more.

We also presented several challenges including:

- The state's geography,
- Politics,

- Increasing membership,
- No Planning and Zoning certification,
- Relying on the same speaker and support persons and the transition that will be coming.
- Use of technology,
- Most of the state served by part-time professionals,
- Lack of support and knowledge by elected officials,
- And, larger communities have specialized staff while zoning officials in smaller communities wear several hats.

The group also worked on several strategies to address our issues. Which will be presented to the organization during the Annual Conference and a draft will be posted on the NPZA website soon.

## Antelope County

### Char Carpenter

Antelope County Planning Commission met on July 15, 2013 at the court house for a regular meeting and to hold three public hearings. The major focus of the night was the public hearing for pipe line regulations. Approximately 60 people were in attendance to discuss what they want to see addressed in a pipeline zoning regulation. The board did not take any action and will still take input on this topic.

## US Supreme Court Decision

### Dave Ptak

**KOONTZ v. ST. JOHNS RIVER WATER MGMT. DISTRICT**, \_\_ U.S. \_\_, 133 S. Ct. 2586, 2588-612 (2013) No. 11-1447.

Decided June 25, 2013.

**Synopsis:** Landowner brought action in Florida state court against water management district, alleging that district's denial of land use permits unless he funded offsite mitigation projects on public lands amounted to a taking without just compensation. Following remand, 720 So.2d 560, the Orange County Circuit Court entered judgment for landowner, and the district appealed. The

Florida District Court of Appeal, (5 So.3d 8), affirmed and certified a question as one of great public importance. The Florida Supreme Court reversed, (77 So.3d 1220), and certiorari was granted.

**Holdings:** (NOTE: This was a 5 – 4 decision by the Court) – The Supreme Court, (Justice Alito wrote for the majority in which ROBERTS, C.J., and SCALIA, KENNEDY, and THOMAS, JJ., joined. KAGAN, J., filed a dissenting opinion, in which GINSBURG, BREYER, and SOTOMAYOR, JJ., joined), held that:

1. District could not evade limitations of the unconstitutional conditions doctrine by conditioning approval of a land use permit on landowner's funding of offsite mitigation projects on public lands, and
2. "Monetary exactions" as a condition of a land use permit must satisfy requirements that government's mitigation demand have an essential nexus and rough proportionality to the impacts of a proposed development, abrogating *McClung v. Sumner*, 548 F.3d 1219.

Reversed and remanded.



## Planning Commission Video

Harry Milligan and Chad Nabity sat down in the GITV studio and taped this segment. This is a very informative

video that should be shared with your Planning Commissions.

[http://grand-island.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=551](http://grand-island.granicus.com/MediaPlayer.php?view_id=2&clip_id=551)

## Mark Your Calendars

- October 2nd - NACO/NPZA Airport Planning Conference, Kearney
- October 24th - NPZA/APA Conference, Omaha  
Planning Commission Training (Harry Milligan & Dave Ptak)
- October 25th - APA Conference, Omaha  
APA Fall Workshop
- December 11th - 13th - NACO Conference, Omaha
- February 7, 2014 - NPZA Board Meeting, Ramada Inn, Kearney
- March 19-21, 2014 - NPZA Annual Conference, Ramada Inn, Kearney. Board Members will need to plan on setting up for the conference on Tuesday, March 18th.

## Airport Zoning Bill

Jenny Ryan

The unicameral Nebraska Legislature has approved and sent to Gov. Dave Heineman a bill to keep instrument approach paths free from new obstacles by expanding airport approach zones from three miles to 10 miles and revising outdated language in the state's Airport Zoning Act. LB140 is sponsored by Sen. Bob Krist, who is a pilot and AOPA member. This bill will bring Nebraska's airport zoning into compliance with the FAA requirements. Legislative Bill 140 will prohibit construction of structures in approach zones higher than 150 feet within three miles of the runway, up to a maximum height of 900 feet at 10 miles from the runway in designated approach zones. What affect will this have on land use near the airport? How will this change community Comprehensive Plans?

## Swayne's World

courtesy of Omaha.com

Thirty years ago, Carol Swayne cast an untrained eye over Bellevue and realized she couldn't do the job she had agreed to do.

It was 1983, and just five days had elapsed since her appointment to the Bellevue Planning Commission.

The day after her first meeting she told city officials it might not work.



"I can't do this if I don't get training," she remembers telling them. "I need training. I need to know where do I get the statutes that tell us what we can do? What do I need to do about due process? What are the ethics of planning? I just had a billion questions."

A billion answers and 30 years later, Swayne, 76, will retire this month from the commission, having become a planning legend not just in Bellevue and Nebraska but across the country, where she has often been asked to speak, teach and guide.

Planning became her passion, and her commitment to training and education brought professionalism to a voluntary, unpaid body that never knows whether its recommendations will be accepted or rejected by a sometimes oblivious City Council.

The secret to Swayne's standing in the planning world – a reputation that caused the Nebraska Planning and Zoning Association to establish the Carol Swayne Award for Excellence in Planning – was a tablespoon of humility.

She said it seemed unreasonable to her that any official should feel qualified to do the job merely by virtue of being elected or appointed.

"You can't just lay your hand on a rock and say 'I am' and be prepared to do the job," she said. "I don't understand why councils don't need training. Just because you're appointed or elected doesn't mean you know how to do the job."

So she attended the inaugural session of the NPZA in 1983 and never looked back.

"I would call Carol the first lady of planning and zoning in Nebraska," said Dave Ptak, who served as NPZA president from 1998-2008. "Not only does she have 30 years of service to the City of Bellevue but she was an integral part of the development of the Nebraska Planning and Zoning Association."

Swayne is a past president of the organization and broke a mold when she became the first non-professional planner to serve on the board of directors of the American Planning Association.

"That is quite an honor," Ptak said.

Ann Birch, who served as Bellevue's planning director for 10 years from 1990 to 2000 and now serves the same function for the City of La Vista, said Swayne's commitment to her work was inspirational.

"She was really responsible for creating a sophisticated Planning Commission in Bellevue," Birch said. "She researched issues, read about current trends, was really dedicated to training and maintaining public trust."

Planning commissioners juggle two functions, Birch said.

The first is analyzing short-term proposals such as an application from a particular business or housing developer. The second requires taking the long view and envisioning a city's future.

People who can do both are rare, Birch said, but Swayne was one of them.

"She was very good at working on regulations that connected to long-term goals," Birch said. "She was really the best at that that I have ever seen."

For many years Swayne owned and operated a framing business in Bellevue's Olde Towne, where she practiced what she would increasingly be called upon to preach to planning bodies around the country: ethics.

Ethical behavior, Swayne said, is foundational to any level of government because government must not only actually be fair, it must be seen as acting in a manner that would serve as the very epitome of the spirit and the word fair.

Many times, Swayne recalls, developers strode into her framing shop eager to display plans for this or that development, and they were always rebuffed. Any such communication, she told them, must be made in public session, in a public hearing, in front of television cameras.

It took about 10 years, she recalls, but eventually they got the message and gave up trying.

"We have to be so, so certain that our hearings are fair and impartial," Swayne said.

"One of the first people I heard speak after I was appointed stressed that we have to come to the table with clean hands.

"You don't go to coffee with any of these developers. You don't accept tickets. If they send you flowers you send them back. You come to the table with clean hands."



Bellevue grew dramatically during Swayne's tenure on the Planning Commission, and many of the big issues came before her.

From rental duplexes, frowned upon by some commissioners ("We're a military community, and we're going to be against rental housing?") Swayne asked incredulously to the proposed Kennedy Center at 25th Street and Chandler Road ("I was always profoundly opposed to that – parents were very worried about the additional traffic near the school") Swayne has cast her votes as she saw fit.



Which, Ptak said, is the best way to approach what is often a thankless task.

"Planning and zoning is often looked at in a negative light," he said. "People think it's restrictive, because it tells them what they can and cannot do.

"It is actually the exact opposite because it protects compatible use so you don't end up having a multi-million dollar home next to a factory.

"It's very tough, it's a discipline, and you don't acquire knowledge overnight."

Looking back over three decades Swayne spends no time adorning her service with deep meaning.

It was, she asserts, simply an approach to life she learned from her parents, Winnibelle and Andrew Ward, both of whom volunteered their time and passed on that commitment.

And then she married a military officer, which strengthened the service reflex because wives were expected to be socially involved.

So in 1974, when the city was failing to install a promised park at Golden Boulevard and Blaine Avenue, she successfully took up the challenge and there, today, sits Golden Hills Park.

And when City Councilman Gene Farley in 1983 suggested that she fill a vacancy on the planning commission she said she would.

"I just sort of grew up with it," she said. "My parents always believed in giving back.

"I was just a child, but I can remember the war years when everybody had Victory Gardens, everybody saved tinfoil, food was rationed and everybody took care of everybody else.

"That's what a community should be."

## West Central District Workshop

Jenny Ryan

On Tuesday, August 13th, West Central District had a phenomenal turnout for their workshop. There were 31 attendees who were schooled on Comprehensive Planning-Energy Element, Conservation Easements and other Current Issues by Keith Marvin, AICP, and Chad Nabity, Hall County Regional Planner Director. The afternoon session speaker was Charles Hamilton, Attorney-at-Law, who spoke on Zoning: Who's Exempt and Why. Following the workshop, the district board met for a meeting. Attending the meeting were the following: Dolly Kienke, Jack Quinlivan, Judy Clark, Jenny Ryan, Keith Marvin, and Charles Hamilton.

## Remembering Dallas.....

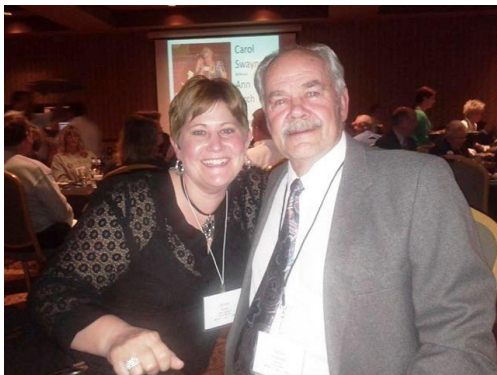
### NPZA Members

"Dallas could always make me smile and laugh. He could tease you without being mean and knew who could take it and who couldn't. I will miss that. I am blessed to have known him and to have called him friend. Good bye dear friend" Char Carpenter



"What a dear friend he was to Zoning. What a loss to our Zoning Family. He was a highlight to all our meetings always with a smile and a joke to tell. He was a friend to everyone. He had the ability to talk to you about anything and could make you feel wanted." Jerry Huntwork

"Dallas is one of the first people I met at the NPZA Conference. He really made a lasting impression on me. He made me laugh so much. We joked that he was my date for the banquet at the 2013 conference. He will be missed by so many." Jenny Ryan



"As a person that interviewed me for my job, Dallas Oestreich was one of the first people I met when I moved to Nebraska almost 12 years ago. Dallas was the chairman of the Pierce County Planning my entire tenure.

Dallas was more than a planning commission chairman. He was a friend, a father figure, a goof ball, a farmer, a great fast pitch softball player, a father, grandpa, husband, fire fighter and more. You have heard the phrase Jack of All Trades, Master of none. Not Dallas. He was a Jack of many trades master of most. Dallas gave everything he did 100%.

Dallas rarely missed a Pierce County Planning Commission meeting. One time we were short of a quorum when Dallas walked through the door a few minutes late. He was dressed in his "farmer" clothes since it was harvest season. He apologized for his appearance saying he had just come from the field. He lamented he hadn't had time to have supper or change clothes. Teasingly, I responded pinching my nose, "Or take a shower." Dallas looked at me, sniffed and responded, "Well at least I have an excuse." Rest in peace my friend." John Johnson



Please submit any questions, comments, concerns, or ideas regarding the newsletter to Jenny Ryan ([jryan@cityofmccook.com](mailto:jryan@cityofmccook.com)).