



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

February 19, 2020

CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:00 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Wade Andrews, Michael McLeod, Duane Kime, Gary Swanson, and Albert Ericksen. Absent was Dave Rogers, Chelsea Luthy, and Herb Pabst with a vacancy. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

The Open Meetings Act was noted, as was the public notice in the Valentine Midland News pertaining to this meeting.

Approval of Minutes

Duane K. made a motion to approve the minutes from the December 3rd meeting. Albert E. seconded the motion. Roll call vote was taken. Dave R.-Absent, Chelsea L.-Absent, Wade A.-Yes, Michael M.-Abstain, Duane K.-Yes, Herb P.-Absent, Vacancy, Gary S.-Yes, and Albert E.-Yes. Motion carried 4-1 with abstention. There was discussion as to if it passed, but Gary S. stated it did pass based on the current Planning Commission Bylaws and Rules of Procedure.

Public Comment:

No public spoke during this time.

Old Business:

Discuss and Act on Planning Commission Bylaws and Rules of Procedure

The Zoning Administrator presented the board with a draft of the Bylaws and Rules of Procedure incorporating the changes discussed at previous meetings. Zoning Administrator also stated that no response had been received from the County Attorney on the bylaws. No action taken.

Reports and Recommendations

Chairman Swanson updated the board on the process of the Comprehensive Plan and Zoning Regulations and that the surveys and listening posts won't be done until later in the year. He also stated that Keith Marvin will be giving them an update via video call later in the meeting.

New Business:

Election of Chairman

Duane K. nominated Gary Swanson as Chairman. Wade A. seconded the nomination. Duane K. made a motion that nominations cease. Wade A. seconded the motion. Roll Call vote was taken. Dave R.-Absent, Chelsea L.-Absent, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Absent, Vacancy, Gary S.-No, and Albert E.-Yes. Motion carried 4-1.

Election of Vice Chairman

Duane K. nominated Wade Andrews as Vice Chairman. Michael M. seconded the nomination. Duane K. made a motion that nominations cease. Michael M. seconded the motion. Roll Call vote was taken. Dave R.-Absent, Chelsea L.-Absent, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Absent, Vacancy, Gary S.-Yes, and Albert E.-Yes. Motion carried 5-0.

Election of Secretary



Cherry County Planning and Zoning Minutes



Duane K. nominated Michael McLeod as Secretary. Albert E. seconded the nomination. Duane K. made a motion that nominations cease. Albert E. seconded the motion. Roll Call vote was taken. Dave R.-Absent, Chelsea L.-Absent, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Absent, Vacancy, Gary S.-Yes, and Albert E.-Yes. Motion carried 5-0.

Keith Marvin Presentation on Comprehensive Plan Sections

Keith Marvin joined the meeting via video call and updated those present where he's at in updating the Comprehensive Plan. He stated that he's almost done with Chapters 1-6 and plans to have the 50%-70% of Chapters 7-11 done by March 12. On March 12 Keith plans to attend the meeting and present these chapters to the board.

Set the date for the next meeting of March 12th, 2020 at 4:00 PM CT in the Cherry County Courthouse Meeting Room.

Communications

Zoning Administrator stated that she plans to attend the NPZA Conference in Kearney March 4-6 and asked if anyone else wanted to attend.

Excused Absence:

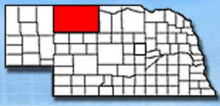
Albert E. made a motion to excuse Dave Rogers, Herb Pabst, and Chelsea Luthy from the meeting. Seconded by Michael M. Roll call vote was taken. Dave R.-Absent, Chelsea L.-Absent, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Herb P.-Absent, Vacancy, Gary S.-Yes, and Albert E.-Yes. Motion carried 5-0.

Chairman Swanson adjourned the meeting at 4:38 PM CT.

Jessica Coyle

Zoning Administrator

APPROVED



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

June 2, 2020

Via Zoom due to Covid-19

The meeting was called to order at 10:14 AM CT by Chairman Gary Swanson as advertised of being a ZOOM meeting due to Covid-19. The start time was later due to technical issues with some getting on the ZOOM meeting.

Roll call was taken. The following members were present via ZOOM: Wade Andrews, Duane Kime, Gary Swanson, John Lee, and Dave Rogers. Absent was Chelsea Luthy, Michael McLeod, and Albert Ericksen with a vacancy. Also present were Jessica Coyle, Zoning Administrator, and various members of the public via ZOOM.

The Open Meetings Act was noted, as was the public notice in the Valentine Midland News pertaining to this meeting.

Approval of Minutes

Duane K. made a motion to approve the minutes from the February 19th meeting. Wade A. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Absent, Wade A.-Yes, Michael M.-Absent, Duane K.-Yes, Vacancy, John L.-Yes, Gary S.-Yes, and Albert E.-Absent. Motion carried 5-0.

Communication:

Zoning Administrator Jessica Coyle informed the board of CUP 001/20 Danielski Farms/Valentine Feeders Confined feeding operation of swine was filed on May 26, 2020. Jessica also let the board know that flowers were sent to Herb Pabst service from the Commissioners and Planning Commission. She introduced a new member John Mike Lee of Brownlee to the board as of May 26, 2020.

Public Comment:

Various members of the public spoke during this time.

Old Business:

None

New Business:

Set the date for the next meeting of July 7th, 2020 at 4:00 PM CT in the Cherry County Courthouse Meeting Room.

Reports and Recommendations

None

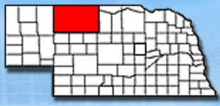
Excused Absence:

Duane K. made a motion to excuse Michael McLeod, Albert Ericksen, and Chelsea Luthy from the meeting. Seconded by Dave R. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Absent, Wade A.-Yes, Michael M.-Absent, Duane K.-Yes, Vacancy, John L.-Yes, Gary S.-Yes, and Albert E.-Absent. Motion carried 5-0.

Chairman Swanson adjourned the meeting at 10:25 AM CT.

Jessica Coyle

Zoning Administrator



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

July 7, 2020

CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:01 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Dave Rogers, Chelsea Luthy, Wade Andrews, Michael McLeod, Duane Kime, Gary Swanson, John Lee, and Albert Ericksen with a vacancy. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

The Open Meetings Act was noted, as was the public notice in the Valentine Midland News pertaining to this meeting.

Approval of Minutes:

Duane K. made a motion to approve the minutes from the June 2, 2020 meeting. Wade A. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Abstain, Duane K.-Yes, Vacancy, John L.-Yes, Gary S.-Yes, and Albert E.-Yes. Motion carried 7-1 with abstention and a vacancy.

Public Comment:

No public spoke during this time.

Old Business:

None

New Business:

Keith Marvin Presentation of Comprehensive Plan Sections

Keith Marvin presented more Chapters of the Comprehensive Plan update to the Board. He noted that he was getting more pictures. He stated that prior to the meeting he visited with Gary Weaver about the Public Safety and Hazards Mitigation portion of the Comprehensive Plan. He included the Energy Element with updates that he previously wrote for the county that was not adopted to meet current legislation. He also noted that any red lettering is just a placeholder and will be changed. He discussed in depth with the board about the soil suitability, soil types, and soil conservation service. He then asked the board for any input on the next portion of the Comprehensive Plan including the Future Land Use and if they want to include a transitional agriculture district around the area villages that have no zoning.

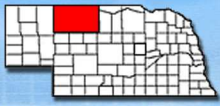
Keith Marvin review of CUP 001/20 Danielski Farms/Valentine Feeders Swine Facility

Keith had not gotten a chance to review yet but will send when it is completed.

Reports and Recommendations:

Gary Swanson reported that Wade A. and himself attended the Public Hearing in Brown County concerning the Swine Facility proposed by John Gross. Wade stated that there was 70 people in attendance and some of the concerns were smell, proximity to Plum Creek, potential runoff into Plum Creek and then flow into Niobrara, and close to Highway 20. He stated that the Planning Commission voted to not recommend approval at this time.

New Business Continued:



Cherry County Planning and Zoning Minutes



Set Date and Time for Public Hearing on CUP 001/20 Danielski Farms/Valentine Feeders Swine facility to be used for breeding, gestation, and farrowing

The consensus of the board was to move this item to the next regular meeting after they have Keith Marvin's review.

Set the Date for Next Meeting

The date for the next meeting is August 4th, 2020 at 8:00 AM CT in the Cherry County Courthouse Meeting Room.

Communications

Zoning Administrator stated that the office had received the voluntary Cattle Country Easements from Duane Porath and Marshall Tinant for CUP 001/20. She also reported that the Zoning Regulations state that we can use the Nebraska Department of Environment and Energy, Natural Resources District, Natural Resources Conservation Service and the Cooperative Extension Service to review and make recommendations on Conditional Use Permits for Confined Animal Feeding Uses. She has reached out to each of these departments and received an email back from the Natural Resources Conservation Service. She passed out a copy of the email to all board members.

Excused Absence:

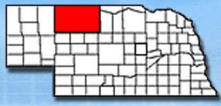
None

Chairman Swanson adjourned the meeting at 5:23 PM CT.

Jessica Coyle

Zoning Administrator

APPROVED



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

August 4, 2020

CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 8:16 AM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present: Dave Rogers, Chelsea Luthy, Michael McLeod, Gary Swanson, and Albert Ericksen with a vacancy. Absent were Wade Andrews, Duane Kime, and John Lee. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

The Open Meetings Act was noted, as was the public notice in the Valentine Midland News pertaining to this meeting.

Approval of Minutes:

Albert E. made a motion to approve the minutes as written from the July 7, 2020 meeting. Michael M. seconded the motion. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Absent, Michael M.-Yes, Duane K.-Absent, Vacancy, John L.-Absent, Gary S.-Yes, and Albert E.-Yes. Motion carried 5-0.

Public Comment:

Various members of the public spoke during this time.

Old Business:

Review and Discuss the Keith Marvin material for the Comprehensive Plan

Michael M. was wondering if Keith would be adding more to Chapter 10. Gary S. said that page 3 said Knox County in the box and there was more of that throughout, Merritt Dam is missing in the Parks Section, Deer Park Country Club needs removed, the goals and policies need to be considered as they aren't for Cherry County, and that Keith's plan will be more in depth than what Orval Stahr would have done. Albert E. stated that Highway 97 is missing on page 1.

New Business:

Keith Marvin review of CUP 001/20 Danielski Farms/Valentine Feeders Swine Facility

Chairman Swanson stated that as of the time to set the agenda we had no additional information from the applicant so would not be setting a date until these things in Keith Marvin's review are addressed. Zoning Administrator stated that a new application would not be needed but additional material to current application. Gary S. stated that the letters from Ed Brown and Lee Hamann of McGrath North Attorneys addressed some of the same concerns that Keith Marvin's review did. Albert E. said that the slurry being applied all year long needs addressed along with the storage only for 180 days. Chairman Swanson said that Keith addressed some of that in the review. Dave R. said that the potential for air, water, and soil pollution are high and should be taken into consideration. Chelsea L. stated that they need more information from the applicant before moving ahead. The Zoning Administrator reported that the applicant is working on getting the additional information in response to Keith Marvin's review. Dave R. said that he is concerned also about the impact on the Roads. Chairman Swanson stated that maybe at the next meeting we could have Mike Murphy from the MNNRD and Kent Lopez come discuss the impact on roads.

Set the Date for Next Meeting

The meeting date was not set as they are looking at possible dates that would work for Keith Marvin to attend and present more of the Comprehensive Plan. Meeting date and time will be posted later.



Cherry County Planning and Zoning Minutes



Communications

Chairman Swanson brought to the attention of the board the Letters from Ed Brown and Lee Hamann of McGrath North Attorneys. He also let the board know that they were invited to attend the Public Hearing in Brown County concerning the Swine Facility proposed there on August 4, 2020.

Reports and Recommendations

None

Excused Absence:

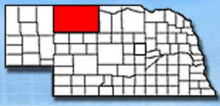
Chelsea L. made a motion to excuse Wade A., John L. and Duane K. from the meeting. Albert E. seconded the motion.

Chairman Swanson adjourned the meeting at 9:10 AM CT. Roll call vote was taken. Dave R.-Yes, Chelsea L.-Yes, Wade A.-Absent, Michael M.-Yes, Duane K.-Absent, Vacancy, John L.-Absent, Gary S.-Yes, and Albert E.-Yes. Motion carried 5-0.

Jessica Coyle

Zoning Administrator

Approved with correction of time of adjournment of 9:10 AM CT.



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

October 6, 2020

CHERRY COUNTY COURTHOUSE CONFERENCE ROOM

The meeting was called to order at 4:00 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Courthouse Conference Room.

Roll call was taken. The following members were present Chelsea Luthy, Wade Andrews, Gary Swanson, John Lee, and Albert Ericksen with a vacancy. Absent were Dave Rogers, Michael McLeod, and Duane Kime. Also present were Jessica Coyle, Zoning Administrator, and various members of the public.

The Open Meetings Act was noted, as was the public notice in the Valentine Midland News pertaining to this meeting.

Duane Kime joined the meeting at 4:33 PM CT.

Approval of Minutes:

Chelsea L. made a motion to accept the minutes with the correction of adjourn time of 9:10 AM CT. Albert E. seconded the motion. Roll call vote was taken. Dave R.-Absent, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Absent, Duane K.-Yes, Gary S.-Yes, John L.-Yes, and Albert E.-Yes. Motion carried 6-0.

Public Comment:

Various members of the public spoke during this time.

Communications:

Zoning Administrator reported that she was not able to attend the NPZA Fall Workshop via ZOOM but registered to get a copy of the presentations later. She also told the Planning Commission of the additional information that was received from Danielski's regarding CUP 001/20 that had been emailed to the board prior to the meeting but provided hard copies to the board.

Planning Commission members asked questions of the Danielski's concerning their application of CUP 001/20 on the information provided by Zoning Administrator.

Public Hearing:

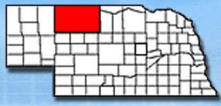
Public Hearing on CUP 002/20 Mercure Cattle Co. LLC for 400 ft by 400 ft River Access

Chairman Swanson opened the Public Hearing at 4:45 PM CT as advertised on September 23, 2020 in the Valentine Midland News.

Rich Mercure addressed the board and stated that they had a record number of visitors this year on the river and this cause crowding on the current river access. They wish to expand the current access to make a better experience and access and allow for social distancing.

Gordon Warrick of the Niobrara National Scenic River asked the applicant if this is the only access on their property. Richard responded that no it is not the only access.

Duane K. asked Gordon Warrick if he had any concerns with the River Access. Gordon's response was that the concerns are the additional river access would create a negative visual and would prefer not to see more landings. Gordon also stated he is not opposed to the river access.



Cherry County Planning and Zoning Minutes



Albert E. asked Richard if this is an extension of existing landing. Richard explained that part of the project will be to remove the dirt pile from a previous application for a landing and use that space for this landing.

Gary S. asked Gordon what the Park Service's regulations are concerning COVID. Gordon stated that the Park Service follows all federal, state, and local recommendations concerning COVID. Richard stated that visitors this past season were asked to follow social distancing when landing or getting on the river.

Chairman Swanson closed the Public Hearing on CUP 002/20 Mercure Cattle Co. LLC at 5:00 PM CT.

Discuss and Act on CUP 002/20 Mercure Cattle Co. LLC

Chairman Swanson asked the Zoning Administrator to report on the CUP 002/20 Mercure Cattle Co. LLC. Zoning Administrator stated that the application meets current Zoning Regulations and that no Cattle Country Easement was need as it had been previously filed.

Albert E. made a motion to recommend approval of CUP 002/20 Mercure Cattle Co. LLC for 400 feet by 400 feet River Access. Duane K. seconded the motion. Roll call vote was taken. Dave R.-Absent, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Absent, Duane K.-Yes, Gary S.-Yes, John L.-Yes, Albert E.-Yes with a vacancy. Motion carried 6-0.

Reports and Recommendations:

Kent Lopez, Cherry County Road Superintendent, joined the meeting per Chairman Swanson's request to discuss the impact on the roads from CUP 001/20 Danielski Farms/Valentine Feeders Swine facility to be used for breeding, gestation, and farrowing. Kent reported that the road is a hard surface road with s curves that is made of millings and armor coated. Kent stated that it might need a little more shoulder close to the site entrance and need armor coating from time to time to keep up with traffic. He did not feel that the loads would be any different from what are currently on it. He stated that when meeting oncoming traffic that both should be able to stay on the road with 3-4 feet between them. In conclusion Kent said the road is adequate.

Mike Murphy and Tim Storm, with the Middle Niobrara Natural Resources District, joined the meeting to per Chairman Swanson's request. Mike stated that if there is a breach in the holding facility then the governing body of NDEE would come in and take over testing. Mike also stated that a pit system is one of the safest systems to use for holding. Tim said there is a monitoring well ½ mile west of the proposed facility currently and the NRD tests every year currently. Mike stated by using more organic fertilizer instead of commercial it gets the soil back to more natural materials. Mike did state that if the Planning Commission or Commissioners wanted to, they could request an additional monitoring well per the applicant's expense. Chairman Swanson stated in conclusion to the discussion that if there was to potentially be a leak then the owner would report first to NDEE, if not then the monitoring well would pick up on it. NDEE and the state would be the governing body to enforce any infractions on the leaking into the ground water.

New Business:

Set Date and Time for Public Hearing on CUP 001/20 Danielski Farms/Valentine Feeders Swine facility to be used for breeding, gestation, and farrowing

The board agreed to set the date and time for the Public Hearing on CUP 001/20 for November 12, 2020 at 4:45 PM CT at the Cherry County Fairgrounds 4-H building to allow for space for social distancing. If this date didn't work then try for November 10, 2020.

Set Date and Time for Next Meeting

Next regular meeting is set for November 12, 2020 at 4:30 PM CT at the Cherry County Fairgrounds 4-H Building.

Old Business:



Cherry County Planning and Zoning Minutes



Review and Discuss the Comprehensive Plan

No discussion

Reports and Recommendations:

Chairman Swanson stated to the other board members that if they wanted any expert to come and speak at a meeting to let the Zoning Administrator or himself know.

Excused Absence:

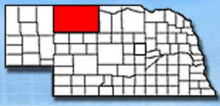
Chelsea L. made a motion to excuse Dave Rogers and Michael McLeod from the meeting. Seconded by Wade A. Roll call vote was taken. Dave R.-Absent, Chelsea L.-Yes, Wade A.-Yes, Michael M.-Absent, Duane K.-Yes, Gary S.-Yes, John L.-Yes, Albert E.-Yes with a vacancy. Motion carried 6-0.

Chairman Swanson made a motion to adjourn the meeting at 6:07 PM CT.

Jessica Coyle

Zoning Administrator

APPROVED



Cherry County Planning and Zoning Minutes



CHERRY COUNTY PLANNING COMMISSION MINUTES

November 12, 2020

Cherry County Fairgrounds 4-H Building

The meeting was called to order at 4:30 PM CT by Chairman Gary Swanson in advertised location of the Cherry County Fairgrounds 4-H Building at 120 S. Green St. in Valentine, NE.

Roll call was taken. The following members were present: Chelsea Luthy, Wade Andrews, Michael McLeod, Duane Kime, Gary Swanson, John Lee, and Albert Ericksen with a vacancy. Dave Rodgers was absent. Also present were Jessica Coyle, Zoning Administrator, Keith Marvin, consultant for Planning Commission, and various members of the public.

The Open Meetings Act was noted, as was the public notice in the Valentine Midland News pertaining to this meeting.

Approval of Minutes:

Duane K. made a motion to approve the minutes from the October 6, 2020 meeting. Albert E. seconded the motion. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Abstain, Duane K.-Yes, Gary S.-Yes, John L.-Yes, and Albert E.-Yes. Motion carried 6-1 with abstention.

New Business:

The date for the next meeting is December 1, 2020 at 4:30 PM CT in the Courthouse Courtroom.

Communications:

None were given by the Zoning Administrator or Planning Commission Members

Excused Absence:

John L. made a motion to excuse Dave Rogers from the meeting. Chelsea L. seconded the motion. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John L.-Yes, and Albert E.-Yes. Motion carried 7-0.

Public Hearings:

Public Hearing on CUP 003/20 Bow & Arrow Ranch LLC Conservation Easement:

Chairman Swanson opened the Public Hearing at 4:45 PM CT as advertised in the Valentine Midland News by reading the ad that ran in the October 28th and November 4th editions.

Tom Davis was there representing the application. Tom stated that the application stands on its own and the land is going to stay agricultural use and ranching.

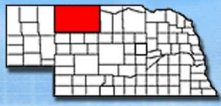
Jacob Alishause with Nebraska Land Trust was there to answer questions. Jacob stated that Nebraska Land Trust is an agriculturally based board governed non-profit started in 2001.

Chelsea L. asked Jacob if the easement is perpetual and can be sold. Jacob responded yes.

Wade A. asked if there is a secondary easement holder. Jacob stated that there is not on this easement.

Chairman Swanson closed the Public Hearing on CUP 003/20 Bow & Arrow LLC Conservation Easement at 4:57 PM CT.

Discuss and Act on CUP 003/20 Bow & Arrow LLC Conservation Easement:



Cherry County Planning and Zoning Minutes



Duane K. made a motion to approve CUP 003/20 Bow & Arrow LLC Conservation Easement. Albert E. seconded the motion. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John L.-Yes, and Albert E.-Yes. Motion carried 7-0.

Public Hearing on CUP 001/20 Danielski Harvesting & Farming LLC/Valentine Feeders Swine Facility:

Chairman Swanson opened the Public Hearing at 5:01 PM CT as advertised in the Valentine Midland News by reading the ad that ran in the October 28th and November 4th editions.

Chairman Swanson entered Exhibit #1 Application; Exhibit #2 Keith Marvin's response dated July 11, 2020; Exhibit #3 letter from McGrath North dated November 11, 2020; Exhibit #4 Current Comprehensive Plan; and Exhibit #5 Current Zoning Regulations into the record.

Chris Danielski was representing the applicant. Chris stated that they are a 3rd generation operating farm in Cherry County. He said the application is a well thought out plan for improving soil health by eliminating commercial fertilizer.

Chris Danielski read a letter from Leonard Danielski. Leonard said that his family moved to the area when he was 17 years old. His letter stated that the family has been studying this project for the last 5 years and this is not an experiment. They have been organic farming for the last 10 years using chicken manure, but will now be able to produce the fertilizer here. He also stated the family motto of "You take care of the land and it will take care of you". Leonard's hope is that this will bring youth back to the area with the 80 jobs it will create.

Chris Danielski then introduced Dean Settje of Settje Agri-Services & Engineering in Raymond, NE. Dean Settje gave background of their company and projects they have worked on. Dean stated that they worked with the Danielski's to create an application to submit to both the State/Federal Environmental Compliance (Nebraska Department Environment Energy) and County Zoning. Settje's not only help with the permitting and construction, but the management of the operation including compliance, record keeping, and nutrient management.

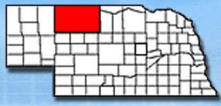
Eric Ogren spoke on the PIC multiplier and that this facility is a sow farm. It would produce breeding sows to go into other facilities. Eric stated that the reason for the location is the biosecurity and being distanced away from other swine facilities. Eric said it will be stocked once and breeding done with artificial insemination, weaned pigs will leave at 21 days, and barrows will go to customers, and sows to other farms.

Dean Settje spoke again about the Nebraska Department Environment Energy (NDEE) permit and its components. The permit has been approved by NDEE. The facility is a Deep Pit Swine facility with manure storage for 365 days and mortalities of onsite composting with the best ventilation system. Dean showed the impact on traffic and economics. The manure is kept uniform being stored in the pits and will be injected into the soil using a dragline. Dean showed how they used the Odor Footprint tool from UNL and its comparison to the county setbacks. Inclosing he stated they feel they have met all the requirements of the CUP, zoned ag, good roads, good climate, and biosecurity.

Lee Hamann, Ed Brown's attorney, from McGrath North referenced his letter submitted on November 11, 2020. He was concerned with the animal units exceeding 2,000, water quality, odor mitigation, roads, schools, and asked Planning Commission to do research to protect the welfare of the citizens. Does not want both phases approved, but have applicant apply for Phase 2 after Phase 1 is operating.

Jay Ringenberg, a principal at JDR Environmental LLC and previously worked at NDEQ, was concerned with the odor and that NDEE doesn't monitor or control this, feels the applicant needs to revise the nutrient plan to state injection only and show transporting of manure. He feels the county need to make sure that these are done.

Dale Jacobson, engineer from firm in Omaha, spoke on the wind rose and that predominantly the winds are from the NW in the spring during application and will blow towards the Two Rivers Ranch. Dale feels the Planning Commission



Cherry County Planning and Zoning Minutes



should recommend that 3 monitoring wells be installed and monitored 3-4 times a year. Dale also feels a professional engineer study needs done on the German Settlement road.

Heather Painter, from Ainsworth, spoke on her experience of living next to the 1st swine facility in Brown County. Heather stated property values decreased, health issues in family, interpreters in school systems, and that there's tax credits for building facilities like the one being proposed.

Rick Weber stated that Danielski's are 1st class citizens and community minded giving back to the community. He feels that this will be an asset to the community.

Ed Brown, rancher on German Settlement road for 30 years, stated he does not want change, road concerns, property values decrease, and quality of life. He said he has a right to quiet enjoyment and questions if there will be other facilities.

Rodney Palmer, lawyer from Ainsworth, owning a cow/calf operation close to a swine facility and is Ed Brown's attorney. He stated he's noticed that county has to maintain the roads more, Danielski's don't need this to survive, odor carries 7-8 miles away, and Brown County Planning Commission and Commissioner's turned down a hog confinement **with costs being a factor**. Provided a letter with his testimony that will be kept on file with other written testimony.

Mike Murphy, Middle Niobrara Natural Resources District (MNNRD) representative, provided a letter that he read into testimony. He stated that the deep pit style of manure storage is the best and has no failure in Nebraska. He stated that Danielski's have voluntarily complied with monitoring and that ag is a vital economic activity in Cherry County.

Tagg From, manages Two Rivers Ranch, stated his concerns are odor, property values, road safety, and do the schools know the impacts of the facility. He stated that if this is better than the fertilizer before than how bad was it before.

Craig Andresen stated the he feels that Tagg and Ed's right to quiet enjoyment will disappear, increase traffic in Crookston, right to quiet enjoyment should be part of Zoning Regulations, and a written statement from neighbors should be part of the application.

Gregg Perrett stated citizens like goods roads, but are all the swine, chicken and gravel pits going to come from China.

Kim Snyder, lives 2 miles from a facility in Ainsworth, spoke on the experiences they have had and the changes they have had to make in their lives. Kim said she feels that the facility comes at a high cost to taxpayers, only here for the biosecurity, and does not want the application approved.

Jayne From, lives on German Settlement road, stated her children are her why due to them traveling the road for school, gave statistics on truck accidents, and feels a study needs done on the road along with a traffic survey.

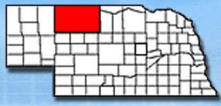
Shirley Schuman, a concerned citizen of Crookston, stated where are the workers going to live with no affordable housing and concerns the school systems.

Nina-Marie Nelson, live 1.5 miles from site, stated does not understand the setbacks, health concerns, property values threatened, enjoyment of land will change, and concerns with the increase in crime with the workers. She also stated smell is an annoyance.

Craig Miles stated he does not understand why Danielski's got approval from State before the county level and wants to know what is going to be forfeited in Cherry County.

Eve Millar, lives 2 miles SE of proposed site, stated concerns of the road maintenance and costs, housing for workers, and where are the workers coming from.

Zoning Administrator entered into the record written testimony provided from Wilbur Fay, Jay D. Ringenberg, and DD Consulting.



Cherry County Planning and Zoning Minutes



Chairman Swanson took a recess and resumed the meeting at 7:31 PM CT.

Zoning Administrator gave written testimony provided during recess to board from Casey Lancaster.

Chairman Swanson gave the applicant time to rebuttal.

Dean Settje stated that there's no plans for onsite housing, groundwater is important and comes from mismanagement, requested to leave the NDEE to monitor and enforce the monitoring wells, odor control footprint and county setbacks are met, and explained the reason for different directional setbacks is due to prevailing winds.

Chairman Swanson asked Rodney Palmer what are the types of facilities in Brown County? Rodney had left, but Kim Snyder spoke that the one is a deep pit lagoon and the other is pull plug deep pit.

Chairman Swanson asked Mike Murphy about installing monitoring wells and who would be responsible for the monitoring of these wells. Mike stated that there is already a monitoring well that is checked yearly. If the county insists on additional wells and has the MNNRD monitor, then it will cost the county. Mike also stated there is no state statute requiring these be done. Mike suggested that all individuals have a test done on their personal wells now for a baseline.

Duane K. asked Danielski's about how much truck traffic now on the road. Chris Danielski said truck traffic will decrease to 210 loads a year. Luke Moser also noted that the yields on the fields decreases with organic fertilizer, in turn decreasing traffic during harvest.

Wade asked for clarification on the total animal units exceeding the 2,000. Dean Settje stated yes it does exceed.

Chelsea L. asked Danielski's based on the site is there room for expansion and if it has been thought about. Dean Settje stated the expansion is already there and is why it is a 2-phase project. Luke Moser stated no room without taking out a field. Chris Danielski said there is no intention of expansion.

Albert E. asked if 100% of voluntary easements were signed. Dean Settje stated that the Cattle Country Easements were signed for all residence within the setbacks. Dean stated that Nina-Marie Nelson's residence is outside the setback.

Keith Marvin asked Dean Settje if there's 365 days of storage for both Phases of the project. Dean Settje stated that yes both phases will have 365 days of storage.

Chelsea L. asked why the 5-year timeline. Dean Settje responded that phase 1 will take 1-2 years to build and getting operating. After phase 1 is operating they will then start and implement phase 2.

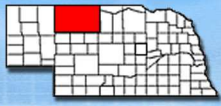
Keith asked if the application given to the county was amended to the NDEE. Dean Settje stated that yes, the NDEE application given to the county was amended to NDEE to state injection only for application of manure.

Chairman Swanson asked if they will be pumping manure across Minnechaduza Creek. Dean Settje said that no there will not be any pumping across the river. If they use the fields farther than 3 miles away, then will haul by truck. Chris Danielski said it is not feasible to pump that far and only included those fields if needed.

Duane K. asked if they would end the project with phase 1 if they cannot find help. Chris Danielski said no it will not end with phase 1. They will use H2A, contract labor, and migrant workers for help if needed. Dean Settje stated that is also a reason for needing 5 years to complete.

Keith Marvin asked if the county has the amended application. Dean Settje said they can provide, and Chris Danielski said the approved NDEE permit states only injection for application.

Wade A. asked about the mortality plan. Chris Danielski said that it is by composting and the final project will be odorless with smell only coming when turned. Dean Settje said that animals will be mixed with sawdust.



Cherry County Planning and Zoning Minutes



John L. asked if the composting bays are concrete. Dean Settje said yes and that 90% of the mortality is in young stock so easier and quicker to compost. Eric Ogren said that a 3:1 ratio of wood chips to animals will be used.

Chairman Swanson asked Nina-Marie Nelson to verify her residence on a map.

Keith Marvin advised that if they table a decision then no outside communication between now and next meeting. If they want more information, then need to continue the hearing.

John L. asked Mike Murphy about the confinements in Brown County and their storage for manure. Mike Murphy stated that they are lined pits and open lagoons with liners that are open to the air. Mike also stated that the manure storage system being proposed is the best.

Albert E. asked if the ventilation blows the air out of the pit then would odor be the same. Dean Settje said that the pit fans create a consistent air flow to control odor and not create a plume. Dean stated that a deep pit is a controlled environment.

Keith Marvin asked Dean Settje if this facility is like those by Central City. Dean Settje responded he was not positive if they are.

Chairman Swanson stated the options the board has for the meeting.

Wade A. asked Keith Marvin if the relationship between the application and the current Comprehensive Plan are an issue with over 2,000 animal units. Keith responded that the current Zoning Regulations allow for the Board of Commissioner's to approve the overage if the applicant can prove acceptable assurances.

Chairman Swanson said that the current regulations are deliberately made this way.

Keith Marvin stated the positives to the double the capacity of the deep pit storage on a windy day. Keith also stated that the technologies for hogs exceeds cattle in terms of odor and Planning Commission should go visit a facility for themselves.

Albert E. asked Keith Marvin if they could just approve Phase 1. Keith Marvin stated yes.

John L. asked how many employees it would take to just run Phase 1. Eric Ogren responded that portions of Phase 1 are built for running both phases, but it would be approximately 30-35 people.

Duane K. made a motion to close the Public Hearing on CUP 001/20 Danielski Harvesting & Farming LLC/Valentine Feeders Swine Facility. John L. seconded the motion. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John L.-Yes, and Albert E.-Yes. Motion carried 7-0.

Chairman Swanson closed the Public Hearing at 8:29 PM CT on CUP 001/20 Danielski Harvesting & Farming LLC/Valentine Feeders Swine Facility.

Discuss and Act on CUP 001/20 Danielski Harvesting & Farming LLC/Valentine Feeders Swine Facility:

Chairman Swanson asked Keith Marvin to identify some of the issues and give ideas of conditions to attach with a recommendation to the Board of Commissioner's.

Chairman Swanson asked Keith Marvin if the application meets the requirements of Zoning Regulations. Keith Marvin stated that they do meet the regulations with the exception clause of exceeding 2,000 animal units.

Chelsea L. discussed the phasing of the whole project and making the conditions strong.

Duane K. made a motion to table approval or disapproval of CUP 001/20 Danielski Harvesting & Farming LLC/Valentine Feeders Swine Facility until the next meeting. Wade seconded the motion. Chelsea wanted clarification on reason



Cherry County Planning and Zoning Minutes



behind motion. Duane K. stated it was to gather more information on your own and visit a facility like the one proposed. Roll call vote was taken. Chelsea L.-Yes, Wade A.-Yes, Michael M.-Yes, Duane K.-Yes, Gary S.-Yes, John L.-Yes, and Albert E.-Yes. Motion carried 7-0.

Reports and Recommendations:

None

Adjournment:

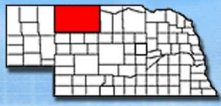
Chairman Swanson made a motion to adjourn the meeting at 8:41 PM CT.

Jessica Coyle

Zoning Administrator

Approved with Changes in red as per Rodney Palmer request and motion made by Albert E. to approve as amended on December 1, 2020.

APPROVED



Cherry County Planning and Zoning Minutes



Cherry County Planning Commission Minutes

December 1, 2020

Cherry County Courthouse Court Room

The meeting was called to order at 4:30 PM CT by Chairman Gary Swanson in the advertised location of the Cherry County Courthouse Court Room.

Roll call was taken. The following members were present: Chelsea Luthy, Wade Andrews, Michael McLeod, Duane Kime, Gary Swanson, John Lee, and Albert Ericksen with a vacancy. Dave Rodgers was absent. Jessica Coyle, the zoning administrator, was also absent.

The open meetings act was noted, as was the public notice in the Valentine Midland News pertaining to this meeting.

Approval of Minutes:

Rodney Palmer requested that the minutes of his testimony be corrected to read "confinement with costs being a factor." Albert Ericksen made a motion to approve the minutes as amended. Duane Kime seconded the motion. A roll call vote was taken: Michael McLeod-yes, John Lee-yes, Wade Andrews- yes, Albert Ericksen-yes, Duane Kime-yes, Chelsea Luthy-yes, Gary Swanson-yes. The motion carried 7- 0 .

Public Comment:

The Planning commission was addressed by Tagg From, Nina Nelson, David Nelson, Mike Young, Cristen Witte, Katie Kruger, Chris Danielski, Dean Settje, Carolyn Semin, Leonard Danielski and Jayme From.

New Business:

Chairman Swanson verbally reviewed each of the individual oral testimony given at the Public Hearing for CUP 001/20 and indicated the relevance to the Cherry County Zoning Code. Duane Kime reported on his trip to Iowa to inspect a hog confinement similar to the CUP 001/20. Chairman Swanson reported on his inspection of the hog confinements north of Ainsworth and east of Purdum. After some discussion, the commissioners reviewed the recommendations from Keith Marvin on CUP 001/20. After more discussion, it was agreed to modify and add to Keith Marvin's recommendations. A rough draft was created for Keith Marvin to examine and correct and to be returned to the Planning Commission at the next meeting. Duane Kime made a motion to table approval or disapproval of CUP 001/20 until the next meeting. Albert Ericksen seconded the motion. There being no discussion a vote was taken: Michael McLeod-yes, John Lee-yes, Wade Andrews-yes, Albert Ericksen-yes, Duane Kime-yes, Chelsea Luthy-yes, Gary Swanson-yes. The motion carried 7-0.



Cherry County Planning and Zoning Minutes

**Set Date and Time for the Next Meeting:**

The next regular meeting is set for January 5th 2021 at 4:30 at the Cherry County Courthouse.

Old Business:

There was no old business

Communications:

There were no communications

Excused Absence:

Wade Andrews made a motion to excuse Dave Rodgers. The motion was seconded by Michael McLeod. A roll call vote was taken: Michael McLeod-yes, John Lee-yes, Wade Andrews-yes, Albert Ericksen-yes, Duane Kime-yes, Chelsea Luthy-yes, Gary Swanson-yes. The motion carried 7-0.

Chairman Swanson made a motion to adjourn the meeting at 6:55 PM CT.

Michael McLeod

Secretary

Minutes were approved with corrections of spelling of Michael McLeod and Albert Ericksen's names, missing part of CUP 001/20, and time of adjournment to 6:55 PM CT.

APPROVED with Corrections