

July 13, 2023

A Special meeting of the McCook County Commission was called to order in their Meeting Room by Chairman Marc Dick. This meeting is being held to discuss an emergency moratorium on Concentrated Animal Feeding Operations (CAFO's). Members present: Chuck Mehlbrech, Dean Koch, Charles Liesinger, and Steve Gordon.

Chairman Dick led the Pledge of Allegiance.

Chairman Dick called for approval of the agenda. Motion Koch to approve the agenda as posted. Second Gordon. Motion carried.

Public input: none.

Conflict of Interest: none noted.

Chairman Dick explained that individuals would be given time to address the Board with their concerns. There were approximately 60 people in attendance. Auditor Sherman presented forty (40) signed complaints regarding building permits pending approval being issued to Stockwell Pork, to the Board, prior to the start of the meeting.

Roger Gerlach, Attorney representing Peter Begeman, noted that Bernard & Lloyd Stockwell have applied for two (2) hog barns that fall below 500 animal units in order to get around the zoning regulations which allows these barns to be placed with no distance regulations to neighbor dwellings. Gerlach requested a six (6) month moratorium on issuing building permits for confinement units because the zoning regulations need to be revisited. Mike Nadolski, Attorney representing the Stockwells, noted that his clients' applications for building permits comply with the current zoning regulations and argued that according to SDCL 11-2-10, a moratorium could not be put in place. Nadolski also argued that a de facto moratorium is in place now; as Stockwell's permit applications have not been acted upon. Mike Fink, States Attorney, stated that with an emergency moratorium, a moratorium could be enacted, but that subsequent hearings be held for making a long-term moratorium, followed by hearings related to changes to the zoning regulations. Nadolski read SDCL 11-2-10 and a footnote. Fink reiterated that an emergency moratorium gives the Board time to review the emergency situation and hold hearings to establish a longer moratorium. The Board then heard public input. Jake Schmidt – I circulated complaint forms last night; everyone is tired of what's being done. Minnehaha County put conditions on Stockwell permits and none of those conditions have been implemented by Stockwells. Residents don't want hog barns near them because of odor, flies, and trash. When there is a holiday, they spread manure from the pits. Stockwells buy up the eligible building permits, they are not good neighbors, only here to screw people. Substantial profanity was used by Schmidt. Clapping. Peter Begeman asked the Board to place a six (6) month moratorium on issuing building permits for confinement units and to review and make changes to current regulations. Begeman added that he has a housing eligibility and now Stockwells have a building permit for a hog barn in the same area. They are not good managers. Tyler McCoy, Central Farmers, asked the Board to proceed with caution because there are young producers in this county who will be hurt by a moratorium. Glenn Muller, SD Pork Producers Council, also asked the Board to proceed with caution because operators need to be able to make future plans. Muller added that neighbors need to get along, talk with each other. Comm Koch asked Muller about the scale of efficiency of two (2) small units versus a larger one. Muller noted that efficiency depends on the type of unit, can't provide an answer. David Simonson wants Board to know that his property is surrounded by these hog barns. Fink was asked about the process for implementing a moratorium. Fink reiterated that the reason for a temporary emergency moratorium is to put a hold on issuing building permits for confinement units so that hearings can be held to review existing regulations and make changes to them. Moratoriums should be revisited soon, at special meeting that allows for public notice per statutes identified by Nadolski. Chair Dick asked Bernard Stockwell for his input. Bernard stated that he didn't see a reason to do that because no one would listen but out of respect for Marc, he would speak. Stockwell stated that originally, he wanted to build a 2400 head unit, but compromised when Begeman got a building permit. Stockwell noted that this was a huge concession on his part, less efficiency in smaller barns. I try to be a good neighbor. This action is

drastic. I don't tell anyone what to do with their property. Comm Mehlbrech asked Stockwell to address knifing-in manure. Stockwell said that Langerock does this for them, but he, Stockwell, doesn't know the science behind it. Stockwell asked people to talk to him, I'm approachable. Comm Koch asked if the barns could be moved to a different site. Stockwell- no. Million dollar barns equal economic development and revenue for county and townships. I open roads for neighbors. Comm Gordon noted lots of complaints about odor, asking if additives are being used? Stockwell- yes. Winds and placement of barn/s add to odor issues. And I did plant trees in Minnehaha County. Marlo Wieman asked Stockwell if he knew about the concrete under one of the proposed sites; that will be a problem. Lloyd Stockwell addressed the question, noting that clay in the site is 35' down, it's been surveyed. To mitigate smell we are building tunnel style barns rather than open curtain, trying to be good neighbors. Brad Hohn, MDS Mfg, addressed the group with reference to animal unit's vs animal heads; no one has explained the difference. Hohn added, emotions run high, and issues become very personal very quickly and the Board does have a set of rules to apply. Begeman- clarify that Stockwell applied for two (2) building permits for two (2) small barns after I got my building permit for a new home. Dave Knutson- building barns near homes isn't being a good neighbor, and I'm against someone destroying someone else's dream. The Board needs to right the wrongs. Kay Neubauer shared that if she doesn't know about or understand something she does research and she researched best practices for odor control, and not just for manure but also dead carcasses. Neubauer encouraged the Commission to research best practices for odor control and consider adding them to the zoning regulations. Wayne Schmidt wanted Board to know that his family (3 families) live across the road from one of the Stockwell barn sites. Chairman Dick closed the Public Comment section of the meeting, asking for any comments that the other commissioners may have. Comm Koch noted that this Board has over 50 complaints, can't look away. States Attorney Fink, again, told the Board that if they want to consider imposing a more lengthy moratorium on animal confinement buildings, they need to hold a public hearing after public notice; any emergency moratorium would need to be effective only until a meeting occurs with public notice and must be enacted out of concern for public health, safety, and welfare.

At this time, a break was taken.

Following the break, motion made by Koch to place a temporary emergency moratorium on issuance of building permits for any concentrated animal feeding operations (CAFO's). Second Gordon. Roll call vote: Ayes: Liesinger, Koch, Gordon, Mehlbrech, and Dick. Nays: none. Motion carried. States Attorney Fink noted the Board should amend the motion, adding a reason/s as to why this is necessary and a date for when they will revisit the discussion. Motion by Koch to add reasons for the moratorium are public health, safety, and welfare and to hold a meeting on August 1, 2023, at 9:00 a.m. in order to give public notice and to consider extending the emergency moratorium. Second Gordon. Roll call vote: Ayes: Liesinger, Koch, Mehlbrech, Gordon, Dick. Nays: none. Motion carried.

States Attorney Fink left the meeting at this time to draw up a resolution establishing a CAFO moratorium in McCook County consistent with the directions of the Board. Fink returned with a resolution which places a temporary emergency moratorium on issuing building permits related to CAFO construction. Fink read the resolution and the Commissioners reviewed same. Motion by Gordon to approve and adopt the resolution, second Koch. Roll call vote: Ayes: Gordon, Mehlbrech, Liesinger, Koch, and Dick. Nays: none. Motion carried.

#### RESOLUTION #2023-04

#### RESOLUTION OF THE MCCOOK COUNTY BOARD OF COUNTY COMMISSIONERS - CAFO MORATORIUM

BE IT RESOLVED BY MCCOOK COUNTY, SOUTH DAKOTA

WHEREAS, in order to support the health, safety and general welfare of the residents of McCook County, the McCook County Board of County Commissioners have established zoning regulations with permitted uses, conditional uses, and prohibited issues; and

WHEREAS, the constructions of CAFOs may impact the health, safety, and general welfare of the residents of McCook County; and

WHEREAS, in the view of the Board of County Commissioners, the current CAFO zoning regulations may not provide adequate protections to landowners seeking to construct or maintain residences in the same general area of a CAFO; and

WHEREAS, it appears that emergency conditions support this action, as the McCook County zoning ordinances may need to be amended to address the issues identified above,

NOW THEREFORE BE IT RESOLVED:

1. That the McCook County Board of County Commissioners does hereby impose a temporary emergency moratorium on the construction or instillation of any CAFO in McCook County, with this moratorium to remain in place until a special meeting can be held by the Board of County Commissioners, on August 1st, 2023, at the hour of 9:00 a.m., and with public notice being given that, on August 1st, the Board will further consider extending the emergency moratorium for a further period of time. This temporary emergency moratorium is necessary to protect the health, safety, and general welfare of the residents of McCook County. Further proceedings shall be held on August 1st, so as to comport with the spirit of SDCL 11-2-10 and related statutes.

2. During the period of this moratorium, the County Zoning Administrator is prohibited from issuing any further building permits related to CAFO construction, until this moratorium is lifted or expires. This Resolution shall not affect any proper requests for the issuance of any other permits (by way of Building Permit).

3. The McCook County Board of County Commissioners recognizes the property interests of owners and applicants for building permits and, with this Resolution, seeks to balance those interests with the need to address the current Zoning Regulations pertaining to CAFO citing, construction and operation.

4. This is an emergency measure, which shall become effective upon passage; the Board of Commissioners shall act with diligence and urgency, to address the issues within the time frame set forth above.

Vote of the McCook County Commission: Aye 5 Nay 0

Dated this 13<sup>th</sup> day of July 2023 at Salem, South Dakota.

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Board Chairperson

ATTEST:

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Auditor

With no other business before the Commission, the meeting adjourned at 11:15 a.m., subject to call.

Dated this 13<sup>th</sup> day of July 2023.

Marc Dick \_\_\_\_\_  
Chairman, McCook County Commission

ATTEST:

Geralyn Sherman \_\_\_\_\_  
Auditor, McCook County