The Nebraska Planner

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Newsletter Editors - Stephanie Rouse, AICP, rouseplanning@gmail.com & Cale Brodersen, AICP, cbrodersen@cityoflavista.org

ANNOUNCEMENTS

NEBRASKA PLANNING CONFERENCE

The annual Nebraska Planning Conference will take place September 14-16 in Kearney. Registration and the conference schedule will be posted on NPZA's website in the near future.

NPZA CONSTITUTION AND BYLWAY AMENDMENTS TO BE ACTED ON 9/15/22

The Nebraska Planning and Zoning Association Board of Directors is considering the proposal of amendments to the official NPZA Constitution and Bylaws. Such amendments will be introduced and voted on by the general membership at the NPZA annual meeting, to take place during the Nebraska Planning Conference in September. See Page 19 for a summary of the proposed amendments.

NPZA & APA AWARDS NOMINATIONS DUE 8/5/22

The Nebraska Planning and Zoning Association and the American Planning Association Nebraska Chapter both recognize outstanding individuals and communities in the field of planning in Nebraska. These awards will be presented at the Nebraska Planning Conference in September, but nominations are due soon! Please submit your nominations for awards by Friday, August 5th at 12:00pm. For information on awards categories and nomination procedures, please see page 20 of this newsletter.

PINTS W/ PLANNERS IN LINCOLN

Join the APA NE Emerging Planners Group in Lincoln on 7/27/22 for July's networking event. All are welcome!

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PRESIDENTS' UPDATES

Often we tie music to events in our lives. Whether it be the songs we listened to at school dances growing up or the music blaring through the speakers during parties or vacations, they often remind us of good memories. When the Nebraska Planning Conference was moved to September last year, it conjured up "September Morn" by Neil Diamond in my head. For fellow NPZA Board Member Keith Marvin, it was "September" by Earth, Wind and Fire.

But this year the song that comes to mind is "Moving on Up!" (The Jeffersons theme song). To those of you who know that song, you know it would be apropos as the Nebraska Planning Conference is moving to its new digs this fall. This year's conference will be held in the new Younes Conference Center North. Just a couple blocks north of the old facility in Kearney, Younes North is a state-of-the-art facility that will be a great home for the event for years to come!

NPZA Board members have been working hard with the Nebraska APA on planning the 2022 Nebraska Planning Conference. This year's conference will be September 14-16th and will cover a wide range of topics for those interested in attending. We will have special tracts including ones on housing, economic development, and rural issues. More information regarding the event can be found on our website (http://www.npza.org), including online registration, which will open in July. Also, check out NPZA's Facebook and Twitter accounts for updates and pictures last year's conference. The NPZA Board and I are excited about the upcoming conference and we look forward to seeing you there!

Christopher Solberg, AICP - NPZA President

I can hardly believe that 2022 is past the halfway point with summer over and the Annual Planning Conference right around the corner. The first half of the year was productive for the conference committee, the NE APA Awards committee, and the Booked on Planning team just to name a few.

If you have not subscribed or listened to the Booked on Planning podcast, I highly recommend it. The content of each episode is a quick summary of pertinent planning books and I am immensely proud of the production quality that the NE APA team has produced. I have found the podcast thought provoking and educational.

Speaking of educational opportunities, there will many great sessions coming up at the Annual Planning Conference in Kearney, September 14-16. I am looking forward to the conference this year as we hear from keynote speaker, Petra Hurtado. She is the Research Director at the American Planning Association and focuses on future trends in planning. In addition, there will be many opportunities to network and celebrate outstanding planning achievements and people. I hope to see you there.

Jeff Ray, AICP - APA-NE President

PLANNING FOR CLIMATE CHANGE

BY: STEPHANIE ROUSE, AICP

The City of Lincoln launched the Resilient Lincoln initiative which set an ambitious goal of 80 by 20—an eighty percent net reduction in Lincoln's greenhouse gas emissions by the year 2050. Not only is Lincoln seeing more heavy and frequent flooding, but drought and extreme heat are also posing major threats. No longer is this global problem and issue to be ignored which is why Mayor Gaylor Baird made it a priority after taking office to see the Climate Action Plan adopted. The plan focuses on reducing greenhouse gas emissions and increasing resilience to the impacts of climate change while recognizing the interdependence of a network of systems that underpin city operations.

"Increasing energy security, reducing fuel costs, limiting greenhouse gas emissions, preserving our air quality, and protecting our quality of life – these are things we have power to advance locally when we access more renewable sources of energy to fuel government cars, trucks, and buses. Together, we have the power to strengthen our communities, protect our way of life, and create a stronger, more resilient, more electric future for our children and grandchildren."

-Mayor Leirion Gaylor Baird

From Vision to Plan to Action

Lincoln's Vision for a Climate Smart Future started with 365 strategies narrowed down from over 600 ideas from the community at the start of the process. The Climate Action Plan distilled this down to 120 key initiatives to be prioritized over the next six years which includes actions the city already does and those that would be new.

The action items are organized into eight categories:

- Transition to Low-Carbon Energy
- Build a Decarbonized and Efficient Transportation System
- Align Economic Development Goals with Climate Realities to Ensure a Thriving Economy
- Improve Protections for and with Lincoln Residents
- Build a Resilient Local Food System
- Maximize Natural Climate Solutions
- Reduce Waste
- Engage Residents in Co-Creating a Climate Smart Future

To ensure action following adoption, an internal group of city staff was formed with a variety of departments represented and one person appointed as the lead to each of the eight categories listed above. This lead person was tasked not with directly working on each action item, but tracking its progress, providing supporting, and ensuring the proper department or staff person was keeping the task moving forward. In just the first year several items have been completed, others are making significant progress, and ongoing items such as implementation of the Lincoln Bike Plan continue to advance.

Partnerships

This goal could not be achieved without the partnership of several major Lincoln employers. Earlier this year the Climate Smart Collaborative was launched which includes the City of Lincoln, Lancaster County, the University of Nebraska, Lincoln Electric Systems, and Lincoln Public Schools. This interagency approach sets the stage for collaboration to meet shared resiliency and sustainability goals across the city.

These goals include:

- Reduce greenhouse gas emissions
- Fortify public infrastructure
- Transition to sustainable solutions
- Utilize renewable resources
- Spur economic development and create good paying jobs in green manufacturing

The first major project of the partnership is an Electric Vehicle (EV) Readiness Plan focused on a community-wide strategy for electric vehicle charging infrastructure. This plan times well with the National Electric Vehicle Infrastructure Formula Program (see sidebar for more details).

Statewide Climate Action

While Lincoln led the way in Nebraska with the adoption of the Climate Action Plan in 2021, Omaha is following suit. The Omaha City Council approved a resolution supporting development of a Climate Action Plan in November of 2021 which has yet to begin. According to an Omaha Councilmember, of the 50 most populous cities in the U.S. only 15 lack a Climate Action Plan.

At the statewide level, Senator John Cavanaugh sponsored LB483 which would support the creation of a statewide climate action plan developed by the University of Nebraska. The bill was introduced in January of 2021 and was indefinitely postponed in April of this year. A total of 33 states have released climate action plans or are in the process of revising or developing one.

Planners Poised for Climate Action

Local planning issues play an important role in combating climate change. Decisions on transportation, parks and green space, land use, building codes, infrastructure, and development projects can lead to reductions in carbon emissions.

Cover for the City of Lincoln's Climate Action Plan

A historic preservation ordinance for example supports building reuse rather than demolition which would lead to waste of materials and embodied energy. Supporting a strong transit system and building out bicycle infrastructure encourages residents to take more active modes to their destinations, reducing not only their carbon footprint, but the amount of congestion on local roadways and extending the life of the pavement.

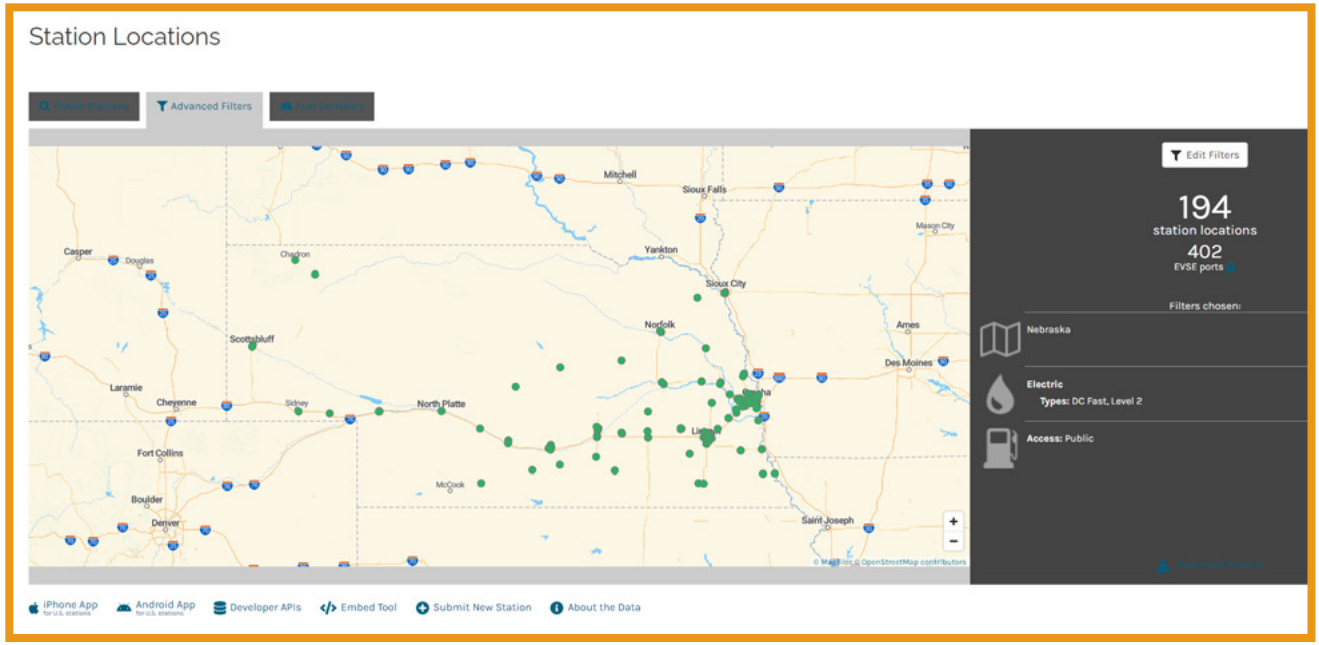
It has never been a better time to take climate action seriously. Support at the federal level goes beyond legislation and includes more funding than ever before to reduce the negative impacts of climate change. A few notable new programs include the Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation, Carbon Reduction Program, National Electric Vehicle Infrastructure Formula Program, Charging and Fueling Grant Program, Safe Streets and Roads for All, and Congestion Relief Program.

Several other existing programs were refunded such as the Weatherization Assistance Program, Energy Efficiency and Conservation Block Grant, and State Energy Program.

Local governments are on the front lines of the climate crisis making daily decisions that impact our environment. Climate Action Plans are just the first step in a coordinated program to reduce greenhouse gas emissions to stem the disasters we are seeing occur more and more frequently. It's never to late to start planning for climate change.

National Electric Vehicle Infrastructure Formula Program

The National Electric Vehicle Infrastructure Formula Program is one of the many included in the 2021 Bipartisan Infrastructure Law (BIL). This program provides states with $7.5 billion to expand electric vehicle (EV) charging stations which Nebraska will be using to built out charging infrastructure on the Alternative Fuel Corridors (AFCs), which includes Interstate 80, Nebraska Highway 31, and US Highway 6 in the Omaha area.



Map of electric vehicle charging stations accross Nebraska

A map of existing locations for various fuel types including EV stations created by data from the Alternative Fuels Data Center is available on the NDOT website. Also on the site is a public survey intended to gauge public attitudes towards EV's and how access to a charging station outside the home influences decisions to purchase EV's. For more information, visit this website.

PLANNER PROFILE – DALLAS MCGEE, AICP

BY: STEVE MILLER, AICP

One of the best reasons to belong to professional organizations like the Nebraska Chapter of the American Planning Association and the Nebraska Planning and Zoning Association is meeting other professional planners and building a network of people who do similar work. The contacts you make often become mentors, advisors, colleagues and friends. This is a new entry in the ongoing series of Nebraska planner profiles for the Nebraska Planner quarterly newsletter. The goal of this series is to inform you about, and introduce you to, the diverse group of people who make planning and zoning happen in Nebraska.

I have worked in Lincoln as a planning consultant for many years and during the course of my career have worked with many planners and city officials. I consider myself privileged to have had the opportunity to work with Dallas McGee, the Assistant Director of Urban Development for the City of Lincoln, on several redevelopment projects in downtown Lincoln and in the Haymarket. Dallas is an experienced and well-regarded planner In Lincoln and he's well known across Nebraska. Dallas has a comprehensive knowledge of city codes and regulations which he combines with his expertise in urban design and his endless patience with project stakeholders to make great projects a reality. He has 45 years of professional experience, he's been an APA member throughout his career, and has served in leadership roles in Nebraska APA. Dallas graciously took the time to share some brief thoughts about his background, his experience and the important things to him about being a planner. Please see his responses to the following questions:

Pictured: Dallas McGee

1. Describe your current job or the current work you're doing.

I am the Assistant Director of Urban Development for the City of Lincoln, Nebraska. I focus on assisting with redevelopment planning and implementation primarily in the city's downtown and older neighborhoods. This involves working with developers, property owners, community organizations, elected officials, and the general public to facilitate planning and redevelopment activities.

2. What did you want to be when you were growing up and how did you get into planning?

I grew up on a farm in rural Nebraska but was always fascinated by cities; how and why they work and how they are designed. My goal in high school was to become an architect and help design buildings and the built environment. After receiving my bachelor's degree in architecture, I went to work for an architectural firm in Omaha where I had the opportunity to be exposed to a range of disciplines from architecture to landscape architecture to site and development planning.

I then had the opportunity to take a one-year position with the City of Lincoln as a neighborhood planner. Now, 45 years later, I can say that decision was certainly the right decision. I have worked in many capacities with the city and have been able to participate in many and diverse plans and projects.

3. Describe a mentor or someone who had an impact on your career.

Gordon Scholz is the person that I credit for getting me interested in and excited about city planning. Gordon was a professor of Architecture and Community & Regional Planning at the University of Nebraska. He chaired the citizen task force with whom I was assigned to work. Our charge was to chart a path for revitalization and redevelopment of a sensitive and vulnerable part of the city. During that intensive nine-month process and with the citizen leadership that Gordon provided, I became fascinated with city planning and how it can shape our environment. At that point I decided to pursue a Master's degree in planning.

4. What is one project, or the outcome of a project, completed in your career that you are proud of and why are you proud of it?

During my career I have had numerous projects that I am proud to have been involved in. I will briefly mention three.

In 1980, I worked with a citizen task force to develop "A Plan for Urban Growth and Redevelopment." That plan detailed a strategy to reinvest in three older neighborhoods that had seen no reinvestment, from either public or private sectors, for over 30 years. This plan addressed decades old issues of building a road through the neighborhoods, flood plan complexities, and university expansion into the area. This plan was approved by elected officials and formed the basis for the Antelope Valley Redevelopment that has transformed this entire, once neglected area.

The development of a plan for public investment in Haymarket, a little known, largely vacant warehouse district adjacent to downtown. That plan led the National Trust to designate this area as the first demonstration historic warehouse district in the country. That enabled the creation of the historic Haymarket district and the redevelopment of just about every building in the district over the past 30 years.

The preparation of the 2005 Downtown Master Plan which was the city's first comprehensive downtown plan in over 30 years. This plan identified a vision for downtown as a multi-use center for the city. It identified catalyst projects that have been implemented and transformed downtown. These include addressing the location for an arena adjacent to Haymarket if the city should decide to build an arena. Eight years later the Pinnacle Bank Arena opened in the proposed location and has led to further redevelopment in Haymarket and downtown. The plan was updated in 2018 to further chart a course for downtown for the next 20 years.

4. What advice would you give a young planner just starting their career?

The field of planning is an exciting and rewarding profession. I think the first piece of advice I would give a young planner would be to be patient. Planning is an evolutionary process. Each decision that we make has an impact, either good or bad, and sometimes those impacts are not realized immediately. However, those impact may be realized years later. Always look not only to the immediate impact of a decision but at the likely long-term impact of each decision.

5. What has been your involvement in APA, NPZA, and other professional organizations and how has it helped you as a planner?

I have been involved in APA since the beginning of my career. I served as the Professional Development Officer for the Nebraska chapter where I helped planners prepare for the AICP exam.

I served on the AICP review committee where we established the score necessary to pass the exam. I have attended approximately 16 National Planning Conferences where I not only heard from inspiring leaders in various planning fields but interacted with and learned from planners throughout the country. It was often reassuring to find out that other planners and other cities often faced similar issues and we shared our approaches to solving those issues.

RENTWISE: A RENTER AND HOUSING PROVIDER EDUCATION TOOL

BY: KURT ELDER, AICP

As planners and elected officials, we place so much effort into dialogue, plans, reports, and other media concerning the topic of housing, and rightfully so. Housing provides the foundation for which many linked outcomes rely[1] . While so much effort and conversation is focused on homeownership, this article and educational framework focuses on the other roughly 45% of properties which are rentals. This article will briefly discuss this paradigm and the need for an enhanced marketplace, and will include an introduction to RentWise, results of prior research, and the path forward across Nebraska. This article is based on my collaborative work with the Nebraska Housing Developers Association, the City of Lincoln, and Lincoln's Real-estate Owners/Managers Association.

The Need for an Enhanced Marketplace

In the rental marketplace we have two basic actors: housing providers and tenants. In general, we would all likely agree on a few broad positions concerning these two. First, good tenants will find good housing providers. Second, tenants with less associated risk will find better rental options. Finally, rental relationships with quality expectations and communication are the most stable.

Together these three positions help explain common agency relationships; however, not all housing providers or tenants are of a quality standard. For example, a tenant may carry more risk that effects their ability to qualify for a housing unit (i.e., credit issues, prior convictions, an eviction record, etc.). Unfortunately, other perceived "risks" can impact some renters too (i.e., presence of kids, race, gender, style, sexual orientation, etc.)[2] Regrettably, renters may not know their rights, and can over play their "hand" in some circumstances.

Likewise, a housing provider may not know industry best practices or fair housing law, or may choose to compromise sound business practices by not: charging a fair market rent to sustain maintenance, evicting when needed, or solving minor problems through proper communication. These limitations of both parties are only exasperated through miscommunication and pride.

Yet, to be clear, I believe divisive rental situations[3] are not the norm for much of Nebraska; however, dysfunctional[4] relationships may exist at a higher rate than you would expect.

In a "regular" marketplace, a standard renter with enough income has a choice of housing type[5], and a housing provider has the ability to set standards that sort out sub-optimal clients. Together these top tier (i.e., high-high) candidates have quality communication and expectations are clear. As income, and other quality markers of this broad system decline, we could imagine two lines converging towards the 80% (or lower) AMI rental affordability mark. Some believe that past this point of "proposed market equilibrium" is where negative externalities of each facet begin to become enhanced.

Those with incomes at 80% AMI or greater can generally find an affordable, available, and accessible unit with a quality housing provider. However, those below 80% AMI begin to find a constrained market. In general, local public housing authorities (PHAs) will serve the best of the best tenants below 80% AMI, while the remaining tenant and housing provider populations engage in a "market game" where BOTH present and play their best hand.

Some mismatches will occur, but in the end, "low-quality" providers and "low-quality" tenants will often pair into a housing solution, albeit of varying tenures. This low-low mix is inevitable, almost unfixable. The most undesirable outcome for any rental relationship is eviction. However, with education, I believe we can right-size many relationships before a contract is signed. Education could lower the number of divisive and dysfunctional rental situations.

RentWise Introduction

Nebraska RentWise (RW) is a program to help renters obtain and keep rental housing and be successful renters through education. The curriculum, a six-module, 10-hour course, takes an active-learning approach and stresses tenant responsibility. Participants earn a certificate after completing a minimum of nine hours of education. The RentWise Workbook/Organizer helps tenants store rental records and provides how-to information on unit maintenance and creating collaborative relationships with landlords and neighbors. The course is often broken into smaller classes that offer one to two modules at a time. The program is administered by the Nebraska Housing Developers Association.

Results of Prior Research

In June of 2020 the City of Lincoln, in connection with the Lincoln Housing Authority (LHA), completed a program review to assess the outcomes of the above mentioned RentWise program. LHA made an ideal partner. They had a digital list of persons who had taken RentWise, for which completion awards a preference point towards being provided a voucher in the City of Lincoln. The outcome we tested for was the rate of eviction for the broader education class, and the rate of eviction for those with a RentWise education and voucher. The results are important. The four-year eviction rate (2015-2018) for the City of Lincoln was 2.5%[6], but was only 1% for those who were LHA RW grads. The Housing Choice Voucher (HCV), RW eviction rate was 0.7%, whereas the HCV eviction rate for those who did not take the RW education was 1.6%. In short, tenant education works to reduce evictions.

This outcome led many to consider the possible benefits of providing education to housing providers as well.

A Path Forward for Nebraska – Part 1 of 3

In my private consulting work I often ask, "If you knew what you did was effective (i.e., program, policy, position) would you do it more intentionally?" and if the answer is yes "how would you do that?" With the previously mentioned research results, I contacted the Nebraska Housing Developers Association and began to form a partnership with the intention of providing this education more broadly. Together we identified the need to digitize this education, create a testing program, and offer it in an online platform[7]. I secured seed funding from the City of Lincoln and a development team from UNL's computer science capstone program to develop our cloud-based education platform and associated databases. Since initial funding was from the City of Lincoln, we also created from scratch a housing provider education tool that is primarily based on the experiences of key facets in the Lincoln rental market. While derived for Lincoln, it is very much applicable to the broader state.

The housing provider education platform consists of ten modules that are served in the form of videos. Broadly, the topics covered are fair housing basics, advertising, best practices, topics from building and safety, investment analysis, lease design and tenant selection, property management questions, evictions, what-if scenarios, and neighborhood expectations. The first three were produced by the Lincoln/Lancaster Commission on Human Rights, the fourth was with the City of Lincoln's Chief Housing Inspector, the next five were with a local housing provider and the President of the Real-estate Owners and Management Association, and the final module was with the chair of Lincoln's Neighborhood Round Table and longtime planning commission member. Again, this collective experience is applicable statewide to support housing providers, tenants, and communities alike[8].

Education Platform

Over the course of a year, students enrolled in the professional pactice capstone course as part of the University of Nebraska-Lincoln's Computer Science Program produced the first phase of our platform. Housing providers and tenants can create a free account and register for either course.

Upon completion, both educated tenant and educated housing provider can be searched through a publicly available reporting tool. In an effort to protect the identify of tenants, the search interface simply utilizes their email address to verify their completion status.

Likewise, after a housing provider completes their education, they can list their property for others to view. In an administration client, system administrators can add additional information such as whether or not the listed unit has been certified through another agency or non-profit, or if the unit is listed on a lead safe registry. Future iterations will denote the accessibility of the unit.

This tool helps inform the rental marketplace about who has received either renter or housing provider education. For more detailed information about specific units, users can contact the owner/manager, local housing authority, or access local resources or visit housing.ne.gov. Changes are still being made to these courses, but information on what these courses look like and where to find them will be included in future newsletters.

A Path Forward for Nebraska – Part 2 of 3

It is clear that rental education improves rental outcomes in terms of eviction rates and likely eviction filings. It is also reasonable to believe that housing providers with an education will select, support, and provide a better housing solution. When combined into a common interface that works to hyperinform the marketplace, I believe the capacity to reduce evictions across the state is achievable; however, much work is needed.

Work must be done to train more statewide trainers in different agencies so online learners have a neighborhood/local point of contact should they have questions. We want our learners to get the correct information instead of friendly advice, hearsay direction, or emotional guidance. Additional organizing capacity and financial capital will be required to activate our housing provider community and to meet users and partners in their common places of life and work in order to make this as successful as possible.

To achieve this proof of concept, The Nebraska Housing Developers Association secured $100,000 to develop local capacity, via a pilot project, to improve the rental market in the City of Lincoln. Potential partners include the City of Lincoln Building and Safety online property registration system, the Lincoln Real-Estate Owners and Managers Association, Lincoln Public School's 'Taking Charge' course, institutions of higher learning, Cause Collective (i.e., a connection of local non-profits), local radio, television, print and philanthropy partners.

However, to build capacity across the state, the Nebraska Housing Developers Association will need more partners, and fiscal support from communities. They believe that with this pilot, they can increase rental housing stability and demonstrate the capability to do it in other communities. Communities with federal CDBG allocations will likely be primary targets for expansion. However, they welcome the opportunity to work with any neighborhood, community, city, county or state body.

A Path Forward for Nebraska – Part 3 of 3

The first phase of the training platform is complete and functional. However, when you build new systems, you identify quality of life improvements that would benefit not only program administration but also the broader system user base. Additional ideas will surely be identified as this pilot project proceeds.

In the coming months and into early 2023, the Nebraska Housing Developers Association will implement 23 facets that will yield a final product deliverable. Highlights of these changes will be a quiz question editor, renters will be able add the properties they live in and upload pictures upon move in, a bypass system for persons under 18, an integrated mapping interface/geo service, loading in-person completion results, and as mentioned, the ability to sort added properties by accessibility status.

In Conclusion

If we inform the market, communicate appropriately, increase knowledge, and enhance awareness, we can develop strategies to address barriers, and claim the benefits of simple solutions. Additionally, RentWise (i.e., Renter and Housing Provider Community Education Tool) is built in an environment that can support additional education efforts such as neighborhood education or energy education. Earlier I asked "If you knew what you did was effective (i.e., program, policy, position) would you do it more intentionally?", and if the answer is yes, "how would you do that?"

I want to know your thoughts on our solution and outcomes. Would your rental community benefit from an experienced team of implementors from the Nebraska Housing Developers Association? Please feel free to email at kurtelder@gmail.com with your thoughts or questions, or to request a personal introduction to the NHDA[9].

AUTHORS NOTE:

This topic and article were submitted to be a conference session at the 2022 Nebraska Planning Conference in Kearney in September. If selected, I invite you to learn more about this tool, project, and partnership.

FOOTNOTES:

1. Housing, adequate income, and perceived safety are the big three components to stability from my perspective. This isn't to say that health access, food security, or community engagement etc., are not valuable, only that they are successfully derived from the first three.
2. This is illegal. If someone feels they have been discriminated against based on a federal or local protected class, they should contact their local commission on human rights to discuss their unique specifics and recourse. This message is supported by many local and statewide housing provider associations too.
3. Divisive relationships are most commonly assessed by examining the eviction filing rate, the eviction rate, and the percentage of those evicted who had legal representation.
4. Dysfunctional rental relationships are where errors in best practices are being made by either party, resulting in unnecessary distress. These relationships can be repaired to functioning, whereas divisive relationships may only last the period of the rental agreement or less.
5. This review suspends a full weighted notion of housing choice as most communities don't have a fully functional housing choice for different income groups.
6. For the sake of comparing eviction rates, Douglas County is approximately 3.7%, Scotts Bluff County is approximately 2%, and portions of Kansas City are approximately 5.5%.
7. The face-to-face RentWise course will still be offered and developed. Those completing an in-person course will still be entered into the online system so their complete status can be verified.
8. The application is translatable through most web browsers.
9. You can also directly contact NHDA at 402-435-0315.

NEBRASKA SUPREME COURT: LIS PENDENS PROTECTS BUYER'S RIGHT TO ACQUIRE REAL ESTATE BY COURT ORDER

BY: HANNES D. ZETZSCHE, REPRINTED FROM THE DIRT ALERT; 5/3/2022, EDITED BY DAVID C. LEVY

Wilkinson Development, Inc. v. Ford & Ford Investments, 311 Neb. 476 (2022).

This case concerns dueling purchase agreements, each obligating Ford & Ford Investments ("Ford") to sell the same parcel of commercial real estate in Dawson County, Nebraska. Ford first entered into a purchase agreement with Wilkinson Development, Inc. ("Wilkinson") as buyer. That agreement had a purchase price of $325,000.

Before closing, however, Ford purported to terminate the agreement. Wilkinson still delivered the full purchase price to the closing agent. Ford then executed a second agreement to sell the same property to PSK, LLC ("PSK"). This agreement had a purchase price of $365,000.

Wilkinson sued Ford for specific performance and filed a notice of lis pendens. Because of the notice, the title company refused to insure title to the property. PSK and Ford nonetheless closed their sale and recorded the deed.

The District Court for Dawson County granted Wilkinson's claim for specific performance. Ford did not appeal. This appeal is PSK's collateral attempt to overcome the court's decree of specific performance.

The Nebraska Supreme Court rejected PSK's attempt to overturn the decree and affirmed the court below. This highlights the importance of specific-performance clauses in real-estate contracts.

Under section 25-531 of the Nebraska Revised Statutes, a notice of lis pendens provides "constructive notice" to any person intending to purchase the subject property.

It alerts prospective purchasers to the property dispute and offers them an opportunity to defend their interests therein. The court held that the notice of lis pendens provided PSK constructive notice of Wilkinson's adverse claim to the property. Accordingly, the decree of specific performance bound PSK as if PSK had been a party to that action.

PSK next claimed that Wilkinson should have joined PSK in its request for specific performance. The court held that such joinder was unnecessary. The court found that Ford had owed no duty to join PSK because the evidence did not show that Wilkinson had known of PSK's adverse claim when filing the lis pendens notice.

The court held that the necessary and indispensable party doctrine also did not help PSK because the lis pendens statute specifically subjected any subsequently claimed property interests to the interest alleged in the notice of lis pendens. See Neb. Rev. Stat. § 25-531. Although PSK could have tried to intervene, it did not do so. It accordingly lost its chance to substantively challenge the order of specific performance.

PSK additionally claimed rights to the property under an equitable-conversion theory. The court disagreed. Equitable conversion protects certain buyers of real property by presuming that they hold a valid equitable interest as of the purchase agreement's effective date. The court, however, found that at least two exceptions prevented application of that doctrine.

First, because PSK had executed its purchase agreement knowing that Wilkinson's purchase agreement had predated its own, PSK could not claim protection. Second, the court found no evidence in the record that PSK had paid the entire purchase price before Wilkinson's notice of lis pendens. Thus, PSK lost its appeal, and Wilkinson's court-ordered acquisition of the subject property stands.

This case provides a good reminder about the power of specific-performance provisions in real-estate contracts. If the parties would have agreed to waive buyer's right of specific performance, Ford could have made an economic choice to sell the property to PSK at a higher price. Wilkinson's only recourse would have been damages. The specific-performance provision in this purchase agreement, by contrast, protected Wilkinson's right to receive the specific property at issue.

UNL MASTER CLASS GIVES RECOMMENDATIONS FOR DOWNTOWN BEATRICE REVITALIZATION

BY: DOUG KENNEDY; REPRINTED FROM NEWS CHANNEL NEBRASKA, TUESDAY, MARCH 29, 2022

BEATRICE - An open house was held Monday to hear recommendations of the University of Nebraska-Lincoln's Community and Regional Planning's master program, on the issue of downtown Beatrice redevelopment.

The session was put on by the City of Beatrice and Main Street Beatrice, at the Community Players Theatre.

The recommendations included items such as improved alleys and passage ways, improving foot traffic for business or downtown residential settings...use of upper floor areas for housing...establishing connected commercial and civic space....use of green space through interactive features...development of vacant spaces through public-private partnerships and marketing strategies.

The UNL master program also suggests helping Community Players relocate, but remain in the downtown area....making use of consistent guidelines for store front revitalization...and encouraging small business growth, perhaps through an incubator.

One idea from a previous study that is getting some attention again, is to reroute heavy truck traffic from Court Street south to Market Street. That could allow for transforming Court Street into a more pedestrian-friendly, slower traffic area for business and entertainment....making use of gathering spots, planted areas and mid-block pedestrian crossings. It could also mean turning one-way streets into two-way travel in the downtown area.

Local businesses, officials meet on Beatrice downtown revitalization

Another recommendation is making use of open spaces for what's called tactical urbanism...capitalizing on activities such as special events, games or outside cafe' space.

About 275 people responded to a survey about downtown revitalization, conducted by the UNL program.

NE SUPREME COURT: LACK OF "MENTAL DISORDER" STYMIES DELINQUENT TAXPAYER'S EXTENDED REDEMPTION CLAIM

BY: HANNES D. ZETZSCHE, REPRINTED FROM THE DIRT ALERT; 5/20/2022, EDITED BY DAVID C. LEVY

Nieveen v. TAX 106, 311 Neb. 574 (2022).

Tax sales are a common method for counties to recoup unpaid property taxes in Nebraska. Each county places an automatic lien on property within its boundaries for any unpaid property taxes. Neb. Rev. Stat. § 77-1901. The county can then sell its lien to a private party in the form of a tax certificate. § 77-1818.

As this case demonstrates, however, that sale does not necessarily transfer ownership of the property. Rather, the purchaser of the tax lien must wait a statutory time period, typically three years, to obtain title to the property. If the taxpayer does not "redeem" the property within three years, the purchaser may apply to the county treasurer for a tax deed conveying ownership over the property. § 77 1837(1).

Sandra K. Nieveen failed to pay taxes on her property in Lancaster County, Nebraska. The Lancaster County Treasurer sold a tax certificate for Nieveen's property to TAX 106. More than three years later, after TAX 106 had obtained title to the property via a tax deed, Nieveen challenged the conveyance.

Nieveen acknowledged she had not redeemed her property within the three-year period. Still, she cited a separate redemption right under section 77-1827. That statute extends the redemption period to five years for "persons with an intellectual disability or a mental disorder." Id. A qualifying mental disorder is one that prevents the property owner from either understanding his or her legal rights or from taking action to protect those legal rights. Wisner v. Vandelay, 300 Neb. 825 (2018). The district court rejected Nieveen's challenge. The Nebraska Supreme Court affirmed.

As the Supreme Court found, Nieveen had at the time of the tax sale experienced "major depressive disorder" and "recurrent, severe, and generalized anxiety disorder." She acknowledged, however, her understanding of the need to pay bills and that there would be consequences if she did not. Although she testified her mental health was the only thing keeping her from defending her rights, other testimony evinced different reasons as well, including her lack of money.

The Supreme Court held section 77-1827 did not apply. The three-year redemption period under section 77-1837(1) applied instead. Because Nieveen had failed to redeem within that period, the tax deed lawfully transferred ownership.

Nieveen additionally challenged the tax sale on constitutional grounds. She alleged it had violated her procedural due process rights and had constituted both a taking and excessive fine under the U.S. and Nebraska Constitutions. The Supreme Court disagreed.

First, although the tax deed had deprived her of property, she had received adequate process. The court cited her opportunity to present evidence at trial and her ability to remain at the property through trial. Second, the court held it had already rejected Nieveen's takings and excessive-fine claims in an analogous decision, Continental Resources v. Fair, 311 Neb. 184 (2022).

This case is a good reminder about the importance of accounting for property taxes in real-estate transactions. Because unpaid taxes attach as superior liens to property, buyers may take subject to any predecessor's tax obligation. Buyers who fail to timely redeem that obligation risk losing their property to a tax sale.

EMERGING PLANNERS GROUP - BOOK CLUB REVIEW

BY: CALE BRODERSEN, AICP

The Address Book By Deirdre Mask

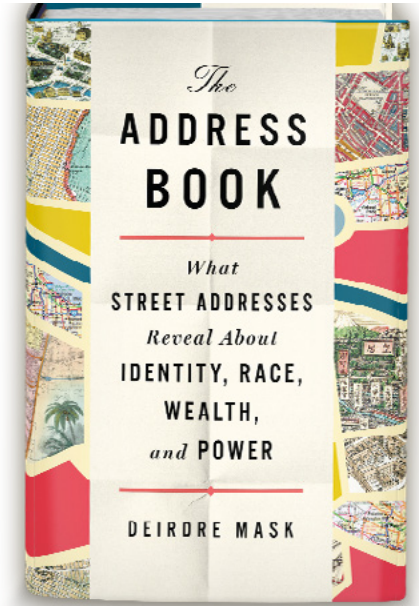
In early July, the Emerging Planners Group's Book Club reconvened to discuss The Address Book. In her book, Mask explores how addressing has been used by civilizations, governments, and organizations throughout history from use by empires for purposes of drafting or housing soldiers, to use by governments for taxation.

One of the first case studies she uses is one familiar to many planners and GIS professionals because of its historical significance in the use of mapping. This was the case of John Snow, an English physician, who used addresses to create a point map of cholera cases in one of London's worst cholera outbreaks. Snow used this map to demonstrate the link between contaminated drinking water and the spread of cholera, which was an important milestone in our understanding of bacteria and public health.

Mask discusses the cultural significance of street names including examples from Nazi Germany and confederate states in the U.S., and she weighs the logistical and cultural incentives and barriers that relate to changing such names.

Drawing from her interviews and research in the writing of this book, a common reaction when people were first assigned addresses was to protest, both from not wanting to be tracked by the government, but also due to a feeling that their humanity was being threatened by assigning their home with a number. In the modern age, however, the lack of an address can come with enormous challenges and consequences like the inability to obtain a government issued ID, vote, apply for employment, or qualify for important social services.

She explores strategies for how to ensure that everyone has access to an address, like assigning addresses for vacant properties to houseless persons with mail forwarding in place to shelters or friend's houses.



Another example was the use of a new type of addressing system called what3words that assigns a unique combination of three words to every square meter in the world, providing a solution for addressing for tenement neighborhoods with more informal structures, but that is much easier to use than latitude and longitude coordinates.

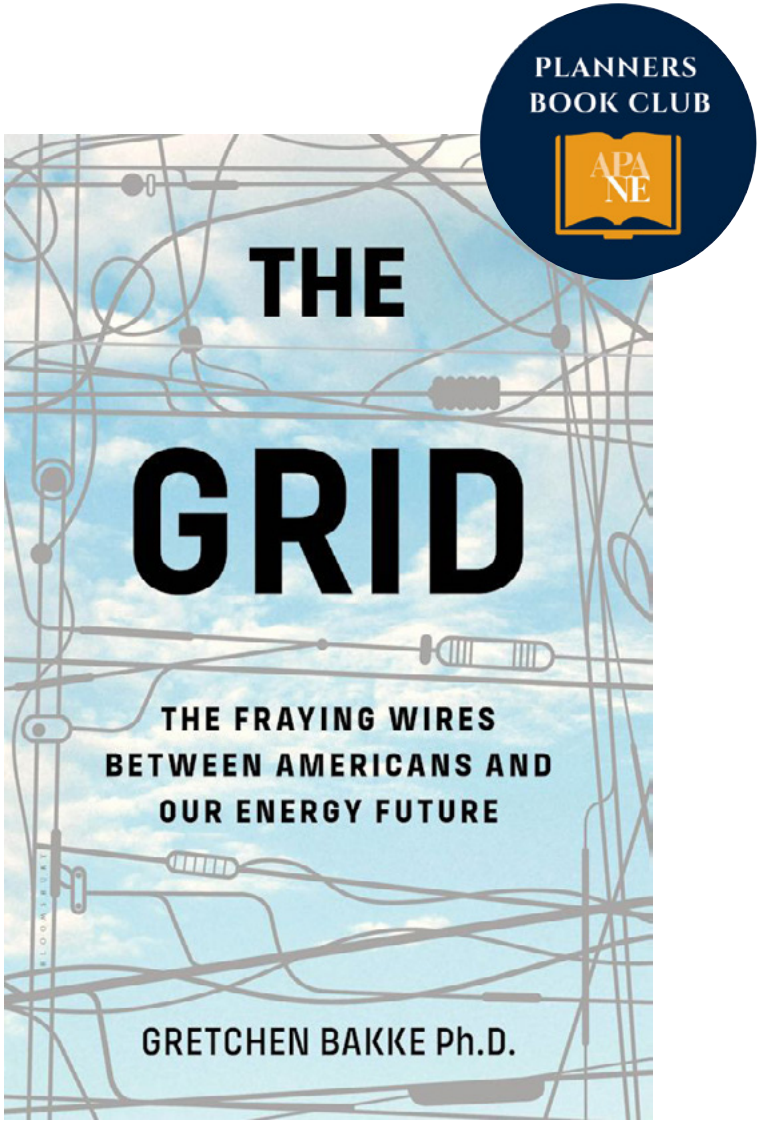
This book read like a podcast (especially if you listened to it), and will be an easy and enjoyable read for planners, geographers, historians, and non-fiction nerds alike!

Don't worry if you missed out this time, the Emerging Planners Group hosts quarterly book clubs. Join us in October for the next one! See page 18 of this newsletter, or e-mail cbrodersen@cityoflavista.org for more information!

PLANNERS BOOK CLUB - THE GRID

Join your fellow planners and allied professionals in the Fall 2022 Planners Book Club hosted by the APA Nebraska Chapter's Emerging Planners Group. Here is how it works:

1. Register to participate at the following link: https://forms.gle/e7KASnx2hNzwcRVE6.
2. Read or listen to the book (available in physical, digital, and audio formats).
3. Join us for a lively discussion in October. A Doodle poll will be sent out to book club participants several weeks in advance to find a time that works for everyone for the discussion. We typically host more than one discussion over Zoom to accomodate everyone's schedules.
4. Earn CM credit for participating in the discussion.



Book Selection: *The Grid: The Fraying Wires Between Americans and Our Energy Future by Gretchen Bakke*

America's electrical grid, an engineering triumph of the twentieth century, is turning out to be a poor fit for the present. It's not just that the grid has grown old and is now in dire need of basic repair. Today, as we invest great hope in new energy sources--solar, wind, and other alternatives--the grid is what stands most firmly in the way of a brighter energy future. If we hope to realize this future, we need to reimagine the grid according to twenty-first-century values. It's a project which forces visionaries to work with bureaucrats, legislators with storm-flattened communities, moneymen with hippies, and the left with the right. And though it might not yet be obvious, this revolution is already well under way.

Cultural anthropologist Gretchen Bakke unveils the many facets of America's energy infrastructure, its most dynamic moments and its most stable ones, and its essential role in personal and national life. The grid, she argues, is an essentially American artifact, one which developed with us: a product of bold expansion, the occasional foolhardy vision, some genius technologies, and constant improvisation. Most of all, her focus is on how Americans are changing the grid right now, sometimes with gumption and big dreams and sometimes with legislation or the brandishing of guns.

The Grid tells--entertainingly, perceptively--the story of what has been called "the largest machine in the world": its fascinating history, its problematic present, and its potential role in a brighter, cleaner future.

PROPOSED NPZA BYLAW AND CONSTITUTION AMENDMENTS

The Nebraska Planning and Zoning Association Board of Directors is considering the proposal of amendments to the official NPZA Constitution and Bylaws. Such amendments will be introduced and voted on by the general membership at the NPZA annual meeting, to take place during the Nebraska Planning Conference in September. Amendments must be approved by a 2/3 vote of the eligible voting members in attendence. The proposed changes and proposed, updated bylaws and constition will be posted in the near future on NPZA's website.

Here is a bulleted summary of the major changes proposed:

- Emeritus membership classification created
- 2nd Vice President position eliminated
- Elected Officers are the President and Vice President
- NPZA Districts and officers are eliminated
- Three (3) At-Large members to be elected by the membership shall be elected for a two-year term and be members of the NPZA Board of Directors
- Elected Officers and the At-Large Board members terms begin on January 1 following the Conference at which they were elected
- Duties and responsibilities of appointed officers are clarified
- Conference Committee composition and responsibility is clarified

AWARDS NOMINATIONS - NPZA & APA

NPZA

Nominations for the 2022 NPZA awards are **due on Friday, August 5th at Noon** (12:00pm). E-mail submissions and questions should be made to Christopher Solberg, AICP at president@npza.org. Please submit your nominations using one of the following methods:

1. The nomination form can be filled out online by clicking here.
2. The nomination form can also be filled out using this PDF form.

Below is a list of the NPZA awards availabile. More detailed descriptions of these awards and the nomination requirements are included in this nomination form.

- Appointed Official Award
- Elected Official Award
- Professional Award
- Mitsuo Kawamoto Excellence in Planning Award
- Carol Swayne Planning Commissioner Award
- Loretta Ludemann Achievement Award for Excellence in Planning by a Woman in the State of Nebraska
- President's Award of Special Recognition

Judging for the NPZA awards will be performed by the Awards Nomination Committee. Presentation of the awards will be made at the 2022 Nebraska Planning Conference scheduled for September 14-16, 2022 at the Younes Conference Center North in Kearney, Nebraska. NPZA award winners will be presented with a personalized award or certificate, depending on the category, at the conference, and each winner will be featured in the Nebraska Planner newsletter.

APA NE

Nominations for the 2022 APA NE awards are **due on Friday, August 5th at Noon** (12:00pm). E-mail submissions should be sent to apanebraska@gmail.com. Please send questions to Caitlin Bolte at cbolte@thinkconfluence.com. The nomination form can be found here. Below is a list of APA's potential award categories. A more detailed description of these awards is included in this nomination form.

- Daniel Burnham Awward for a Comprehensive Plan
- Planning Excellence Award
- Great Places in Nebraska
- Advancing Diversity and Social Change in honor of Paul Davidoff
- Implementation

The following awards are awarded by the APA NE Chapter Executive Board, and do not require a formal nomination submittal. If you would like to recommend an indiviual for one of these awards, please reach out to any APA NE board member, or current President Jeff Ray at jray@jeo.com.

- Charleston-Ptak Planning Advocate Award
- Alden Aust Distinguished Leadership Award for a Professional Planner
- Wozniak-Selander Award for a Planning Pioneer
- Emerging Practicing Planners

Judging for the APA NE awards will be performed by an out-of-state jury and are under no obligation to grant an award in any category or subcategory. Nominators of submissions will be notified by email prior to August 25, 2022. Presentation of the awards will also occur during the Nebraska Planning Conference in Kearney, September 14-16, 2022.

APA NE CHAPTER ANNUAL SPONSORS

The Nebraska Chapter of the APA would like to thank our annual sponsors for supporting our chapter and professional development programs. These sponsorships support Emerging Planners Group events, our Mentor Match Program, and allow us to provide a quality Spring Workshop and other educational and professional development opportunities throughout the year. If you are interested in learning more or to become a sponsor today, please email Stephanie at rouseplanning@gmail.com.

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Looking to hire? Visit https://nebraska.planning.org/career-center/job-announcements/ to post your job description , or find job openings today.

FOR MORE JOB POSTINGS VISIT:

» https://npza.org/resources/careers

» https://iowa.planning.org/career-center/job-announcements/

» https://www.lonm.org/classifieds/careers.html

UPCOMING EVENTS

OHIO CHAPTER WEBINAR SERIES

1. July 15, 2022 with guest host APA Northern New England Chapter: How Communities Heart and Soul Enhances Your Comprehensive Plan at 12:00 PM CT
2. July 20, 2022 with guest host APA Technology Division: Building a National Zoning Atlas: Scaling Transparency & Consistency at 12:00 PM CT
3. July 22, 2022 with guest host APA Ohio: Ethics in Planning at 12:00 PM CT
4. August 5, 2022 with guest host APA Technology Division: Zoning Rules as Code at 12:00 PM CT
5. August 12, 2022 with guest host APA Pennsylvania Chapter: Off the Shelf and Into Action, Creating an Implementable Comprehensive Plan at 12:00 PM CT

NEBRASKA PLANNING CONFERENCE

- September 14-16, 2022
- Younes Conference Center North, Kearney, NE
- Schedule and registration coming soon at https://npza.org/conference/

PINTS WITH PLANNERS NETWORKING EVENTS

- July 27, 2022; 4:30-6:30; Boiler Brewing Company, 129 N 10th St., #8, Lincoln, NE 68508
- August 11, 2022; 4:30-6:30; Aksarben Inner Rail; 1911 S 67th St., Omaha, NE 68106

RESOURCES

APA NE Board Members

- Jeff Ray, AICP – President
- Bruce Fountain, AICP – Past President
- Stephanie Rouse, AICP – Vice President/Professional Development Officer
- Troy Anderson, AICP – Treasurer
- Jesse Poore, AICP - Secretary
- Chris Solberg, AICP – NPZA Liaison
- Andrew Conzett, AIA – Allied Professionals Liaison
- Anna Headlee – Student Planning Association of Nebraska (SPAN) Liaison
- Zhenghong Tang, Ph.D. – UNL Planning Faculty Liaison

APA NE Subcommittees

- Legislative: David Levy; Amy Haase, AICP
- Membership Recruitment & Appreciation: Paul Barnes, AICP
- Emerging Planners Group: Cale Brodersen, AICP; Ryan Ossell; Mason Herrman
- Conference/Workshop: Keith Marvin, AICP; Stacey Hageman; Jeff Ray, AICP; Bruce Fountain, AICP
- Mentorship/Student Outreach: Cale Brodersen, AICP; Zhenghong Tang, Ph.D.
- Allied Professional Collaborations: Andrew Conzett, AIA
- Newsletter and Social Media – Stephanie Rouse, AICP
- Awards/Nominations – Steve Miller, AICP; Caitlin Bolte; Andrea Gebhart, AICP

SUBMIT YOUR CONTENT!

The NE Planner welcomes readers and associates to submit articles for publication within the newsletter. We are also happy to include RFP/RFQ's, new job postings, and upcoming events. For your content to be included in the next newsletter, please email rouseplanning@gmail.com.

NPZA Board Members

- Chris Solberg, AICP – President
- Judy Clark, AICP – 1st Vice President
- Dan Giittinger – 2nd Vice President
- Chad Nabity, AICP – Past President
- Char Carpenter – Recording Secretary
- Steve Charleston – Membership Sec/Treasurer
- Dave Ptak – Legal Counsel
- Stacey Hageman – Conference Coordinator
- Jeff Ray, AICP – NE APA Liaison
- Zhenghong Tang, Ph.D. – UNL Liaison

NPZA Subcommittees

- Conference Committee – Keith Marvin, AICP
- Newsletter Committee – Cale Brodersen, AICP
- Awards Committee – Christopher Solberg, AICP
- Zoning Administrator Certification Committee – David Ptak
- Nebraska Planning Handbook Committee – Rashad Moxey

Stay Connected

APA Nebraska

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