

TUESDAY, AUGUST 14, 2007

**APPROVED MINUTES OF THE
COMMITTEE OF THE WHOLE MEETING HELD**

**STATE OF MINNESOTA)
DODGE COUNTY)**

**COUNTY ADMINISTRATION OFFICE
MANTORVILLE, MN**

2007-15 C.O.W.

The Dodge County Commissioners met in Committee of the Whole August 14, 2007, in the Commissioner's Room at the Dodge County Courthouse Annex, Mantorville, MN, at 8:45 a.m. CDT. Don Gray opened the meeting at 8:45 a.m. CDT.

Meeting Convened

The Chair acknowledged those present:

Those Present

Members present:	Klaus Alberts	District #1
	David Erickson	District #3
	Don Gray	District #4
	David Hanson	District #5
Members absent:	Lyle Tjosaas	District #2
Also present:	David McKnight	County Administrator
	Becky Lubahn	Deputy Clerk
	Paul Kiltinen	County Attorney

Planning Director Duane Johnson and Assistant Feedlot Officer/Zoning Administrator Ken Folie provided the Board with an update on the Finstuen Conditional Use Permit.

Mark Finstuen
Conditional Use
Permit Discussion

The Board was provided with documentation that dated back to October 2002 from the Finstuen Environmental Assessment Worksheet (EAW) and other correspondence about the stipulations on bio-filters.

Commissioner Erickson reported that the bio-filters must have a five second retention on the air that passed through the system.

Ken Folie stated that the plans for the Finstuen feedlot indicated that there will be twelve bio-filters on the breeding/gestation barn and six bio-filters on the farrowing barn. To date five bio-filters have been installed on the breeding/gestation building. Mr. Folie noted that initially Mr. Finstuen had 28 bio-filter boxes built. The Assistant Feedlot Officer/Zoning Administrator also reported that a lawn sprinkler was being used to add moisture to the boxes.

Commissioner Hanson wanted to know if the boxes Mr. Finstuen had built were too restrictive.

It was Mr. Folie's opinion that the boxes look good.

Commissioner Erickson commented that the boxes were built to university standards and that if Mr. Finstuen were to install six more boxes that he would be in compliance.

The Assistant Feedlot Officer/Zoning Administrator stated that he does see a problem with the thickness of the box and questioned whether or not the boxes were getting enough circulation. Mr. Folie indicated that he believes the boxes are not getting the air flow through them that is needed and commented that the fans being used on the bio-filter system are not powerful fans. The Assistant Feedlot Officer/Zoning Administrator also informed the Board that he believes the air is leaving the building through the pit fans instead of the air filters.

Mark Finstuen
Conditional Use
Permit Discussion -
Continued

Commissioner Alberts wanted to know if the bio-filters were designed so they could pull the air through the boxes instead of pushing the air through.

Ken Folie stated that he is not sure if the system would work this way and commented that the system works better if you force the air through rather than trying to pull it through the box.

Commissioner Gray indicated that he was concerned with the fact that Mr. Finstuen was experimenting with options and not resolving the issue.

Commissioner Erickson suggested that a letter with a specific deadline be sent to Mr. Finstuen. Mr. Erickson also suggested that Mr. Finstuen be fined, if needed, if he continues to be out of compliance with his conditional use permit.

Commissioner Alberts wanted to know if the bio-filters were supposed to be done by the end of July.

Ken Folie confirmed that the deadline for installing the bio-filters was the end of July.

Duane Johnson discussed with the Board correspondence that were sent to Mark Finstuen.

Mr. Johnson also discussed enforcing the conditions that were stipulated on the conditional use permit.

The Planning Director informed the Board that according to Larry Jacobson the boxes need to be kept wet in order to work correctly.

The Board discussed with Mr. Johnson, Mr. Folie and the County Attorney their options for implementing fines for buildings that are out of compliance.

County Attorney Paul Kiltinen informed the Board that he needs to know specifically what is not done at this site before they can determine whether a fine or civil action is appropriate. Mr. Kiltinen suggested that the county consider going through the civil process to ask for an injunction against Mark Finstuen. The County Attorney also reported that the likelihood of an injunction being done is unclear at this time. Mr. Kiltinen noted that the county can assess the costs associated with going to court back to the applicant's taxes. The County Attorney reported that another option would be to have a deputy go out to the Finstuen property every day and issue a ticket until Mr. Finstuen was in compliance.

Commissioner Erickson wanted to know if they could establish an escalating fee to address this issue.

The County Attorney stated that charging an escalating fee is not an option for the county.

Mark Finstuen
Conditional Use
Permit Discussion -
Continued

Commissioner Alberts indicated that he would like to see a \$500 fine be issued to Mark Finstuen beginning Monday. If the feedlot was not in compliance within 30 days Mr. Alberts felt it should be closed.

Duane Johnson reported that Mr. Finstuen has 30 days to get into compliance with the conditional use permit. Mr. Johnson stated that they need to determine what Mr. Finstuen is non-compliant with before they can issue fines or close the facility. The Planning Director reminded the Board that the county never had the opportunity to specify conditions for the bio-filter system because the permit indicated that odor reduction with the use of bio-filters be installed as per township recommendation. Mr. Johnson also noted that the university standards were never listed as a condition on the conditional use permit.

Commissioner Erickson discussed how Mr. Finstuen can get the units currently in place working correctly with modifications and the fact that the bio-filters are not in compliance.

The County Attorney reiterated that the county needs to clarify what violations have occurred with the Finstuen conditional use permit.

The Planning Director informed the Board that from day one the Planning Office would not have permitted this barn to be built if Mr. Finstuen had not committed to using the bio-filter system.

Commissioner Erickson wanted to know if the county assessed a fine what would happen after that.

It was the Mr. Kiltinen's opinion that the county needs to determine what the actual issues are with the bio-filters and then determine what the violations are. The County Attorney commented that it does not matter what the plans say because the applicant has already ignored the plans he submitted. Mr. Kiltinen informed the Board that they need to specifically point out what Mr. Finstuen is in violation of before moving forward.

Commissioner Erickson stated that Mr. Finstuen is out of compliance because the bio-filters do not meet university standards.

Commissioner Gray suggested that the threat of civil process be considered instead of issuing a fine.

The County Attorney informed the Board that there are not eighteen bio-filters on the breeding/gestation barn as indicated on the building plan.

Mr. Kiltinen reported that the civil process is more likely to be successful than fining the applicant. The County Attorney discussed the potential civil process outcome and the need for the county to be crystal clear on the violations for this conditional use permit.

Commissioner Erickson agreed that the civil process seems to be the logical way to go.

The Board directed Mr. McKnight, the County Attorney and Mr. Johnson to proceed with the civil process on the Finstuen conditional use permit to resolve non-compliance issues.

Mark Finstuen
Conditional Use
Permit Discussion -
Continued

It was noted that the Board is clearly frustrated with the Finstuen violation issues that remain unresolved.

In regards to the county issuing a fine or initiating the civil process against Mr. Finstuen, Commissioner Alberts commented that he does not want to start something the County Board does not have the authority to do.

Compliance Officer Melissa DeVetter informed the Board that although the conditional use permit language did not specify that the bio-filters had to be built to university specifications the language did say that Mr. Finstuen has to install bio-filters and what he has installed on this farm is not recognized as a bio-filter.

No action was needed at this time.

The Chair adjourned the meeting at 9:24 a.m. CDT.

Meeting Adjourned

ATTEST:

DON GRAY
CHAIR, COUNTY BOARD

BECKY LUBAHN
DEPUTY CLERK

DATED: