



Minutes for the meeting of Grant County Planning and Zoning/Board of Adjustment.

Members present: Nancy Johnson Richard Hansen Tom Adler Lorelei Brandt Mike Mach Tom Pillatzki

Alternates present: Val Cameron Dave Kruger

Members absent: Gary Lindeman

Others present: Richard Berens Kenny Wiese Kari Hopkins Carol Hopkins Dan Tyler Carol Tyler Alex Hopkins Matt Loeschke Melbourne McCrea David Vancuura John Loeschke Mike Strobl Jon Bosma Bob Behl Deb Hemmer Shirley Wiese Kris Bronson Eugene Schmiege Jennifer Sandal Rodney Thaden Denise Scoblic LeRoy Capp Velma Wollschlager Tim Wollschlager Sean Simpson Orgene McCrea John Lundin Dale Jungers Randy Wiertsema Richard Voss Earl Hanson Kate Capp Lowell Boe Mike Nordquist Dale Tuchscherer Steve Wenzl Todd Kays Milt Stengel Bob Hicks Geoff Street Dan Loehrer Jim DeVaal Loretta Pillatzki Clayton Whiting Bob Capp Karen McCrea Myrtle Lundin Steve Scoblic Scott Vancura Chuck Wollschlager Craig Wellnitz Kevn Schnaser Dave Durand Renae Fox Ricky Hesser Lynette Pillatzki Joseph Meyer Laura Krebsbach Val Rademacher Patrick Athey Perry Dockter Jeff Schuelke Paul Duffman Kristi Mogen Paulette Hay Duane Hay Ann Loeschke Raymond Beutler Gail Whiting Barry Kerkaert Marty Rost Tim Tyler Teresa Wollschlager Leo Pillatzke Paul Fonder Stacey Weinkauff Rod Voss Daryl DeJong Holly Hilbrands Gary Meyer Joan Durand Harvey Wildung Brian Fox Kevin Welberg Joeline Hicks Keith Welberg Kathleen Kilsdonk Vince Meyer Patricia Meyer John Loehrer Roger Loeschke Dan Scoblic Scott Hall Marly Pillatzke Eugene Pillatzke James Boogard Todd Van Maanen Greg Wollschlager Diane Pillatake Thomas Pillatzke Roger Hopkins Delain Hopkins Jerome Schuelke Dale Weinkauff Brad Wagel Doug Stengel Joel Bosni Holli Seehafer Anhn Tuchscherer Laurie Thole

Meeting Date: **Monday, February 9, 2015** Meeting Time: **4:30 P.M.**

1. Call Meeting to Order by Chairperson Nancy Johnson at 4:30 pm.
2. Approval of Minutes:
 - a. Monday, January 12, 2015 No Meeting
 - b. Monday, December 8, 2014 Motion by Brandt second by Adler carries 7-0.
3. Reorganization of officers
 - a. Nomination for Nancy Johnson as Chair motion by Brandt second by Mach. Hansen moves nominations cease second by Pillatzki carries 7-0 naming Johnson Chairperson.
 - b. Nomination for Tom Adler as Vice Chairperson by Hansen with a second by Kruger. Brandt moves nominations cease with second by Mach carries 7-0 to name Tom Vice Chairperson.
4. Plat Approvals
 - a. Duane and Eugene Hay, the owners of the SE1/4 Section 16, except Hay's First Addition, Township 121 North, Range 47 West of the 5th P.M., Grant County South Dakota and Duane and Paulette Hay, the owners of Hay's First Addition in the S1/2 of the SE1/4 Section 16, Township 121 North Range 47 West of the 5th P.M., Grant County South Dakota. (Big Stone Township) Motion to accept by Brandt second by Pillatzki carries 7-0.
 - b. Western Consolidated Cooperative, owners and proprietors request the plat of Lot 1, WestCon Subdivision, located in the S1/2SE1/4 of Section 7, Township 120 North, Range 49 West of the 5th P.M., Grant County, South Dakota. (Grant Center Township) Motion by Hansen second by Kruger carries 7-0.
5. New Business
 - a. First District of Local Governments- Todd Kays
 - i. Defining a process for ordinance review
 - ii. Roles of the ordinance review and scheduling of meetings
6. Conditional Use/Variance Requests/Rezoning
 - a. Conditional Use Permit No. CAFO01202015 by Rolling Green Farms RE, LLC, Applicant, of NE1/4 of Section 17, Township 119, Range 47, Grant County, South Dakota. (Vernon Township) new Concentrated Animal Feeding Operation Application for a Class A Swine Production Unit consisting of maximum of 1200 swine under 55 lbs. and 6,616 swine over 55 lbs.

At this time Brandt recused herself from the proceedings to be replaced by alternate Val Cameron because of family relationship within Pipestone System.

Johnson explained the process of the Public Hearing and opened the Presentation of the permit to Pipestone System's. Barry Kerkaert explained the state of the art design that is owned by 16 families who have Pipestone Systems manage the facility by writing checks, keeping the production of records and payroll and allowing their kids and family to come back to the farm and provide food for the country. Payroll for 14 full time employees and 4 part time employees equals \$800,000 annually.

Rolling Green is a new farm with zero runoff 10 inches of concrete and 365 days of storage for a 100 percent contained system. This is a \$12 million investment that is not a short term plan and they propose to use local feed fertilizer and utilities as well as a road agreement with the township. He asked the P&Z Board to examine the permit objectively and thanked them for their time.

Johnson asked the board if they had questions. Kruger asked about the feed facility that would be used and their location. Kerkaert reported they would be more than a year out if the permit is approved and for biosecurity and reliability reasons they have not chosen it at this time. Kruger asked for clarification of jobs- Kerkaert replied there are 14 fte and 4 pte directly and countless indirect positions including truckers, feed mills and other positions in support. Kruger asked about placenta collection- Kerkaert replied as many as possible are collected and composted. Mach asked about test wells for cracked cement and the answer was deferred to Todd VanMaanen, engineer to explain during his presentation. Mach asked about the bidding of the building project. Kerkaert explained they use 3 general contractors and they can use any subs they wish too. It is competitive bidding and not restricted.

Todd VanMaanen presented his role to the P&Z Board as the assistant in the Conditional Use Plan and the engineer that helps retain a CAFO permit in South Dakota. He explained he used the Zoning Ordinance Section 13 as guideline for the project and ready the 1300 Intent aloud for the audience and presented a PowerPoint presentation of the permit book. He added this to be a zero discharge facility with pit underneath and the value of the fertilizer that comes out of the facility that will lead to economic development of Grant County when it is injected in fall and spring by drag hose. This method is quicker, less costly, decreases road damage and odor. NRCS worksheet shows 137000 pounds of nitrogen produced that will be applied on over 245000 acres which at average yields at the normal rate of application it will have 40 years of capacity.

Over the years manure odor and issues have decreased with the use of 100% vented and filtered air coming into the barn, continuous ventilation and pit additives that break down nutrients. They are open to tree planting conditions and would work with the local conservation district. Composting is done on site taking a sow 2-3 months to complete. Some is incorporated and some is saved for the next round of compost start up.

Todd mentions they have met the setbacks for homes and businesses and have been alerted to the potential of an abandoned well that has not been verified. They have done their due diligence to find and verify the well with landowners, county and state records but unable to show the location. They presented an alternative layout to meet the setbacks of the well they had been alerted to. Authorization has been given through DENR that they do not have records of a certified well.

Construction of a zero discharge facility uses 10 inch reinforced walls and soil borings have shown good glacial till that would be compared to what is used to build open pit lagoons in dairies. So in a sense there is dual containment at this site. Mach asked if there are test well on the site. There are not test wells but they use the DENR process to do the soil borings within 200 feet of the building site and submit that to the state and they are required to biannually check that if they are on an aquifer. They have a site where the biannual test is not required and they are not in the 100 year flood plain even though there is a small drainage way that was determined to meet regulations. Mach asked about the ventilation and filters. Kerkaert explained the air filters are for incoming air to catch small viruses to prevent sickness and the exit air is power ventilation system that uses only 10% of the air from below the hogs. Odor is minimal with the highest risk being during nutrient management because the air exchangers move the air during the summer at about 60 second turnover. VanMaanen explained keeping a cleaner barn decreases the dust that actually carries the odor with it and Pipestone Systems does this to maintain animal comfort all ready. Biofilters are very subjective and do very little when the outdoor conditions are tough. They make people feel good but they are not that effective as they have a 5 year life span and cause rodent infestation. They had shown an early interest but are not high in sales any longer because the pit additives and pit management is better for fly control by keeping a crust on the pit. Cameron asked who would be in charge of the Nutrient Management plan. South Dakota is in charge and Minnesota gets a say too. They mesh together with the federal standards from the 1972 Clean Water Act. Johnson's question was answered that South Dakota rules are more stringent. South Dakota requires more acres with Pipestone System using a rotation management they would be using a Nitrogen bases and only 1/2 of their acres would be used each year.

Kruger pointed out the phosphorous levels are already high on some of the field tests and asked if they are having applications now. Rost explained a field cannot be used in more than 1 nutrient management plan and cannot be double applied. He also pointed out there will be atleast 2 crop rotations prior to them using the fields in

the plan and the tests will be redone at that time that could change all the numbers again. Kruger then asked about the closed circuit tile around the site and the standpipe purpose. This is for groundwater testing and does not daylight as some other states require and it is below floor level and can be used to test for a leak.

The well as described by the adjoining landowner is on an abandoned site inside what looks like a chicken coop. There is no power at this site today and doesn't appear to have been power at the site for quite some time and the state has qualified it as unused and would request it to be sealed. There is also no rural water activity at this site and they end at the farm directly north of this abandoned farm. After a search with the site there is not a registration or paperwork for the well. The producer can have a well within 150 feet of their own barn and it would not be in their best interest to use the water for their own animals if it is contaminated. They had relocated the barns on the NE1/4 of land to accommodate the borings not being as good as this site. They had the drilling rig to the site twice to ensure the siting is correct. Johnson asked about the radius picture of the alternate setbacks and why that didn't show a round radius. It was explained that it comes from the walls of the waste containment which are not round for the 1/2 mile setback measurement so it makes an elliptical shape to the West. Johnson commented it made it visually look different in the alternate form.

Mach asked about the manure application and if hose drag was typical in application now. It was explained that yes, it was typical because of the quickest application and the easiest on the road and that it would be done commercially. He also asked about the use of right-of-way or fields or culverts or ditches for the hose equipment. Marty explained that with cooperative weather application takes 7 days and if there is rain it can take 2 weeks. The hoses have pressurized check valves and auto shutoffs and are checked by ATV every 2-4 hours during application and can run a distance of 5 miles by state guidelines. Point of clarification by board to VanMaanen was that field 9 was not in the nutrient plan and he replied what you see is in the plan and that field may have been removed for some reason.

Johnson opened the hearing up to public comment by calling those who are opposed to the microphone and announcing they each would have 5 minutes of time to state their opinion. Atyeo-Gortmaker asked for the board's consideration of Laura Krebsbach who had contacted Mark Reedstrom, State's Attorney with a request to speak on behalf of the Concerned Citizens of Grant County. She requested 20 minutes of time to speak from the nonprofit she represents which is the Socially Responsible Agriculture Project out of Ulysses Nebraska and would take less time if she was allowed to speak to represent the people of her group. Board agreed and called Krebsbach to speak.

Krebsbach handed out information to the Planning & Zoning Board from Kathy Martin of Oklahoma who is an Engineer and 17 years her colleague. Atyeo-Gortmaker requested a copy of the information to retain for public documentation and the credentials but Krebsbach replied she would not give that to the officer and would not be complying with the request.

She then stated that she was prepared to talk about the location, location, location of the private well but now this was an all-new plan that would require public comment and refiguring of the information. She explained they had not done their homework to find the well and the money they have spent to get to this point was the cost of doing business. She explained she was not prepared to foresee the setback set to be met with elevations and requirements that she felt it was incomplete and a mistake was made that didn't show floodplain and was inadequate. She stated the states follow federal rules and adopt them as a minimum but the locals know the wells and water table and that is why it is based in local control. The state statutes use the comprehensive plan as the road map and zoning is for the health welfare and wellbeing of the people and is who the zoning board owes their decisions. She identified a report by her colleague Martin that calculated mortality rate numbers and volumes on page 3 or 4 of her handout. She explained she felt it was irrelevant information now because the permit has changed and that was a disservice to the county. It was her opinion that due process was forgotten and it should be presented again. She also felt Grant County was the most fair she had ever dealt with and no government effects more than a local government does. She is not anti-agriculture: she has a shooting range a couple cows and a company called Renewable Harvest that goes around the country in a semi equipped for mobile red meat processing.

Pillatzki mentioned the soil type that has quick percolation down and in a big rain it comes up fast.

Vince Meyer gave the definition of a well from the DENR. He explained he has livestock that he moves through there now and then and does some fall grazing on that site. The power has been off for quite some time and he uses a generator occasionally so he didn't have to pay a monthly charge for services. There is light ground out there that blows his uncle installed the cement curb and the neighbors have used it once in awhile. He questioned the pipes in the barns flowing from pit to pit and wondered how a crack would be detected then the leaks goes to the wells. If the water starts at 23 feet and there is 3 feet removed for building with a 10 foot pit and 1 foot in concrete it would be within 8-9 inches of the water table. The map shows a shallow aquifer and the well needs a 1/2 mile setback. Time was called on Meyer and Alex Hopkins approached the microphone to yield his

time to Meyer. Mach asked how the well was used and Meyer replied it was used for a week 2 years ago. Mach also asked if Meyer would be using the liquid manure and Meyer replied he could not use liquid manure because of the cleaners and disinfectants used. Johnson asked if the well was on the irrigated ground Meyer could not remember and then stated yes.

Randy Woerstma approached the microphone and mentioned the concerns that were being brought up by the neighbor were really not worries. He has 4 wells on his property with his hog confinement barn and safety has never been a concern because they are zero runoff facilities. What they should be concerned by are the farmers with open wells to troughs or cement drainage at the site where cows come to drink. Cows drink water when it rains and what happens during a 2 inch rain at that site should concern them. But those farmers don't have regulations that they need to comply with. He believes everyone should be held to the same standards and the biggest challenge are the farmers that are unpermitted. Johnson acknowledged Woertsma to be in favor of the CAFO and asked for opposition to speak.

Tim Tyler approached and stated the citizens that were there were in unanimous opposition and there was no support in Grant County for the stink and gases. He feels Frist District made a mistake in identifying this site because of Vince and Pat Meyer's well within the ½ mile setback the same as a home or a church. SDCL 46-1-6-18 gives a definition but it doesn't state it needs to be registered or known to the public. Zoning requirements are not met.

Gail Whiting as a resident lives a hair off the setback and states that no one talked to them before the permit was filed. They have health issues and their neighbors do as well. Air quality causes asthma and respiratory infections and the H2S and particulate and ammonia increase heart problems. SDCL and comprehensive plan protect and guide with the intent of the citizens and the 11-2-3 gives zoning definition. She is diabetic and has sinus and respiratory issues and is afraid of the potential health issues. She presented a letter from her Dr giving an overview of her ailments and his opinion that it would increase her medical risk with increased coughing and wheezing, watery eyes and would infringe on her rights and impact her quality of life.

Kristi Mogen moved here from Wyoming with sick kids to get them better. They lived 2 miles downwind of vapors and air pollutants and they can't sell their home. They moved to the middle of the section for no traffic no tracks and no hoses used in fracking. The noise odors no sleeping caused bloody noses so they home school so they can sleep in. Rules were to protect public health. They have a family business and are community members that give back by teaching others to sew and garden. She feels Pipestone Systems brings nothing to the community. They wanted a place to go relax and unwind with a waterway not fields with manure. They don't use their waterway for their cows and they have it tested often.

Kari Hopkins lives ½ mile from system and air and water are her concerns. They have lived in their house for 5 years where neighbors help each other and they are willing to be neighbors. Comparisons were made for large livestock that show 1000 within 5 miles decreases the property values by \$430. She knows that 35-40 pigs' smell and moving them further away doesn't make the smell go away. Federal and State laws give setbacks and rules for permits but Grant County needs to update their regulations and train people on manure placement.

Roger Loeshcke stated the number of animals in the permit was wrong and believes there will be 140,000 pigs in the barn and the application is incorrect.

Val Rademacher lives 1 mile east and is interested in seeing a facility in operation and read a letter from Lyle and Marilyn Reinmetz that live in Mitchell near the Jackrabbit System. They outlined their concerns about odor and the Odor footprint tool for ½ mile at 2% nuisance for the 2 days of the year but they don't use their deck or open the windows they are prisoners in their own home. They don't care for the roads and they apply manure frozen ground. Their neighbor ¾ mile away Dave Truethdahl stated they are not good neighbors and they made their own biofilters but it smells like hell and buyer beware.

Kate Capp states this is not a family farm this is an investment but there is no house on the location. She cited several families in Grant County that live on their own CAFO- Marc Lippen, Mark Rethke, Richard Hansen, Nancy Johnson within ½ mile. They are in opposition of CAFO and cited the Dakota Farmer Steve Dick article that stated they didn't need PETA or other stopper's because they had farmers. She is not anti-agriculture they want hog producers with a vested interest and she is concerned about the responsibility and asked the board to consider the people who live here.

Dan Loehrer introduced himself and shook hands around courtroom. He is a neighbor and parent like Krista. Showed a map of landowners against the manure and translated the colors with 7th grade math to show 90.8% were opposed. His concerns were emotions and disease and dragging the hose to Minnesota.

Paul Dumann West of Milbank and is a family farmer who is not speaking as a commissioner. The well is black on white within the ½ mile setback and would be a pollution hazard and a health hazard. Runoff contributed to the denial of the hog farm 4-5 years ago in the west end of the county because they have the same type of soil. They took us to court and we won and they are invited to do the same again. Odor in Clark farm did stink and he

showered in and out of the facility and drove around it. He raised hogs and has been around them for 42 years he knows they stink. What is the health now of our county and what would it be in 10 years. If you want a CAFO go to the western part of the state where there aren't any people. Recommend denying it. Thank you board he knows this is stressful but they need to have responsibility to the citizens who pay taxes and local grassroots. They took us to court once and we won easily.

Brian Fox asked where the 16 farmer/investors live and wanted their names. And then retracted saying that wouldn't be fair but then stated if they are from Iowa and Minnesota why they wouldn't put this closer to home. Kerkaert rose to answer and after debate with Krebsbach was allowed to answer the question that he was addressed with by stating this is close and South Dakota does have tougher regulations than Minnesota but this is a safe place to put animals because there isn't disease here and the pig density is low. They are regular people that are looking at putting up a barn to feed a nation.

Dale Weinkauff lives ½ mile West and presented a study by Dr Wiita that shows property values drop and the taxes increase to retain services. He has 2 kids with asthma and they didn't talk to him.

Kathy Kilsaun is Kristi Mogen's aunt and asked to think about the wildlife that would be polluted, rodents, air quality, light pollution and the animals that would take months to turn to mulch that would cause rodents.

Doug Stengel spoke as a citizen even though he is on the commission he had a feeling the moratorium would put a stop to hog facilities and corrected himself stating large scale livestock facilities that have increased in numbers and size since the ordinances written in 2004. The moratorium would hinder facility but if we do wrong we have to pay for it. Agriculture drives this community and we cannot do it wrong. There is a large crowd here that does not support this. We are asking to take a step back for 6 months to take a look. It is his opinion of a moratorium that no more would be permitted until the 6 months was up. Johnson asked about the decision for the moratorium at 8000 animal units when the permit came in the day after what mistakes were made. Stengel replied that the number was calculated incorrectly due to human error. Not handled the best we could. Adler asked if they could reapply in 6 months and it was replied that the ordinance may change.

Paulette Hay lives ½ mile from Teton and their house has been on the market for 1 year. There is some interest and people looking but they have to lower the price to get it sold. They are leaving because of the pigs coming in and they are going to take it in the shorts to feed the world.

Rodney Thaden stated Vernon Township needs to get a haul road agreement signed.

Johnson called for those opposed to come to the microphone 3 more times and then called those in favor to come forward.

Darrel DeJong potential investor stated that ag is the driving engine in their area and benefits economically to keep the young people in the area. Thriving industry and full schools are found. Hog manure actually increases the value of their land. (crowd was warned to stop their antics)

Mike Nordquist states the laws in SD are much more stringent and protective.

Randy Woertsma spoke again in the correct order after misunderstanding. (crowd control again) Randy approached mic and spoke 3:36 that would be given to the opposition to speak 1 last time as well to correct the misunderstanding. He stated livestock is everywhere they have hogs and the easements are wanted for the fertilizer where the value has been tested. They have people wanting to buy the fertilizer. It is applied in a variable rate application and stated ag land with the fertilizer easements has increased in value and sold for \$20,000 an acre. (crowd screams prove it and was quieted again) He feels the county landowners are passing up a great value that Boyden Adrian and George have all seen and they have full schools and a tax base that runs each community. They are full of pigs there and the landowners are chasing animal agriculture away.

Scott Vancuuram is a 3rd generation family farmer and owns a facility with 13 others. Lives within the minimum setback in a home with his kids. They are not trying to pass the stink to someone else they are trying to expand and be productive.

David VanCuuram has farmed since 1975 and lived with his father and wishes to put up another barn for his son to be able to come back to the farm. Land is too valuable and can't afford to buy this is a way for his son to come home and to get disease free clean pigs from their sow farm as the source. When you go to the open market you don't know where they came from and you don't have control over that. In this case they can hire and fire control the genetics. They will build a house on the site with their pigs.

Vince Meyer was offered the 3:36 and he stated this was all for personal gain and the pig site would be used for their gain but what do we gain. Grant County is full of clear air and free of disease and prd. Pigs are at the neighbors would destroy their operations. They sell pigs at 280 pound hangin weight from their small operation and he feels they don't need 5000 pigs to make it because they raise a better hog in SD fresh air with their brothers as neighbors. Atleast the dairy asked the neighbors to see if they would accept it but they didn't ask me.

Johnson closed the public comment portion of the hearing after calling 3 times for any more in favor to come to the microphone. Atyeo-Gortmaker approached the microphone to present the choices the board is able to make

at this time with the Conditional Use permit to be approved with conditions such as meeting the ½ mile setback to the well in the building permit, tabling the agenda item or having the Pipestone System rescind their application until later date or deny the permit for stated reasons documented in the motion.

Johnson asked Pipestone Systems to present their final information for consideration. Sean Simpson's closing for Pipestone Systems spoke of the due diligence they performed to the best of their ability. Marty Rost documented that he had talked to Meyer's and spoke to Pat. Vince retorted that it wasn't him that was spoken to. Simpson continued on that if there was a well the condition could be placed on the permit to meet the setbacks and that they were open to adding trees and/ biofilters if the board decided to do so. These are open records and the scope of the project has not changed. Due process is for comment and that has been heard and would not change the comments. Health and safety of the citizens is always taken into consideration and the ordinance shows within the agriculture district rules they have complied with all the rules to place the CAFO and it is a use within the ordinance and district as well. The board asked how often trucks would be in/out of facility. Kerkaert answered 1 time every other week for culls and 1 time a week for baby pigs.

Pillatzki read from the ordinance number 7 items and stated the rules aren't that rigid. Johnson asked if they were required to file an emissions report. Kerkaert replied they do not and have not been asked to do so. Kruger stated he read the permit book several times and used it like a job application. He stated page 3 showed appendix A and B should have been in a different order. Item #4 show 365 days of storage and Item #5 addresses 270 days of storage. Item J shows the aquifer map but gives conflicting information in the field maps. K shows Big Stone Township received the letter but he knows Vernon Township actually received it. These are attention to detail things that they didn't do a good job at and he questions the little things that may not be managed well like the composting of animals.

Kruger moves to deny the permit after the finding that the CAFO was not outside the setback of a private well. Hansen seconds the motion and roll call vote was taken by direction of Chair Johnson:

Clarification made to show a Yes vote would deny the permit: Adler No, Hansen Yes, Kruger Yes, Pillatzki Yes, Johnson Yes, Mach Yes, Cameron Yes. Vote to deny passes 6-1.

7. Old Business

8. Unfinished Business

- a. Direction given to board to send possible dates and times that will work for meetings to be held once a month to begin and more frequently if necessary to Krista by the end of the day Wed.

9. Next meeting: Monday, March 9, 2015

10. Adjournment Motion by Brandt seconded by Pillatzki carries 7-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County