

February 9, 2016

The Grant County Commission met in special session at 7 PM with Commissioners Buttke, Mach, Stengel and Tucholke present. Commissioner Dummann was absent. Chairman Stengel called the meeting to order. The purpose of the meeting was to hold a joint public hearing with the Planning and Zoning Board to hear public testimony on proposed Ordinance 2016-01.

Members of the public present were Kate Capp, LeRoy Capp, Dave Durand, Joan Durand, Stephanie Schumacher, Milt Stengel, Dan Tyler, Tim Tyler, Bob Capp, Kristie Mogen, Gerald Thaden, Richard Pike, Diane Pike, Deverne Rickard, Keith Welberg, Lois Welberg, Vincent Meyer, Patricia Meyer, Richard Domagala, Val Rademacher, Loretta Pillatzki, Bob Hicks, Matt Loeschke, Ann Loeschke, Debra Hemmer, Dar Duncan, Ed Duncan, Jim DeVaal, Jerry Zubke, Arlene Fonder, Ann Fonder, Matthew Fonder, Roger Hopkins, Kari Hopkins, Bobbi Bohlen, Mark Leddy, Bill Street, Norma Kruger, Rodney Thaden, Tim Wollschlager, Shirley Wiese, Kenny Wiese, Clayton Whiting, Gail Whiting, Raymond Beutler, Roger Loeschke, Melbourne McCrea, Orgene McCrea, Dan Scoblic, Denise Scoblic, Gene Rickard.

Todd Kays, Executive Director for First District of Local Government served as Parliamentarian. He provided a brief history of the process taken to reach tonight's public hearing and outlined the hearing process to be used for tonight's hearing. Twelve members of the public signed in to provide public comment. Chairman Stengel opened the hearing for public testimony.

Kate Capp: Expressed concern on section 1306.02. Permitted use number is too high. Should be for 999 animal units or less. A higher number of animal units for a permitted use is a lot of responsibility for one individual to approve. Public input is needed on the larger numbers for a CAFO as this is an important issue for neighbors.

Tim Tyler: Spoke on Section 1306.02. He asked to have the section revised to 999 and under for a permitted use as one person should not be required to approve a large CAFO. Applications require a lot of reading and with more people reviewing them, the problems or issues would be found. Also stated it was a good compromise with the setbacks.

Kristie Mogen: Stated she had moved here from another state when large industry moved into that area. Her issue is with the smells from the cleaning chemicals. Talked about setbacks, documenting issues, having the industry pay the fees not the person who is registering a well. Also concerned with permitted use section. Should not be one person making decision as this is about people living with industrial operations.

Deverne Rickard: Thanked the board for considering the citizens when working on the amendment. His concern is on finding E.coli in the water. Need to have wells and water ways tested. Hates dissention. A lot of information has been presented to the board, please continue to consider the citizens.

Keith Welberg: Addressed the setback distance from a private well. The proposed ordinance reads the setback distance from a private well is 250' compared to a 1000' from a public well. Asked to have both the private and public well setback at 1000' as CAFOs continue to get bigger.

Vincent Meyer: Spoke on section 1306.02 permitted uses and requested that section be amended for under 999 animal units. All other permits need to have a hearing before the board. He stated there are too many setback distances and questioned who would measure. His suggestion is 350 to 699 go to ½ mile, 700 to 6999 a setback of ¾ mile and 7000 and over a 1 mile setback.

Val Rademacher: Stated hog facilities smell. Living near these facilities affects a person's ability to be outside. Now there are less farms in the county so there is more space available to increase the setbacks from ½ to ¾ mile. More separation is needed from homes and these large facilities.

Loretta Pillatzki: Agrees with Val. The trend is fewer people living on farms. More sites are becoming available because the older generation is moving to town and sites are being abandoned. Likes the "good neighbor policy" of talking to everyone where a CAFO is being sited. If one person is not in agreement, the CAFO should buy them out. Concerned with water pollution and affecting resident's lifestyle. Concerned if an operation fails, who is responsible for the cleanup. Questioned if the large facilities could be required to provide a retainer that could be used for road and bridge repairs or litigation issues. The citizens should not be burdened with the problems a CAFO causes.

Bill Street: Has an issue with table 1304.01 the animal unit versus just using number of animals. He stated he had contacted DENR in Pierre concerning animal

units versus animal numbers. He suggested using one sow/litter to equal one cow and a hog over 55lb to equal one cow. Hogs have a richer diet than a dairy cow and manure has a stronger odor. He suggested having a CAFO provide a bond. He questioned what happens to a facility when it becomes obsolete or files bankruptcy.

Mark Leddy: Most present tonight are concerned with hogs. Referred to the setbacks in section 1304.01 of the proposed ordinance and is concerned about dairy and all operations. He asked to strike the 7000 category and leave it at 5000. He believes the one mile setback for 5000 and above is excessive. He agrees the rural sites are disappearing. Asked to have a rural development plan considered to plan housing development areas in the county. Stated section 291 is a good addition to the plan as wells do need to be documented.

Kari Hopkins: Comprehensive plan regulates and preserves existing uses. All agree CAFOs are much larger now. Expressed concerns of: preserving and protecting the current citizens, road damages, cleanup costs of damages, air pollution and property value loss. Suggested a cap on industrial farms as 5000 sows produce 8 million gallons of waste per year. Concerned for the welfare of the animals. Suggested the setback for rural wells be the same as public wells. Clay County counts animals not animal units. Asked for consideration to protect the current farmers and the beauty of the county.

Roger Loeschke: Stated setbacks are not enough. Eight different setbacks are too many; go to three setbacks. Talked about the different odor between cow and hogs.

Kenny Wiese: Stated there are two choices on section 1306.02 – take it out of the ordinance or move the option to Class D & E for under 999 head. Agreed the changes are a step in the right direction, but would have written it more severe. Has an issue with setbacks for a Class C. The setback is ok for cattle, but not enough distance for hogs, chickens or turkeys because these species have dust that carry an odor. Control the dust, control the odor. Suggested changing the animal units for chickens, turkeys and hogs and change Class C to a setback of $\frac{3}{4}$ mile. The setback for over 7000 is not enough as that is a huge number of animals. A permit for 10,270 would produce 75 semi loads of manure a day. Would like to see bonding in place for a CAFO. The townships are using haul roads agreements and would like the county to use a haul road agreement.

Todd Kays asked if any of the presenters had any additional comments.

Deverne Rickard: Stated when the dairy was being built in his township, the trucks were using Old Hwy 81, but then started hauling on the township road. This caused damage to the township road. Met with the contractors and resolved the situation peacefully.

No other person appeared to provide testimony. The P&Z Officer read a letter from Gerry Adolph who requested these considerations. Adjust the permit fee include a charge per animal and use the funds to support compliance inspections and water/air samplings of a CAFO. Implement penalties up to and including the pulling of the CAFO permit for violations of permit conditions. Include wording to make sure all parties in the CAFO are disclosed on the permit application Do not allow an outsider to hide behind a local name.

No other comments were given.

Chairman Stengel closed the public testimony of the hearing. The Planning and Zoning Board brought forth a motion to approve Ordinance 2016-01. This motion brought the ordinance to the floor to allow an open discussion between the two boards.

Commissioner Tucholke discussed a prior change to the ordinance to require a CAFO to have a minimum of 80 acres. This was done in place of bonding as bonding is not a sellable commodity. Commissioner Stengel prefers to have Class D and E as a special permitted use along with a letter of assurance to protect the zoning officer. Keep A, B & C as public hearings. Discussion between the two boards was held on vesting. The process to vest a present site will have two years from the adoption of the ordinance to complete the process. A change in the setbacks may prohibit a current producer from expanding if the new setback cannot be met. A variance would need to be approved.

Questions were raised on how to regulate health issues within the ordinance. Very hard to regulate as any issue would need science to regulate health related issues. The boards must establish reasonable balance between property rights and residents. Land use cannot always be solved by government, may require individuals to use the court system.

Discussion on using a different ratio for hogs versus cows. The State regulates manure output and uses the animal unit ratio to determine the output for the manure management plans. All animal classes of animals must be treated equally and that is done by emissions.

The two boards discussed well setbacks for a private well versus a public well with suggestion of increasing the rural setback to 500' with a clay liner and the monitoring of well.

P & Z Board member Pillatzki asked the Commissioners for comments on simplifying the setbacks or for any input on combining categories. Commissioner Tucholke suggested for animal units of 2000 to 6999 to use ¾ mile setback for all categories.

After the discussion ended, the Planning and Zoning Board acted on amendments to Ordinance 2016-01 and approved a motion to send Ordinance 2016-01 as amended to the Board of County Commissioners for their consideration.

Chairman Stengel called for a motion to hold the first reading by title only of Ordinance 2016-01, as amended. Motion by Tucholke and seconded by Buttke to have the first reading by title of Ordinance 2016-01, amended. Motion carried 4-0.

Auditor Layher read Ordinance 2016-01, as amended by title. An Ordinance amending Grant County Ordinance 2004-1, an ordinance establishing zoning regulations for Grant County, South Dakota, and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of Chapters 11-2, 1967 SDCL, and amendments thereof, and for the repeal of all resolutions and ordinances in conflict therewith.

Motion by Buttke and seconded by Mach to set the seconding of Ordinance 2016-01, as amended for March 1 at 9AM in the Commission Chambers. Motion carried 4-0.

It is the policy of Grant County, South Dakota, not to discriminate against the handicapped in employment or the provision of service.

The next scheduled meeting dates will be February 16 and March 1 and 15, 2016 and at 8 AM. Motion by Mach and seconded by Tucholke to adjourn the meeting. Motion carried 4-0. Meeting adjourned.

Karen M. Layher, Grant County Auditor

Doug Stengel, Chairman, Grant County Comm.