

May 29 applications for light poles still outside zoning regulations

*By Jan Schultz and Russ Pankonin
The Imperial Republican*

Based on Chase County Schools' latest applications for Federal Aviation Administration (FAA) approval of four football lights, the school continues to challenge authority of Imperial's airport zoning board.

All four of the pole heights submitted in a fifth round of applications last month are under the airport's 34:1 and 40:1 landing and departure slopes.

But, the pole on the northeast will exceed the 50:1 slope required in the airport zoning regulations.

The airport zoning board will again render a decision on the most recent applications at a meeting next week.

Should the pole on the northeast be denied by the local board, the school then has the option of lowering it to the acceptable height and apply once again to the FAA, or challenge it by going to the city's variance board.

Based on Supt. Matt Fisher's comments at the June 9 school board meeting, it appears the school may not comply.

"That board of variance exists for these very reasons," Fisher said last week.

He said the school's attorney is also looking into it.

In order for the northeast pole to meet the airport's 50:1 zoning, it can be a maximum of 41 feet high. Fisher's May 29 submission to the FAA has it standing at 52 feet.

The northwest pole at 62 feet and the southeast one at 52 feet clear the 50:1 zoning regs. The 70-foot southwest pole has already been okayed by the airport zoning board.

A recent series of letters between Supt. Fisher and the Nebraska Department of Aeronautics questioned the airport's enforcement of the 50:1 zoning.

In a May 19, 2009 letter, Fisher asked if future funding requests by the Imperial airport would be affected if a waiver was allowed the school for penetration of the 50:1 zoning.

A response from Stuart MacTaggart, director of the Nebraska Department of Aeronautics, stated, "A local zoning waiver for the 50:1 plane may not affect our support for projects such as apron expansion, parallel taxiways, snow removal equipment or buildings.

"However, a project for widening/extending the existing runway, paving the crosswind runway, special surveys for new instrument approach procedures or airport planning may not be supported if the waived structure proved to be a hazard or interfered with safe air navigation around or into the airport," MacTaggart wrote.

"Height restriction zoning is a local issue," his letter continues.

"If the zoning board adopts 50:1 zoning and they decide to enforce that standard, then the department stands firm in supporting the board."

School board's position changes

Following a discussion with airport zoning board members during the November, 2008 school board meeting, the school board indicated they would comply with the 50:1 zoning regulations.

However, after that meeting, Kenny Owens, chair of the zoning board, met with Fisher and indicated higher pole heights may be possible.

Owens has said he made that statement on his own accord as a patron and taxpayer and not

as a member of the zoning board.

He later said it was his mistake to tell Fisher that it may be possible to keep the lights at full height.

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

Variance option

The school also sought to work out a variance contract to allow the installation of higher poles.

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

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

Since then, members have also indicated they will approve nothing less than full compliance with the 50:1 zoning regulations.

Based on Fisher's comments at the June 9 school board meeting, it appears the issue will end up before the city's variance board.

At that meeting, school board member Gregg Smith asked, "And what if the board of adjustment (city variance board) denies it? What is our plan for the fall?"

Fisher said the school could then file another application at the lower, acceptable height.

On Wednesday this week, the city received word that the school's latest applications on the poles had gone through the FAA and state reviews. An airport zoning meeting was set for Tuesday, June 23, at 5:30 p.m. at the airport terminal for the zoning board's action.

With two and a half months until the first 2009 high school football game, time may be tight for lights to be in place, if the heights are challenged, possibly meaning another season without contests at the new field.

Following last week's board meeting, Board President Sheila Stromberger referred to a highway light pole on the Miracle Mile that board members were told penetrates the 50:1 zoning more than what the school's light poles would.

That light pole is "grandfathered" in, according to Airport Zoning Board Chairman Kenny Owens, as are some business signs and other structures along Highway 61.

Those "penetrating" structures are also identified on current flight maps.

However, Stromberger said, while there may not be liability with regard to the "grandfathered in" penetrating structures, if there is an accident involving one of them, someone still gets hurt.

Letters from Supt. Fisher to Nebraska air officials make note of more than 20 violations of the 50:1 zoning between the football field poles and the airport.

In a May 22 letter from Owens and the zoning board to MacTaggart, in response to Fisher's letter, Owens referred to the "grandfathered" penetrating structures.

Owens noted that state law requires the zoning board to grandfather these structures following any airport improvements after the structures are in place.

"The current zoning map, approved in 2002 following the 300-foot runway extension, "grandfathered these structures as legislated by Nebraska Statute 3-310," Owens said in the letter.

The current obstructions that were grandfathered in are already accounted for in the airport's latest instrument approaches and departures.

Plainview lights operating well at heights of 40-45 feet

Following last year's Longhorn football playoff game at Plainview, Neb., a CCS board member commented on how well lit the Plainview field was.

The head of maintenance at Plainview Public Schools said their four light poles stand at a height between 40 and 45 feet.

They have been in place for three to four years, and according to the school's head of maintenance, Leon Miller, they've had no complaints on lighting problems at those heights.

"Matter of fact, we've had a lot of comments on how well lit the field is," Miller said.

When the field lights were initially positioned there, Miller said they had the football coaches come in one evening and work with the installers on how best to position them for optimum lighting.

The city of Plainview does not have an issue with a nearby airport. The closest one is 13 miles away in Creighton, Neb.

60 feet high or more, optimum

Qualite® Sports Lighting of Hillsdale, Mich., furnished the light for the new field.

When contacted about the height restrictions being faced by the school, Bill Smith, the company's director of design and quotes, said a 41-foot height would affect the lighting on the field.

Smith recommended poles be no lower than 60 feet to achieve the optimum lighting conditions.

Having one pole at 41 feet affects the amount of light reaching the field. Even with adding more lights to the 41-foot pole, he said there will not be the correct amount of light in the center of the field.

"There could be playability issues," he said.

With the four poles located behind the track, he said adding a third pole on the east side would provide a possible solution.

He said such a solution would still be sacrificing some light compared to lights on 60-foot or higher pole. But it can still be done, he added.

The height of a third pole between the northeast and southeast poles could be somewhere between 41 feet and 52 feet.

Aesthetically, Smith said poles at varying heights would not look as good as all poles at the same height.

History shows concern with school construction by airport

The Jan. 26, 1989, issue of The Imperial Republican, and subsequent issues that year, indicated concern 20 years ago about a future football field at the school's new location, and more importantly, the lighting of it.

A front page story concerning siting of the new school stated, "Concerning the sites east of town, several questions from board members involved landing patterns at the airport."

It further stated, "Although a football field will not be built in the initial construction project, there is land designated for a future field in the layout of the school.

"Concerns with the lighting of that field in the future were expressed as possibly affecting those landing patterns."

Another story in the March 9, 1989 issue, after the \$177,000 site was chosen (known as the Burke site), also addressed the issue.

The overriding reason the 57-acre Burke site was chosen, according to the March, 1989, article was its accessibility.

A total of seven sites were considered for locating the school.

Glen Beran, now living in Aurora, Neb., was school superintendent here 20 years ago when plans for the new school and football field/track were developed.

Although he remembers some patrons expressing concerns with the location of the airport relative to the height of the school gymnasiums, his recollections are that there wouldn't be a problem with the football field and lighting.

But, that was before the airport extended and widened its runway on both ends in 2000.

Beran also recalled discussion at the time that if the football field was eventually located on the lot south of the school, "we had to be careful not to put it too far to the north end."

According to an Oct. 25, 2007 story in *The Imperial Republican*, the site plan for the football field complex, including its lighting, was developed during the 1999-2000 school year by W Design of McCook.

At the request of Supt. Fisher late in 2007, W Design reshot elevations for the lights and reported to Fisher that there shouldn't be a problem.

Chronology on light poles

April 10, 2007—School board awards \$82,280 bid to Pivot Electric of Imperial for football field light pole installation.

Sept. 18, 2007—Installation starts on four 70-foot poles at football field.

Oct. 17, 2007—Imperial Airport Authority passes resolution requesting school take down the four poles "until the proper federal, state and local certification and zoning issues are resolved."

Oct. 18, 2007—First application for poles submitted to FAA by school (only one form filed vs. four).

Nov. 13, 2007—Board of education agrees to take poles down. Four required FAA application forms and city building permit request had not been filed.

Dec. 4, 2007—Poles taken down halfway to comply with joint airport zoning board request.

Jan. 24, 2008—School board learns FAA approves one pole on northeast, "as no hazard to air navigation."

March 3, 2008—Joint airport zoning board denies approval of northeast pole application, citing "violations of height restrictions near the airport."

March 10, 2008—Second FAA application for poles filed by school. Four separate forms filed.

July 2, 2008—Applications on all four poles terminated by school after learning incorrect latitude/longitude numbers were submitted from numbers provided by W Design. FAA unable to make an exact determination of the location, so finds three poles to be a hazard.

July, 1, 2008—In a third round, school resubmits four pole applications to FAA (NE pole height submitted at 56 feet, rest at 70 feet).

Early August, 2008—School gets word that FAA approves 7/1/08 applications for light poles, posing "no hazard to air navigation."

Aug. 21, 2008—Imperial joint Airport Zoning Board denies four pole applications submitted 7/1/08, stating "The latitude/longitude of the W Design-provided positions ranged from 112 to 154 feet to the east of their actual locations." Wrong Airport Layout Plan was used by engineer. School asks FAA to terminate applications.

Sept. 4, 2008—School submits fourth round of FAA applications for four poles, this time with two on east at 56 feet and two on west at 70 feet.

Sept. 12, 2008—With no lights up at new field, first Longhorn home football game played at Wellington field.

Oct. 14, 2008—FAA approves the school's four 9/4/08 pole applications as "no hazard to air navigation."

Oct. 23, 2008—Final Longhorn home football game played at Wellington field.

Nov. 3, 2008—School hires attorney from Lincoln to look into the lighting issue.

Nov. 11, 2008—According to board of education minutes, "The Board directed that the pole heights be resubmitted to comply with the existing airport zoning and make the poles acceptable so the process can be completed."

Nov. 17, 2008—Joint airport zoning board appoints fifth member to its board, after school's attorney challenges its four-member makeup based on state law; city attorney concurs that fifth member should be named. Blake Moreland appointed as new member.

Nov. 27, 2008—From the 9/4/08 FAA applications, joint airport zoning board approves the 70-foot pole on southwest; placement of other three poles denied (one at 70 feet, two at 56 feet).

May 29, 2009—Fifth round of FAA light pole applications made at the following heights:

- Northwest—62 feet (meets local airport zoning regs)
- Southeast—52 feet (meets local airport zoning regs)
- Northeast—52 feet (does not meet local airport zoning regs)
- Southwest pole already approved at 70 feet.

Sept. 4, 2009—First 2009 home varsity football game vs. Holyoke, Colo.