

July 6, 2017

The Board of County Commissioners met in regular session Thursday, July 6, 2017 at 9:00 a.m.
Members present: Travis Mockler, Phyllis Packard, Leo Powell, Micheal Manning, and Richard Hammond.

Manning moved, seconded by Packard and carried to approve the agenda with the addition of the gun club discussion.

Minutes of the June 27, 2017 meeting were approved with a motion by Packard, seconded by Hammond and carried.

Rod Polley, Highway Superintendent, met with the Board to discuss highway matters. The Board considered the 2018 budget request.

Packard moved, seconded by Manning and carried to accept the low bid of \$1.86/gallon from Brunick's Service for ethanol blend fuel.

Powell moved, seconded by Manning to approve and authorize the Chairman's signature on an Application for Entrance from a Clay County Highway on behalf of Paul Bremer for a field approach in Spirit Mound Township 22-93-52.

Polley discussed the purchase of a John Deere 6120E Cab Tractor. Powell moved, seconded by Packard and carried to authorize the purchase of the tractor as the budget allows for it.

Powell moved, seconded by Packard and carried to authorize the Chairman's signature on a memo stating that no one showed interest in the bridge offering advertisement for structure #14-075-051.

Layne Stewart, Emergency Management Director, met with the Board for the 2018 LEPC and Emergency Management budget requests and the SLA Quarterly Activity Report. Manning moved, seconded by Powell and carried to authorize the Chairman's signature on the SLA Quarterly Activity Report FY2017.

Andy Howe, Sheriff/Coroner, met with the Board for the 2018 requests for the Sheriff's Office, Jail, 24/7 Sobriety Project, and Coroner budgets.

Cynthia Aden, Veterans/Welfare/Zoning Administrator, met with the Board for the 2018 budget requests.

Terry Taggart, Mike Lynch, and Misi Kayl of the Clay County Soil Conservation District met with the Board for the 2018 budget request.

Manning moved, seconded by Hammond and carried to approve and authorize the Chairman to sign a Fireworks Permit Application from Fireworks Unlimited, Inc. for a display on July 7, 2017 at 10:00 p.m. at 31855 458 Ave.

The following Auditor's Account with the County Treasurer Report was accepted and placed on file.

AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER

To the Honorable Board of County Commissioners of Clay County
items in the hands of the County Treasurer as of July 5, 2017.

I hereby submit the following report of my examination of the cash:

Total amount of deposits in banks	7,140,946.88
Amount of actual cash	4,513.57
Total amount of checks and drafts in Treasurer's Possession not exceeding three days	41,387.18
Itemized list of all items, checks and drafts which have been in the Treasurer's possession over three days:	2,159.78
Checks returned and not deposited	
Cash Items	
Investments	1,000.00
Cash Variation	0.00
Total	
Dated this 5th day of July, 2017.	7,190,007.41

Carri R. Crum, County Auditor

A second reading was held for Ordinance #2017-01, an amendment to the 2013 Revised Zoning Ordinance for Clay County. Specifically, the Board of County Commissioners considered adoption of amendments to Section 2.02, Definitions; Section 3.07, Concentrated Animal Feeding Operations (CAFO); Section 4.05.01, NRC: Natural Resource Conservation District; Section 4.05.02, A-1: Agricultural District; and 4.0508, APO: Aquifer Protection Overlay District, which were recommended by the Clay County Planning Commission. Mockler began by reading a chain of e-mails from Jerry Wilson that the State's Attorney wished to have entered on record.

Powell pointed out there are no large dairies in the county.

Packard said the raise in dairy numbers has been a big issue. She has researched prize-winning farms and found numbers of 2,150, 3,400, and 3,000; only one was 7,000. Packard said she began to further question whether Clay County's small size allows enough space to provide manure management for

larger operations. She is also concerned about potential lawsuits in the future. Mockler said that Clay County has 220,000 available acres that are not currently under a manure management plan.

Hammond said he feels like 4,000 might be a more appropriate number, but he can live with smaller setbacks because he does not feel like that will impact the environment and water.

Manning said the county has not attracted anyone at 3,500 head, and if the numbers are raised it might be an opportunity to attract someone. Hammond said he does not think the number of head is keeping businesses away from Clay County, that there are a number of other reasons.

Powell moved to approve the second reading of the Ordinance #2017-01 as presented; seconded by Manning. The Chairman opened the motion for discussion. Barbara Yelverton said the two things bothering those opposed are increases in dairy numbers and reduction of setbacks. She read and presented a petition to the Board requesting Mockler to recuse himself as he is a farmer.

Stew Hines said he spent the morning discussing matters with Kent Woodsman from the State who said he has 8 staff. He said Woodsman told him if the complaint comes from the Commission they are not required to follow up, so a citizen would have to fill out a form to file a complaint.

Daniel Grant, a citizen of Yankton County, said there are 7 CAFO applications currently being opposed. He said people are fighting for the environment to protect the earth and asked the Board to take heed of the concerns.

Patricia Gramkow from Yankton County asked if the board is going to tax the citizens more to pay for roads. Mockler discussed cost share for paying for roads. Gramkow also discussed bacteria that are transmissible to humans and mad cow disease in Canada.

Elizabeth Simmons stated she is a former rancher and said she does not want antibiotics and hormones in her milk.

Charles Yelverton said the board is responsible for public health and it has been recommended there be no new confinement operations. He said the Board is doing a disservice in that regard, that it would be best to work on numbers and setbacks.

Suzanne Skyrn said coral reefs off Florida and the Gulf Coast are dying due to what is coming out of the rivers such as chemicals and fertilizers, and without coral reefs the ocean cannot sustain fish.

Frank Kloucek of Scotland said he helped introduce bill years ago to ban hormones from milk. He stated he does not want to say, "I told you so" twenty years from now and thinks setbacks are too close. He presented articles regarding disease, MRSA, and staph in general.

Clarence Pederson discussed what the processes are for applying manure: knifing, spreading, and using irrigation. He said he drove through Minnesota, and the stench was unbelievable from a farmer applying manure. He also said he would like to see the setbacks be bigger.

Brenda Fergen asked how many in the room have lived on a farm. She said she grew up on a farm and said it took a lot of care to know when to spread manure in order to live on the farm. She cited avian and swine flu in relation to antibiotic usage.

Jerry Wilson said he provided an overview of the evolution of ordinances in Clay County to the Rotary Club last fall. He quoted Powell as saying at that meeting, "I don't disagree with anything that Jerry said." He asked what changed since the last meeting. Powell said he would like to see the numbers at 3,600, but he also believes people trying to make a living in Clay County need the opportunity to do that. Powell said Tim Heine asked him why he cannot raise more hogs in Clay County and asked why he needs to go to Nebraska, to which the audience collectively said to let Nebraska have the hogs.

Alexis Tracy, State's Attorney, addressed the petition for conflict of interest. She said her opinion is that she is not aware of any financial gain Chairman Mockler would have from the change to this ordinance, unless someone can present some new facts. She said the Commissioners all come from different walks of life and bring different interests to the table. Tracy clarified that it would, however, be appropriate for any commissioner to recuse themselves from approval of a specific application for a CAFO at the time it was presented if there were any conflict of interest.

Sharon Gray said she is concerned about manure and wants larger setbacks than in the current ordinance. She said she came back from vacation in Okoboji, IA and experienced smelly CAFOs during her travels.

Charles Yelverton said he sees MRSA cases on a daily basis, and it currently takes 2 antibiotics and often specialty care in Sioux Falls to treat it.

Bruce Gray said even if the State is sharing half the cost of roads with CAFO operations, then it is still a burden on taxpayers.

Powell said he has spent over 20 years in government and has researched the proposed ordinance in detail.

Cindy Gehm asked who is benefitting from this ordinance proposal. Mockler said the farm community would benefit. Elizabeth Simmons said she buys from the local farmer and does not want antibiotics in her meat. Powell said there have been farmers at the first few meetings who said what they wanted to say, and others were too quiet.

Rebecca Turk said she is an organizer for Dakota Rural Action. She said her organization helps people fight expansion of farms because fewer people benefit economically from CAFOs, that smaller family farms help grow the economy.

Liz Hanson clarified the text of the notice of second reading. Elizabeth Simmons said a 10:00 a.m. meeting is not convenient for the public. Mockler pointed out that all of the public hearings have been in the evening except two.

Manning asked Charles Yelverton about antibiotic usage in relation to livestock. Yelverton discussed antibiotic resistance and usage and said he now has to give two antibiotics to patients with cellulitis or

boils. Manning asked if he is seeing a large number of those in Clay County even though the county does not have dairies. Yelverton said the Commissioners should not tempt health issues by attracting large operations. Tom Cooper also discussed his concerns.

Greg Redlin said he knows very little about CAFOs and technical issues, but he said he is disappointed in the response from the Commissioners to the audience's questions. He said his sister is married to a dairy farmer, and they recently doubled the size of their herd from 100 to 200. Doubling the size seemed enormous to him due to the equipment and buildings needed. He said cannot fathom a farm of 5,600 dairy head. He suggested the Commission wait until they actually have an application for an operation of 5,600 head. Mockler said that scenario happened in Turner County, and the county was sued due to being favorable to one operator. Brenda Fergen asked why Turner County changed the law for one operator and said if they did they should be sued. Manning said the Board is trying to be proactive, not reactive. Barbara Yelverton suggested an operator of 3,500 head should prove itself before being given the opportunity to expand. Mockler said he proposed that 2 years ago and was rejected by the opposition.

Powell made a motion to call to question; seconded by Manning. All voted aye. Regarding the motion called to question the roll call vote was as follows: Packard-no, Hammond-no, Manning-yes, Powell-no, Mockler-yes.

Mockler said the County may enforce the ordinance in place as written, and all people with animals, even those with just one horse, will receive a letter that they will need to comply with CAFO regulations. Barbara Yelverton asked why the numbers cannot just be changed. Mockler and Powell said the same issues have been tossed around for over 3 years with no resolution.

At 11:30 a.m. Powell moved, seconded by Hammond and carried to adjourn and reconvene Tuesday, July 11, 2017 at 9:00 a.m.

ATTEST:

Travis Mockler, Chairman
Board of County Commissioners

Carri R. Crum, County Auditor
