

By Russ Pankonin

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With the dedication and grand opening of the new pool/lockerroom complex complete, one question still remains—will the school have lights on the new football field this coming season?

“I’m still hopeful that we will,” Chase County Schools Superintendent Matt Fisher said last week, but added there are no guarantees.

The school is continuing to review its options to insure they can get the new lights as high as possible.

But for nearly two years, that desire has run counter to the city’s airport zoning authority, which is charged with protecting the airspace and zoning regulations of the airport.

In the summer of 2007, the school erected four 70-foot light poles on the football field without any prior notification to federal or local airport authorities. Also, applications for city building permits were not made.

The height of the poles violated local airport zoning and departure flight paths and the zoning authority said the poles must come down.

In the fall of 2007, the school complied with the request. But the situation still remains unresolved today as the two entities have locked horns over the zoning issue.

What happened to resolution?

After a sometimes heated exchange between zoning board and school board members during the November, 2008 school board meeting, the school board indicated they would comply with the zoning regulations.

So, what happened?

After the meeting, Fisher said a member of the airport zoning board suggested to him it could still be possible to have the lights at full height, especially if it didn’t create any issues with future or past funding for airport projects.

Fisher said that’s when he and the building committee decided to see what else might be done to keep the lights at the 70-foot height rather than lowering them to the suggested heights.

Kenny Owens, chair of the zoning board, said this week it was his mistake to tell Fisher that it may be possible to keep the lights at full height.

He said he made that statement on his own accord and not as a member of the zoning authority.

He said he later realized that any violation of the airport’s zoning or departure paths simply was not an option and it was a mistake to indicate otherwise.

However, the school continues to put stock in the possibility that other options may still exist.

Fisher said the school has hired a Lincoln lawyer with zoning expertise to investigate the school’s options.

He hopes to have some answers back in the next week or so.

Time is becoming critical, because, even if the school decides to make no further challenges, it will take two to four months for the Federal Aviation Administration to process the request.

Then, the local zoning board must rule on it.

School seeks variance contract

One of the options the school is seeking is a variance contract with the zoning board to allow them to erect the poles at 70 feet.

Then if, for some reason there was a later problem, say with state or federal funding, they would lower them.

Fisher said such an agreement has worked in other communities.

However, during the zoning authority's regular meeting Monday, May 18, all members present said they would not approve any such contract.

When Fisher was informed of their stance last week, he said they want to continue the process and see what advice their lawyer offers on the situation and see if any compromise might be reached.

Fisher said he's been most frustrated by the conflicting information he's received from local, state and federal authorities on the issue.

"It's frustrating not being able to get answers," he noted.

In an April 16 letter to Stuart MacTaggart, director of the Nebraska Department of Aeronautics, Fisher sought clarification on some issues, such as the possible harm to funding if a deviation of the zoning was allowed.

He told MacTaggart the school has written acknowledgement from the FAA that such a deviation wouldn't affect funding for the airport.

MacTaggart replied in an April 27 letter that zoning is an item of consideration by the state Aeronautics Commission, which decides grant funding.

He also noted the FAA requires the airport entities to "vigilantly protect the airspace around the airport" and strongly recommends enforcing height restriction zoning to protect that airspace.

MacTaggart noted that enforcement of this zoning is a local matter, not a state or federal matter.

Fisher said MacTaggart's response still did not address the state's stand on whether a deviation is allowable.

He said they want to know whether the state has issues with a variance contract.

Zoning board responds to letter

The zoning board was notified of Fisher's letter to the state, along with the state's response back to Fisher.

During the May 18 meeting, the zoning board drafted an official response to Fisher's letter, directing it to MacTaggart.

In his letter, Fisher told MacTaggart the school would be happy with an agreement to modify the poles if a later problem developed.

He also suggested the zoning authority change its enforcement of a strict 50:1 factor to a less demanding 34:1 factor.

"I believe the Airport Zoning Board would support one or both of these solutions," Fisher said in his letter.

The zoning board's letter, signed by Owens, noted that zoning issues can indeed affect future funding as well as past funding.

The board stated that allowing any exception or variance to the zoning would create a bad precedent and they spelled out their intentions clearly in the response:

"The Imperial Airport Zoning Board does not favor a contract allowing an exception or a variance to our established zoning nor do we desire rezoning this area as this would violate zoning assurances made on previous grants."

The zoning board said they have no objection to lighting the field as long as the school complies with the height requirements in the current zoning.

To do so, the height of the lights would vary from a high of 70 feet down to 41 feet.

The southwest pole has already been approved by the zoning board at a height of 70 feet since its location posed no zoning or aerial obstruction issues.

However, the other three poles either violate the 50:1 zoning and/or the airport's 40:1 departure slopes.

To comply, the northeast pole could be 41 feet high, the southeast pole 52 feet high, and the northwest pole 62 feet high.

Owens said this week that's the only solution the zoning board will likely approve at this point.

Mapped obstructions

During the zoning board meeting, members also approved a motion requesting the school notify the FAA immediately that none of the poles are currently in place.

A letter with that request was sent to Board President Sheila Stromberger and Fisher.

In January, the zoning board learned seven pole locations now appear as aerial obstructions in the National Aeronautical Charting Office database, even though they don't exist.

Owens said this information was taken from FAA applications submitted by the school or on behalf of the school for pole installation.

Locations for four of the poles were incorrectly determined by W Design Associates of McCook, the engineering firm assisting the school with the application process. The pole location varied as much as 150 feet to the east of the current proposed locations.

Owens said with this information in the charting database, it's a real possibility the airport's approach minimums could be raised unless the proper paperwork is completed by the school.

That would be detrimental to the airport, he added.

The zoning board asked the school to submit the proper paperwork to the FAA, showing that these poles are dismantled. They requested this to be done within 15 days of the date of the letter, May 19.

Fisher said he was aware that the poles were in the database. However, when he contacted a staffer at the FAA, he said he was told no additional paperwork was necessary.

He said this is yet another example of the varying information that the two entities have been given during this whole process.