

Cherry County Board Minutes



BOARD OF COMMISSIONERS MINUTES SPECIAL MEETING – PUBLIC HEARING February 11, 2021

The Cherry County Board of Commissioners met in special session on February 11, 2021 at 2:00 PM in the Cherry County Courtroom, as per notice in the Valentine Midland News, with the agenda being on file in the office of the County Clerk. The meeting was called to order at 2:00 PM by Chairman Storer. Roll call was taken. Present for the meeting were Cherry County Commissioners Tanya Storer, Martin DeNaeyer, James Ward, Cherry County Deputy Clerk Elise Hamling, Zoning Administrator Jessica Coyle, and Cherry County Attorney Eric Scott. The Open Meetings Act Poster was acknowledged by Chairman Storer and the Pledge of Allegiance was recited.

At 2:01 PM Chairman Storer opened the Public Hearing regarding Conditional Use Permit Application #CUP-001/20 Danielski Harvesting & Farming LLC/Valentine Feeders Swine Facility to be used for breeding, gestation, and farrowing to be located in SE ¼ of Section 33 of Township 34N, Range 30W of the 6th PM.

Commissioner Storer reviewed expected etiquette for the public hearing. Written testimony submitted in quadruplicate will be received until the end of the hearing, verbal testimony is limited to three minutes, testimony should be kept germane to the purpose of the hearing.

Designated by the permit applicants, Dean Settje, founder of Settje Agri-Services, the design-build firm contracted to implement this facility, presented information regarding the project overview, background, planning, implementation techniques, permitting requirements and process and the support offered by his company to their clients for the long-term success of facilities like the one Danielski Harvesting & Farming LLC/Valentine Feeders Swine Facility have applied to build. Mr. Settje outlined the project scale and broke the implementation plan process into two phases. He continued on to detail the numbers of livestock expected to be held, rotate through, and leave the facility regularly. Mr. Settje outlined many requirements and standards set by the Nebraska Department of Environment and Energy, here forth referred to as NDEE, and by the Natural Resources Conservation Service, here forth referred to as NRCS in regard to the constant consideration and safeguards for ensuring environmental safety. The plan for the applicants to exceed the minimum requirements set forth by these agencies was explained.

Mr. Settje presented information regarding continued compliance planning, positive economic impact projections, local cooperative opportunities, and anticipated tax revenue income for Cherry County.

Mr. Settje addressed many common concerns regarding hog-confinement facilities such as: the composting process of carcasses, ventilation in the facility and the impact on the surrounding area including odor and the system by which that is measured, and how an unreasonable odor would be established and handled.

The Board engaged in conversation with Mr. Settje regarding the Odor Footprint Tool that was used to establish the 'acceptable odor annoyance rating' referred to in these applications. Commissioner Storer noted a recently issued Nebraska Supreme Court Opinion which established precedence in the validity of this tool developed by the University of Nebraska-Lincoln. The conversation went on to address the specific phases of the project, implementation timeline, building specifications, and inquiries regarding who preforms construction inspections throughout project.

At 3:06 PM Chairman Storer opened the floor for public testimony.

Approximately 25 members of the public provided verbal testimony in regard to Conditional Use Application #001/20 which was submitted by Danielski Harvesting & Farming LLC/Valentine Feeders Swine Facility including: Rodney J. Palmer, Tonny Beck, Lee Hamann, Tagg From, Rick Weber, Jerry Adamson, Gordon Suhr, Ed Brown, Levi Brott, Howard White, Steve Martin, Jayme From, Marla Shelbourn, David Nelson, Kris Bousquet, Gordon Witte, Darrel Sinkler, Nina Nelson, Jessica Piskorski, Duane Kime, Rod Schmidt, Mike Murphy, Todd Adamson, Janet Parkhurst and Robert Parkhurst.

Concerns expressed during public testimony included: the possibility for road maintenance issues and the cost to the taxpayers; concern about the legitimacy of the tool used to anticipate true odor and the potential repercussions should the odor exceed the limit allowed by the permit; excess traffic during construction; volume of deceased animals being composted and the mitigation plan regarding coyotes; surface water runoff concerns regarding fertilizer application and proximity to the Minnechaduz Creek; concern about scale of the project, possibility of odor impacting the value and enjoyment of the property of adjacent landowners; the possibility of deterring potential residents; influx of additional similar facilities; alleged minimal consideration by the Planning Commission; conflicting environmental studies; wage distribution offered to employees; allegations of conflicts of interest; possibility for fertilizer line failure; deterring tourism, and the impacts of excess phosphorus presence in the soil due to overuse as a result of overproduction.

Support expressed during public testimony included: the cap rock soil structure provides significant protection to the groundwater from the risk of leaching of nutrients and potential contamination; positive impacts on local population; economic growth; history of applicants for this project having contributed in many ways to this community for many years; the respect of personal property rights; ability in agricultural communities to diversify income and the expansion of enterprise and growth of Nebraska agriculture as a whole; ideal secluded location for biosecurity and the health of livestock; appreciation for the opportunity to purchase organic fertilizer from a neighbor rather than synthetic chemicals currently being purchased from non-local source; the reassurance that technology in agriculture has improved as much as technology in other aspects of life; if rules, regulations and requirements are met then there should be no issue with allowing a project such as this; importance of personal property freedoms and respect for those of neighbors; agricultural diversification should be encouraged to allow it to support generations to come.

The Board addressed additional comments received by the public which did not pertain to the application process and its consideration by the Board of Commissioners. Accusations from one member of the public regarding potential conflicts of interest were discharged by Commissioner Ward.

Duane Kime, Planning Commission Member, and Commissioner Storer shared their separate experiences visiting a similar facility in Iowa. Both accounts indicated that neighbors to facility did not communicate any displeasure with their home being in close proximity to the visited hog confinement facility.

The Board conferred with Middle Niobrara Natural Resources General Manager Mike Murphy about the process for ensuring that the environmental impact of a facility like this is monitored effectively and they went on to inquire about the responsibility allocation of this management. Mr. Murphy indicated that it is a collective effort put forth by the NDEE, NRCS, as well as the MNNRD to ensure the protection of the water and the soil that could be affected by this project.

Written testimony regarding this public hearing was submitted by Dave and Nina Nelson, Jessica Piskorski, Marla Shelbourn, Gordon and Jennifer Suhr, Rodney J. Palmer, Lee Hamann, McGrath North, N Cross Ranch, Bernard & Lovella Miles, and John Ravenscroft.

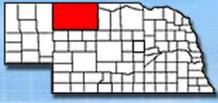
Applicant Representative Dean Settje addressed various concerns presented by meeting attendees such as: concerns with failure in the facility structure which depend heavily upon the integrity of the long term management and maintenance by the Danielski's, the nutrient management process is highly regulated by the NDEE and the overuse or misuse of fertilizers are expectedly rare due to integrity of users and value of products, thorough explanation of the salaries and benefits being offered to employees including range of wages and values of benefits that include many positions for all ranges of labor force and the encouragement of those laborers of all positions to be filled by local workers as they intend to be good careers with full benefits which are rare in small communities, explanation of fly control practice of keeping vegetation short and maintained as well as ventilation exceptional within the facility.

Applicant Leonard Danielski addressed a concern about the potential for one facility like this to attract other similar facilities. Mr. Danielski noted the obligation by an applicant for such a project to demonstrate they have significant agricultural application use within the vicinity in order to be considered. The minimal amount of farmland in Cherry County inherently limits the demand for such products.

At 6:08 PM Chairman Storer closed the public hearing.

The Board discussed the need for more time to review and gather information prior to taking action. Commissioner Ward moved and DeNaeyer seconded to table the adoption of Zoning Resolution #Z-85 #CUP-001/20 until their March 9, 2021 meeting at 11:00 AM. Roll call: Ayes – Storer, DeNaeyer, Ward. The motion carried.

At 6:11 PM, with no further business to come before the Board, Chairman Storer declared the meeting adjourned.



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