

MINUTES OF THE
KEARNEY COUNTY PLANNING COMMISSION
April 3rd, 2023

Notice was published in the local paper March 22nd, 2023 & March 29th, 2023, Landowners letter mailed to all landowners within 1 mile of property, Sign posted on Property, and posted on Calendar of Kearney County website. The agenda was kept continuously current at the office of the Kearney County Zoning Administrator.

A meeting of the Kearney County Planning Commission was called to order by Chairman John Kuehn in the Assembly room of the Courthouse in Minden, Nebraska Kearney County at 7:03 pm on April 3rd, 2023. Announced that a copy of the Open Meeting Act was posted on the wall for anyone that wish to review it and all proceedings hereafter shown were taken while the meeting was open to the attendance of the public and in accordance with the Open Meeting Act.

Roll Call:

Members Present: John Kuehn, Malcom Dornhoff, Patty Lundeen, Tom Anderson, Terry Buettner, Kevin Raun, John Harris

Members Absent: Jody Casper, Dawn Thompson

Also, present: Kearney County Zoning Administrator Joseph Anderson and Kearney County Attorney Melodie Bellamy

Chairman John Kuehn asked if everyone had a chance to look over the minutes from the previous meeting on January 9th, 2023. Kearney County Attorney Melodie Bellamy read the minutes from the January 9th, 2023. After reading of the minutes Terry Buettner made a motion to approve the minutes seconded by Patty Lundeen.

Aye: John Kuehn, Malcom Dornhoff, Patty Lundeen, Tom Anderson, Terry Buettner, Kevin Raun, John Harris

Nay: NONE

Members Absent: Jody Casper, Dawn Thompson

Chairman John Kuehn stated that this meeting is for a public hearing for a special use application made by David M. Olsen LLC to operate a Livestock Confinement Facility. Kevin Raun made a motion to open public hearing, Malcom Dornhoff seconded.

Aye: John Kuehn, Malcom Dornhoff, Patty Lundeen, Tom Anderson, Terry Buettner, Kevin Raun, John Harris

Nay: NONE

Members Absent: Jody Casper, Dawn Thompson

Public Hearing opened at 7:13 pm

Chairman John Kuehn asked for the applicant and anyone in favor of the applicant to come up and speak.

Steve Mossman - attorney for David M. Olsen LLC open by explaining the booklet that he handed out prior to the meeting for the board members to review. Stating the that the booklet has information on the different impacts that livestock and confined feeding operations have on communities. Steve Mossman

also explained the split in ownership from the cattle operation and how David M. Olsen LLC has obtained a NDEE permit to operate the facility separately from the cattle feeding operation.

David M. Olsen - wanted to speak about some of the concerns that have been brought up in previous meetings. He started with the high nitrates levels that some of the ground water monitor wells were showing. David explained that before construction of the swine barn the nitrate levels were high and it was thought that there was just a natural level of high nitrates in that area. And that he is in compliance with ground water monitoring since the level of nitrates has not went up but has actually went down some over the years. And that there had been a well that was west of this operation that had to abandon there well due to high levels of nitrates. Second, he explained how the manure from the swine facilities is not ran through center pivots and that it is injected into the ground with ground equipment a couple times a year and that they can utilize 3.5 quarters of ground but only use 1 to 1.5 quarters each application.

David Grimes – Spoke in favor of approval of the Special use Permit stated the Olsen were good stewards of the land and that livestock add value to the economy of Kearney County and Nebraska.

John Kuehn asked if there was anyone else that would like to speak in favor of the application.

With no one else wanting to speak Chairman John Kuehn asked if there was anyone that wanted to speak against the application.

Wendy Clark – said that hog confinement like the one that Olsen's has is not the traditional Ag that everyone is used to. And is not the use that the was attended for the district. That this is more of an industrial use and not agriculture. It is not a small operation and it is part of a large organization that spans over multiple counties. She also stated that there is a huge potential for an environmental disaster if something would happen to where the manure was stored. Wendy also spoke on the number of animals that are allow or permitted to be in the building and how many animals are actually in the building at any given time and that no one is going to able to find out how many animals are in the building due to bio-security issues that don't allow for people to enter the building. This building is only permitted to have 6,250 head of swine over 55 pounds and that there is NDEE documentation stating that at times there has been 6,600 head of swine over 55 pounds. Wendy further stated that since this facility is only supposed to have 6,250 head of swine over 55 pounds that this should be a Class "B" facility with a limit of 2500 animal units. And that she would not have a problem if the board granted David M. Olsen LLC. a permit for a Class "B" facility. Stated that the method of animal disposal has been composting animals and that has not been an approved way to dispose of dead animals and that this method of disposal is not an approved land use for Kearney County.

Luke Deaver – attorney for Wendy Clark stated that since this facility is currently only permitted to have 6,250 head of swine which is 2,500 animal units by Kearney County definitions is a Class "B" facility of 1,001 to 2,500 animal units. That since this is a class "B" facility the application for a Class "C" facility should not be approved. Luke spoke on how the Olsen's had applied for a Special Use Permit for a Class "D" permit of 5,001 to 7,500 animal units and that permit had not been approved by either denied or if that permit had been withdrawn. And that at that time the property was all one owner with one NDEE permit. And that by simply creating two parcels and changing the name on the land and NDEE permits this does not mean separate ownership and that by Kearney County Regulation 3.48 it states that "Two or

more livestock operations under common ownership shall be deemed to be a single livestock facility/operation if they are adjacent to each other or if they utilize a common area or system of disposal of livestock waste.”

Brandi Hardenbrook – Stated that the current facility has had some effect on what and how they are able to do things outside due to odor issues. And if there were any further growth of the facility it could make the odor issue worse for them. The board asked how long they have lived there. Brandi stated that they have lived there for 15 years.

Chairman John Kuehn asked if there was anyone else that would like to speak against the application. With no one else to speak Steve Mossman was given the time for rebuttal of the comments made.

Steve Mossman – Stated that he had four things to say.

1. The Nitrate levels that the test wells are showing are not from the operations that the levels were high before it was built and that there are other wells in the area that are “upstream” from the facility that show high levels of Nitrates.
2. That this is still a family operation and that just because something is Automated or uses technology that doesn’t mean that it is not agricultural use. That in today’s age there are many levels of “high tech” is used in Ag today.
3. Wanted to explain that they applied for a class “C” permit due the fact that the building can operated at a level that is over 6,250 head and that they are currently working to get permitted from NDEE to add 250 additional head in the building and that would make them a class “C” facility.
4. Explained that the Cattle operation in the NE ¼ of Section 5 township 6 Range 15W is owned by a partnership with David Olsen, Russ Olsen and Jake Olsen and that the swine operation is owned solely by David M. Olsen so there is a difference in ownership and that this is not a common ownership. Further explained that with these being two very different types of operations from how the animals are kept and feed to how the manure to applies and just because the two land owners had adjoining ground the two operations are not adjacent to each other but in fact they are almost ¾ mile apart from each other.

Chairman John Kuehn stated that if there not more comments that a motion to close the public hearing. Patty Lundeen made a motion to close the public hearing, seconded by Terry Buettner.

Aye: John Kuehn, Malcom Dornhoff, Patty Lundeen, Tom Anderson, Terry Buettner, Kevin Raun, John Harris

Nay: NONE

Members Absent: Jody Casper, Dawn Thompson

Public Hearing closed at 8:20 pm

Patty Lundeen asked David Olsen when it comes to ownership who be held liable. David Olsen or Thomas Livestock?

David Olsen responded that all the permits are in his name and that he would be the one that is held liable.

Melodie Bellamy asked David Olsen if the NDEE were to fine the operation who would have to pay that fine?

David Olsen responded that he would be the one that would have to pay the fine.

David Olsen asked Joseph Anderson that if the NDEE sends out a "Letter of Violation" doesn't the county get a copy of that? Joseph Anderson stated that Kearney County does receive a copy of that letter.

Wendy Clark asked Joseph Anderson had received a letter of violation for having 6,600 animals in the building. Joseph Anderson stated that he had not received a letter of Violation from NDEE.

Melodie Bellamy – stating the Olsen's had indicated that they do not intend to build a second building but just continue to operate the building that is currently there. Melodie further explained the requirements to the board to grant a Special Use Permit and stated that the board could recommend approval with restrictions. For example, if the board wanted to recommend approval of a class "C" facility but have a limit of 3,200 animal units.

Steve Mossman - responded that David M. Olsen LLC. would be OK with 2,750 animal units since they do not attend to build a second building but just want to be able to fully utilize the facility that they have now without having to worry about violating rules and regulations.

Terry Buettner stated that he works for Ward Laboratories in Kearney NE and sees a lot of water samples across the state and other livestock confinement facilities and that this operation is not the cause of the high Nitrate levels found in the monitoring wells near the facility.

Kevin Raun asked Melodie Bellamy how she came up the 3,200 animal units? Melodie responded that she just pulled out a number to see if there would be able to be a compromise that would allow them to have more than 2,500 animal units but not allow them enough to be able to build a second building.

After discussion Terry Buettner made a motion to recommend approval of the Special Use Permit filled By David M. Olsen LLC to operate a Class "C" livestock confinement facility with the limit of 2,750 animal units. Malcom Dornhoff Seconded.

Aye: John Kuehn, Malcom Dornhoff, Patty Lundeen, Tom Anderson, Terry Buettner, Kevin Raun, John Harris

Nay: NONE

Members Absent: Jody Casper, Dawn Thompson

Joseph Anderson stated that he has been to contact with Hanna-Keelan and that there is some discussion about how Kearney County would get the zoning regulations and wither or not we would be able to change them later if we needed to. But once we can get that figured out with should be ready to move forward and start having some public input meeting on updating the comp plan.

Chairman John Kuehn asked if there was any other business that needed to be discussed. With no other business Tom Anderson made a motion to adjourn at 9:06 pm seconded by Malcom Dornhoff.

Aye: John Kuehn, Malcom Dornhoff, Patty Lundeen, Tom Anderson, Terry Buettner, Kevin Raun, John Harris

Nay: NONE

Members Absent: Jody Casper, Dawn Thompson

Next Meeting will be set at a later date.