

**TUESDAY, AUGUST 28, 2007**

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

**STATE OF MINNESOTA)  
DODGE COUNTY)**

**COUNTY ADMINISTRATION OFFICE  
MANTORVILLE, MN**

**2007-16 C.O.W.**

The Dodge County Commissioners met in Committee of the Whole August 28, 2007, in the Commissioner's Room at the Dodge County Courthouse Annex, Mantorville, MN, at 9:00 a.m. CDT. Don Gray opened the meeting at 9:00 a.m. CDT.

Meeting Convened

The Chair acknowledged those present:

Those Present

Members present: Klaus Alberts District #1  
Lyle Tjosaas District #2  
David Erickson District #3  
Don Gray District #4  
David Hanson District #5

Members absent: None

Also present: David McKnight County Administrator  
Becky Lubahn Deputy Clerk

County Administrator David McKnight discussed with the Board the conditions of CUP #06-09.

CUP #06-09  
Conditions  
Discussion

Mr. McKnight reminded the Board that during the Committee of the Whole meeting on July 17, 2007 they discussed the status of one of the conditions on the Rohwer conditional use permit. At that time the Board heard from county and NRCS staff about the berm issue.

The County Administrator reported that staff feels that they did not receive clear direction on the Board's intent with the condition relating to this item.

Mr. McKnight stated that he placed this issue back on the agenda to get a clear direction for staff from a majority of the Board on the berm issue.

Commissioner Hanson commented that he had an opportunity to tour the area last Friday with the Mike Johnson, Chuck Johnson and Ken Folie to see what impact the heavy rains had on Johnson's pond. Mr. Hanson provided pictures of what he observed and pointed out the feedlots location as well as the wildlife management area. Commissioner Hanson reported that he walked the berm with the Johnson's and did not see any indication that any water had gone over the berm.

Commissioner Alberts left the meeting at 9:05 a.m. CDT.

Commissioner  
Alberts Left Meeting

Commissioner Tjosaas wanted to know how high the berm was and if there was a depression in front of the berm.

CUP #06-09  
Conditions  
Discussion -  
Continued

David Hanson reported that there is no depression and that he estimated that the berm height was about 2-2 ½ feet high. It was believed that the dirt was brought in by a piece of equipment that had a bucket and dumped on the property to create a berm.

Assistant Feedlot Officer/Zoning Administrator Ken Folie stated that the berm is two feet high. Mr. Folie reported that he did not observe any pooling of water on this property and noted that the Rohwer's utilized ridge tilling which is used to keep the water in the field.

Commissioner Gray asked for clarification on the length of the berm.

Commissioner Hanson reported that he believes the berm is about 120 feet long.

Commissioner Erickson commented that the purpose of this discussion is to see if there were water issues. Mr. Erickson reported that the water from the August 18, 2007 storm ran through the wildlife area and not to Johnson's pond. Commissioner Erickson referred to a NRCS study that indicated that NRCS staff concluded that under normal rainfall the water would run to the wildlife area and not the Johnson's pond. Mr. Erickson pointed out that even with the extreme rain that was encountered over the last week the water did follow this same path to the wildlife area and did not spill over into the pond area.

Commissioner Erickson wanted to know if the berm was a natural barrier or if it was constructed before or after the feedlot was built.

Commissioner Hanson reported that Ken Rohwer felt a berm was not needed but put it in to be neighborly.

Planning Director Duane Johnson informed the Board that his office sent a letter to Will Rohwer regarding the installation of a berm or buffer strip. The Rohwer's were directed to work with NRCS staff to make sure the berm or buffer strip met NRCS requirements. Mr. Johnson reported that the Planning Office was never contacted or told that the buffer was built. The Planning Director also noted that as of today he understands that there has not been any drainage from the Rohwer property into the Johnson's pond.

Commissioner Hanson stated that he did not see any evidence of any erosion to the pond and agrees with NRCS staff that the water flows as they stated it would.

Commissioner Erickson reported that the problem is that something was constructed and it was not constructed to NRCS specification. Mr. Erickson suggested that staff be directed to work with the Rohwer's and NRCS staff to ensure that the berm has the blessing of the NRCS staff or that the Rohwer's obtain a letter from NRCS staff that indicates that the existing berm meets their standards. Commissioner Erickson noted that there may be some additional cost involved in making sure the berm meets NRCS specification and that the additional cost would be at the Rohwer's expense.

Commissioner Gray commented that he believes the Rohwer's have already agreed to install a berm if it is determined that one was needed.

CUP #06-09  
Conditions  
Discussion -  
Continued

Duane Johnson reminded the Board that NRCS Officer Brian DeVetter did a survey on this property and agreed with Mark Kanable's report regarding the water drainage. Mr. Johnson shared with the Board a few sentences from a letter he received from Mr. DeVetter. The Planning Director indicated that he believes the last sentence of the letter is a problem because it states that if the Board deems that the buffer is needed NRCS will design one. It was Mr. Johnson's opinion that this sentence leaves them wide open.

The dimensions of the berm base were discussed. Ken Folie indicated that he believes the berm is between 6-10 feet at the base.

Commissioner Gray commented that he assumes that the berm is not seeded.

Commissioner Hanson confirmed that the berm is not seeded.

Commissioner Erickson reported that the berm was initially built because of the neighbors concerns. Mr. Erickson suggested that the Rohwer's be instructed to work with NRCS staff in order to get their stamp of approval on the berm.

Commissioner Tjosaas reported that the berm is close to NRCS specifications already. Mr. Tjosaas noted that the issue he sees with the berm is that it needs to be seeded, the Rohwer's did not go over the berm specifications with NRCS staff and that it needs to be finished.

Duane Johnson informed the Board that NRCS has stated that what was done and what is out there diverts the water to the wildlife management area and that if the Board is not satisfied with the design their office needs more direction from the County Board.

It was Commissioner Tjosaas' opinion that the berm has to have NRCS approval and that it is not finished, this was the direction from the County Board all along.

Mr. Johnson reported that the Rohwer's feel the berm is adequate.

Roger Johnson commented on the setback issue and the buffer/berm issue. Mr. Johnson informed the Board that he spoke with NRCS staff on Monday and asked them if they had informed anyone that a berm and buffer strip were not needed on the Rohwer property, their answer was no. Mr. Johnson confirmed that there was a slight berm present on this property. It was Mr. Johnson's understanding that should Dodge County decide a berm is needed on the Rohwer property that the Rohwer's would work with NRCS to build a berm to NRCS specifications. Mr. Johnson noted that he too had gone out after the storm and that there was standing water when he went out to inspect the area in question. Mr. Johnson directed the Board to condition number twelve on the Rohwer conditional use permit which reads as follows:

12. Will have required setbacks as required by Shoreland Ordinance and agree to work with NRCS on buffer/berm issue in northeast section.

Roger Johnson felt that there was a need to protect the land below the Rohwer property. Mr. Johnson shared with the Board information from an article he clipped from a local newspaper on March 28, 2007 regarding stipulations for the Rohwer conditional use permit.

CUP #06-09  
Conditions  
Discussion -  
Continued

Environmental Quality Director Mark Gamm informed the board that they need to share with Brian DeVetter what performance criteria is expected. Mr. Gamm indicated that the performance standard is that the water does not go over the berm.

Commissioner Erickson stated that they need to clarify if the dirt the Rohwer's have hauled in constitutes a berm.

Commissioner Gray commented that it appears that the consensus of the Board is that they need a berm that meets NRCS specifications. In order for the Rohwer's to meet the specifications they will need to work with the County Administrator and NRCS staff.

Mr. Gray thanked those present for their input.

Roger Johnson felt that the Board was changing a condition of the permit and questioned how they could change a condition of the permit.

The Board clarified that they are not changing the conditions of the permit.

Roger Johnson expressed concern that the property in question was looked at four days after the storm and not immediately after the storm therefore they did not get an accurate account of what actually happened with the water runoff.

The County Board again stated that they were not changing any of the conditions of the original conditional use permit.

No action was taken on this item.

The Chair adjourned the meeting at 9:28 a.m. CDT.

Meeting Adjourned

**ATTEST:**

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DON GRAY  
CHAIR, COUNTY BOARD

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BECKY LUBAHN  
DEPUTY CLERK

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DATED: