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CHERRY COUNTY PLANNING COMMISSION

PUBLIC HEARING ON

CUP 001/20 DANIELSKI HARVESTING & FARMING LLC/

VALENTINE FEEDERS SWINE FACILITY

TO BE USED FOR BREEDING, GESTATION, AND FARROWING

held at the

Cherry County Courthouse

365 North Main Street

Valentine, Nebraska 69201

January 5, 2021

1 (Public hearing commenced at 4:35 p.m.
2 with the following members present: Gary
3 Swanson, chairman; Chelsea Luthy; Wade Andrews;
4 Michael McLeod; Duane Kime; John Lee; Dave
5 Rodgers; and Albert Ericksen. Also present were
6 Jessica Coyle, zoning administrator, and various
7 members of the audience.)

8 MR. CHAIRMAN: We're going to call the
9 meeting of the January 5 Cherry County Planning
04:35 10 Commission to order. The first item on the
11 agenda is the roll call. Michael McLeod?

12 MR. McLEOD: Here.

13 MR. CHAIRMAN: John Lee?

14 MR. LEE: Here.

04:35 15 MR. CHAIRMAN: Wade Andrews?

16 MR. ANDREWS: Here.

17 MR. CHAIRMAN: Albert Ericksen?

18 MR. ERICKSEN: Here.

19 MR. CHAIRMAN: Chelsea Luthy?

04:36 20 MS. LUTHY: Here.

21 MR. CHAIRMAN: Duane Kime?

22 MR. KIME: Here.

23 MR. CHAIRMAN: Dave Rodgers?

24 MR. RODGERS: Here.

04:36 25 MR. CHAIRMAN: The next item on the

1 agenda is the Open Meetings Act Notice.

2 MS. COYLE: It's over here on the wall.

3 MR. CHAIRMAN: It's on the wall over
4 there.

04:36 5 The next item on the agenda is approval
6 of the minutes.

7 MS. COYLE: In the minutes, Michael and
8 Albert's names are spelled wrong. Also, in the
9 first paragraph in the New Business, about the
04:37 10 third line down, it says "CUP 001/2," and it
11 should be "20."

12 MR. CHAIRMAN: Are there any other
13 corrections?

14 MR. McLEOD: Need to change the time of
04:37 15 adjournment from 7:35 to 6:55.

16 MR. KIME: I make a motion to approve
17 the minutes with the corrections.

18 MR. CHAIRMAN: Duane Kime has made a
19 motion to approve the minutes with corrections.
04:39 20 Would there be a second?

21 MR. ANDREWS: Yeah, I'll second that.

22 MR. CHAIRMAN: Wade?

23 MR. ANDREWS: Yeah, sorry.

24 MR. CHAIRMAN: Motion has been made by
04:39 25 Duane Kime to accept the minutes as corrected,

1 seconded by Wade Andrews. We'll now vote.

2 MR. CHAIRMAN: Chelsea Luthy?

3 MS. LUTHY: Yes.

4 MR. CHAIRMAN: Wade Andrews?

04:40 5 MR. ANDREWS: Yes.

6 MR. CHAIRMAN: Michael McLeod?

7 MR. McLEOD: Yes.

8 MR. CHAIRMAN: Duane Kime.

9 MR. KIME: Yes.

04:40 10 MR. CHAIRMAN: John Lee?

11 MR. LEE: Yes.

12 MR. CHAIRMAN: Albert Ericksen?

13 MR. ERICKSEN: Yes.

14 MR. CHAIRMAN: Dave Rodgers?

04:40 15 MR. RODGERS: Sustained.

16 MR. CHAIRMAN: Chair votes yes.

17 Minutes stand approved.

18 At this time, because we have a public
19 hearing at 4:45 and there may not be time for
04:40 20 public comment, we're going to jump down to
21 communications and do that. Jessica.

22 MS. COYLE: I want to let you know that
23 the NPZA Conference is coming up in March again
24 in Kearney. If anyone is interested, they're
04:41 25 planning on moving forward with that, as of now.

1 They will let you know of any changes coming up.
2 It's usually that first Wednesday, Thursday,
3 Friday in March.

4 I received a letter today from
04:41 5 Shelbourns and Suhrs that I gave to you in your
6 packet. I also gave you in your packet -- I was
7 cc'd in an e-mail that was sent to Eric Scott
8 from Mr. Hamann with the attached letter. It was
9 sent on January 2. I gave you a copy of the
04:42 10 letter and the e-mail.

11 Also, if you are interested -- I don't
12 know if you knew, but the Supreme Court made a
13 ruling on the Egan versus County of Lancaster.
14 It was -- what it is, is the County of Lancaster
04:42 15 approved a facility for chicken, and Egan, you
16 know, went against it. And they ruled in favor
17 of the County of Lancaster, same as the district
18 court -- the Supreme Court did. It has already
19 been appealed and filed. You might want to look
04:42 20 that up. It's an interesting case.

21 And that's all I have, Gary.

22 MR. CHAIRMAN: Okay. Our deal has had
23 some public publicity, and I bought each of the
24 planning commissioners a copy of the Valentine
04:43 25 paper and a copy of the article that was in the

1 North Platte Telegraph, in case you haven't seen
2 any of it. It's a full-page ad in the paper.
3 And there's a few copies for anybody that's
4 interested.

04:46 5 At this time we'll recess the regular
6 meeting of the Cherry County Planning Commission
7 and convene the public hearing for CUP 004/20
8 Shane Daniel's amendment to conservation
9 easement.

04:47 10 (Public meeting on CUP 004/20 commenced
11 at 4:47 p.m.)

12 MR. CHAIRMAN: I'm going to close the
13 public hearing for CUP 004/20 and reconvene the
14 regular planning commission meeting. The next
05:02 15 item on the agenda is discuss and act on
16 CUP 004/20.

17 (Planning commission discussed and
18 approved CUP 004/20.)

19 MR. CHAIRMAN: All right. At this
05:03 20 time, we'll have the public comment period, and
21 it will be 30 minutes max. Depending on how many
22 people wish to make a comment, we limit the time
23 accordingly, so everyone has a chance to speak.

24 Would there be a show of hands from
05:04 25 those that wish to say something? So we have 1,

1 2, 3, 4, 5, 6, so that's about 5 minutes apiece.

2 Okay. We'd ask that when you stand to
3 speak please say your name, and so at this time
4 we would begin.

05:04 5 MS. SHELBOURN: Marla Shelbourn. I'd
6 just like to reference the letter that we
7 submitted for your review requesting soil
8 sampling and water testing for the proposed swine
9 facility. We feel that you can't manage what you
05:04 10 don't measure, and it would be a very wise move
11 to have that in place.

12 In our zoning regulations, it states
13 that the Cherry County Commissioners may request
14 that. And I think in this situation, with the
05:04 15 number of pigs they're intending to raise and the
16 manure management and hog manure being placed,
17 that it would be prudent on the part of the
18 County to ask the facility owner to complete that
19 annual sampling. If you have any questions on my
05:05 20 letter, please let us know. Thank you.

21 MR. CHAIRMAN: Thanks, Marla.

22 MR. HAMANN: Lee Hamann. It looks like
23 you received a copy of the letter that I sent a
24 couple a days ago. I just wanted to make sure
05:05 25 it's in the record. You've seen in our prior

1 letters we've raised a number of concerns on this
2 proposal. I don't want to go through all of them
3 again, but I think there's a few things that need
4 some emphasis.

05:06 5 Odor is a big deal. I mean, it's been
6 talked about by a lot of the people. We've cited
7 to studies that deal with odor, and some of you
8 commission members have taken your personal time
9 to go view some other facilities. I think the
05:06 10 best thing you can say about this is it's a mixed
11 bag on what kind of odor these facilities
12 produce. We all know there are examples out
13 there of horrible problems with odors on your
14 field trips. You know, this is all anecdotal.
05:06 15 And the observations you've -- apparently you
16 didn't see too much problem with the ones you
17 visited, but you know, you've had people testify
18 at these meetings about the actual problems that
19 they've experienced with these facilities that
05:06 20 haven't been run right.

21 And as I look particularly back at the
22 transcript of the comments made at the last
23 meeting, it seems like there's some ambivalence
24 as to whether the planning commission, the
05:07 25 County really has any much of say about odor, but

1 it's very, very clear that you do. Jay
2 Ringenberg, who was here at the November
3 meeting -- retired Nebraska Department of
4 Environment and Energy, working on a consulting
05:07 5 basis -- pointed out the State doesn't regulate
6 odors. They leave it up to the local
7 jurisdictions because it's more of a local issue.
8 But it's certainly within your purview.

9 And your own zoning regulations make it
05:07 10 very clear that odor is a consideration,
11 particularly when you're over the 2,000
12 animal-unit limit. I mean, it's clear. You --
13 the applicant has to demonstrate that it will not
14 -- not "may not" -- will not be a problem.

05:07 15 And to the point that was just made a
16 minute ago on water quality, you can't manage
17 what you don't measure. And I'm just a little
18 alarmed to look back through the comments made in
19 the last meeting about what the conditions might
05:08 20 be, and there's just nothing in there to measure,
21 to quantify, to -- there's talk about best
22 management practices. Well, that's just -- best
23 management practices go across all different
24 industries, all different kinds of problems.
05:08 25 Unless you spell them out, it's a meaningless

1 term.

2 We had a -- and at the last meeting,
3 Settjes had a fair amount of discussion, made a
4 point that, look, your setback for a Class 3
05:08 5 operation like this is two miles north and south.
6 I think they keep saying one mile east and west.
7 I think it's actually a mile and a half. That's
8 good. And then you look at the Nebraska Odor
9 Footprint Tool and if you use 96 percent -- I
05:09 10 don't want to get lost in the details -- but they
11 kind of come to the conclusion that that circle
12 is the same as your zoning regulations, so
13 everything is good. Well, it's not.

14 We had SES Engineering -- which is a
05:09 15 national firm. They have an office here in
16 Nebraska, and they have an odor expert. And it's
17 in my letter and it's in the report that's
18 attached to my letter -- there are specific
19 things that you need to do in terms of, you know,
05:09 20 odor pollution, control, monitoring, and
21 mitigation. What you've seen so far is just a
22 reference to best management practices, so you
23 have no way of knowing exactly what you're
24 getting at.

05:09 25 I'm sure the applicant has all of the

1 best intentions in the world, but, again, if you
2 don't measure it and set some standards, you
3 can't manage it. The Nebraska Odor Footprint
4 Tool does not -- is not a be-all and end-all.
05:10 5 Odor concentration is a big deal. So there are
6 different things you need to measure. So without
7 doing those measuring metrics, getting into the
8 science and practices that they're actually going
9 to use, the best management practices in odor
05:10 10 management, if you will, you don't know what you
11 have. And the day comes when you get a bunch of
12 complaints, what are you going to measure it
13 against? Well, they say it's not bad. The
14 neighbor says it is bad. And as a planning
05:10 15 department, I mean, how is Jessica going to go
16 out and enforce that?

17 The 2,000-animal threshold limit,
18 you're Class 3. When you think about that, that
19 setback, that Class 3 covers 5,000 to 20,000
05:10 20 animal units. I mean, that's a huge spread. And
21 you've got one little circle that's going to
22 cover it all. We don't have any science to back
23 it up in the case of swine operations. There
24 probably aren't too many people, if given a
05:11 25 choice, would live next to one or anywhere near

1 them. So I really, really would encourage the
2 planning commission to take another look at the
3 odor. It's been raised by a number of people.

4 There's also a fair amount of
05:11 5 discussion in the presentation by the
6 applicant --

7 MS. COYLE: 30 seconds.

8 MR. HAMANN: Okay.

9 -- about the economic benefits. Again,
05:11 10 we had -- we had doubts about the numbers they
11 were touting, so we had Ernie Goss from Creighton
12 University take a look at it. And the benefits
13 have been overstated by over a factor of two,
14 which doesn't mean there aren't any economic
05:11 15 benefits, but I can ensure you -- we talked about
16 the hidden costs that come from something like
17 this that --

18 MS. COYLE: Time.

19 MR. HAMANN: You know, you've got to
05:11 20 weight the detriments against the benefits.

21 Thank you.

22 MR. CHAIRMAN: Thank you, Lee.

23 MR. BROWN: Hi. My name is Ed Brown.
24 Let's see. I'll just read this. I know it's
05:12 25 rather boring, but if I don't have it written

1 down, I'll lose my place here.

2 I'm sure you've all seen the two
3 studies we sent out last week by the two noted
4 experts who inspected one in odor; the other,
05:12 5 economics. From these studies, it is clear that
6 what has been presented by the applicants needs
7 to be questioned. In fact, what they have
8 presented is incorrect and misleading. The
9 authors of these studies that you have use
05:12 10 phrases such as "not being very knowledgeable
11 about air pollution control" and "well outside
12 the bounds of feasibility" to describe the
13 applicant's presentation. It needs to be noted.

14 The proposed hog confinement would very
05:13 15 well -- could very well be an overall cost to the
16 County. One of these experts suggests you have
17 the authors of these studies cited by the
18 applicant come up and explain how their studies
19 have been misused. These studies make one
05:13 20 question everything else that's been presented by
21 the applicant and its representatives. It makes
22 one wonder what has been omitted? What haven't
23 they told us?

24 We still don't know where the employees
05:13 25 will live. Will it be at local hotels or out on

1 the highway near German Settlement Road? We have
2 no idea.

3 There have still been no traffic
4 studies done.

05:13 5 Many health studies have been done,
6 though. I believe you have seen a couple of
7 those sent in earlier, showing the adverse
8 effects -- health effects of living near a hog
9 confinement. There are young children in the
05:13 10 German Settlement that have to breathe the
11 polluted air coming from this facility. Really,
12 isn't the health and welfare of Cherry County
13 citizens paramount?

14 One of the things that struck me as
05:14 15 unbelievable in the applicant's plan is the use
16 of trees and shrubs to help reduce odor, that
17 they admit there will be. The first thing about
18 this is that research shows that the efficacy of
19 trees and shrubs in reducing odor is questionable
05:14 20 at best. The second thing is: Where would they
21 put the vegetation? When looking at the map of
22 the proposed facilities, you'll see a pivot to
23 the north and west and someone else's property to
24 the south. The third thing is: Who has time to
05:14 25 wait 20 or 30 years for trees to get 20 or 30

1 feet high to possibly have any effect at all?
2 Like so much of this application, it just doesn't
3 make sense.

4 Those of us in German Settlement area
05:14 5 like our groundwater. We depend on it. It's
6 good water. We wouldn't want to see it end up
7 like that in Brown County. You've seen those
8 reports. They're not pretty. When Kristine
9 Lousias, a district conservationist with the
05:15 10 National Resource Conservation Service, points
11 out -- as you are aware -- that these soils have
12 a high-risk potential for pesticides and
13 nutrients into the groundwater. We take notice
14 when we hear that, as anyone would do, if these
05:15 15 27 plots were proposed for their backyards.
16 Renee Hancock, a water quality specialist with
17 NRCS, has voiced similar concerns. Surely we
18 won't discount what these women have informed us
19 of.

05:15 20 Having monitoring wells in the vicinity
21 of the facility doesn't prevent groundwater
22 pollution. Mike Murphy of the Middle Niobrara
23 NRD thinks this would be a reasonable plan.
24 Leonard Danielski and Greg Wilke sit on the board
05:15 25 of the Middle Niobrara NRD, which I feel

1 uncomfortable with that.

2 There are so many unknowns here. Who
3 operates the facility? Who owns the pigs? Is it
4 Danielskis? Maybe Mr. Wilke? Or maybe it's
05:16 5 Smithfield Foods? We just don't know.

6 We have been informed that the manure
7 will be handled by a contractor. Is that the
8 Settjes who are in the manure handling business?
9 Maybe. We've been told nothing about who, how
05:16 10 many people are involved, housing. Really
11 nothing at all.

12 As troubling as these issues are, the
13 most troubling for myself -- and many others, I
14 believe -- is whether or not this commission is
05:16 15 going to follow its own comprehensive plan. The
16 comprehensive that I believe Gary Swanson had a
17 hand in drafting was written to --

18 MS. COYLE: Thirty seconds.

19 MR. BROWN: -- look out for the
05:16 20 citizens of Cherry County. We depend on this
21 commission to ensure that the comprehensive plan
22 is adhered to. If you aren't going to follow the
23 comprehensive plan, why do we have it? Why do we
24 have this commission? Isn't the comprehensive
05:17 25 plan the rule book that we all play by and depend

1 on? In our daily lives, we depend on rules, and
2 we depend on everyone adhering to them. Not just
3 sometimes, not just some people. We can't have
4 rules that are a moving target, rules that might
05:17 5 apply today but not tomorrow.

6 MS. COYLE: Time.

7 MR. BROWN: Rules that apply to one,
8 but not another. If we don't care for the rules,
9 there's a place and method to change them. That
05:17 10 place is not with this respective commission.

11 Thank you.

12 MR. CHAIRMAN: Thanks, Ed.

13 MS. NELSON: Nina Nelson. I also have
14 some documents I would like to share with you
05:17 15 guys, if I may.

16 MR. CHAIRMAN: Okay.

17 MS. NELSON: There's a letter that I
18 will be reading here in minute, but also there's
19 a request that we were recommended by one of the
05:18 20 commissioners to hand in for future changes of
21 the setback, how it is measured to property lines
22 versus residence, as well as a couple of studies
23 on the effect of the prices in the neighborhood,
24 the property values and such.

05:18 25 The facility that Mr. Danielski is

1 asking you to approve is not allowed in Cherry
2 County zoning regulations. His proposed
3 facility, number one, is not allowed in the
4 zoning district; number two, is not compatible
05:18 5 with the existing use in the area; and number
6 three, the regulations state that, even if all
7 conditions of the permit were to be met, the
8 county board does not have to allow the use he's
9 requesting. You can and should say no, and I
05:19 10 recommend that the board say no.

11 As to the first point, it's not allowed
12 in the zoning district. The ranch property my
13 husband and I own is contiguous to Mr.
14 Danielski's property, located in the cattle
05:19 15 country agricultural district zone. Pursuant to
16 the Cherry County zoning regulation, the intent
17 of this district is to -- I quote -- maintain
18 agriculture, crop, and livestock production which
19 is in balance with the natural environment and
05:19 20 also to encourage soil and water conservation,
21 preserve water quality, like we have heard
22 tonight, prevent contamination of the natural
23 environment within the county, and to preserve
24 and protect ranch and farm operations from
05:19 25 conflict with non-agricultural uses.

1 Again, our own county zoning
2 regulations tell us what a non-agricultural use
3 is. It's confined animal feeding operations and
4 that confined animal feeding operations are
05:20 5 commercial use. Again, right out of our own
6 regulations, specifically the definition of
7 agricultural use in our zoning regulations says
8 that confined animal feeding use shall not be
9 considered agricultural use. Also, our own
05:20 10 regulations define commercial use, and that
11 definition specifically includes confined animal
12 feeding uses, just in case it wasn't clear that
13 this kind of operation is not considered
14 agricultural use. His request is not ag.
05:20 15 Therefore, it is not allowed in our area.

16 To the second point, it's not
17 compatible with the existing uses in the area.
18 However, we're here today because Mr. Danielski
19 has the right to request allowance of the use
05:20 20 that is not otherwise allowed in Cherry County in
21 the cattle country agricultural district,
22 requesting a conditional-use permit. In our
23 zoning regulations, the conditional-use permit is
24 one that is not generally compatible with other
05:21 25 permitted land uses in the zoning district, but

1 which could become compatible to permitted uses
2 only if the use was controlled as -- to another
3 location in relation to other surrounding uses
4 and only if it promotes public health safety,
05:21 5 convenience, and general welfare. Again, right
6 out of our own rules. The definition makes it
7 clear that you cannot recommend the request of
8 this conditional-use permit to be approved.

9 Because of the sheer amount of numbers,
05:21 10 currently Mr. Danielski's application states
11 there will be 18,840 animals, which is
12 approximately 6,860 animal units, which way
13 exceeds the 2,000 animal units that is currently
14 being allowed in Cherry County. And, therefore,
05:22 15 your answer should be no.

16 But also keep in mind the conditional
17 use, even if highly regulated and maintained to
18 the exact number of animals, must also promote
19 public health, safety, convenience, and general
05:22 20 welfare. I don't --

21 MS. COYLE: Thirty seconds.

22 MS. NELSON: -- think that that will be
23 able with these numbers.

24 Also, one thing I would like to point
05:22 25 out is the impact which the studies that I have

1 handed in show that there can be a property value
2 decrease of 10 to 32 percent for properties that
3 lay within that 2-mile zone -- which our property
4 does. That means a \$3-million property would
05:22 5 decrease by a million dollars, potentially. You
6 cannot let that happen, and we ask you to say no
7 to this. Thank you for your time.

8 MR. CHAIRMAN: Thank you, Nina.

9 MS. BOJE: My name is Myra Boje. I
05:23 10 live down in Ainsworth where they currently have
11 three barns. I'd driven by one of the barns
12 several times before I had any idea that it was
13 one of the confinements. I have never smelled
14 any bad odor from there, and it was in the fall.
05:23 15 It wasn't warm like it is in the summertime, but
16 it certainly wasn't cold like it is now. And I'm
17 kind of hearing that that's a lot of the issues
18 that everyone is concerned about.

19 But I also want to say, too, though --
05:23 20 as a couple mentioned, the housing for these
21 people -- I have four properties. I have only
22 the people from Mexico that have come up here to
23 work. I would not rent to anyone else. They are
24 such good, good people. And I've had one person
05:24 25 in the two years -- I bought the first property

1 two years ago. Within six months, I had the
2 other three.

3 And I just -- and they call me and all
4 of them now, they'll say, "I have a friend that
05:24 5 needs to get out." They're furnished housing --
6 I think it's 90 days. But, "He has to get out.
7 Do you have anything?"

8 One couple -- and now one man is in my
9 own house. I didn't see the couple for a month
05:24 10 before I stopped in. I work away from my home,
11 and I didn't see them for a month. And they had
12 six cats in the house. I tell you what, that was
13 the cleanest my house had ever been. They're
14 very, very good. I go to my rental house now,
05:24 15 and they have carpet in that house. My house
16 doesn't, but it's always very, very clean.

17 There's a young man in there now. He
18 was there two weeks before I met him. I couldn't
19 ask for better people to be in these homes.

05:25 20 I have addressed the issue briefly with
21 Mr. Wilke. I would give up my 40 years of
22 nursing to be able to have a housing unit to work
23 with these guys -- these people. Women, women
24 too. Wonderful people.

05:25 25 And they have certainly -- the economy

1 in Ainsworth, a lot of them go out of town to get
2 their special Mexican food, you know, that they
3 want that they don't sell in Ainsworth. And
4 different people have asked, "We never see them
05:25 5 around, even down at the watering hole. What do
6 your renters do?"

7 They don't go out and carouse and cause
8 trouble. They gather in their own homes. It
9 seems like people from each barn have their own
05:26 10 little group of people they communicate with.

11 I'd take -- I'd take a dozen of them
12 over one of my own family any day. They're just
13 good, good people. So just look at the other
14 benefits that there would be.

05:26 15 As far as the smell and getting into
16 the ground and all of that -- I'm a people
17 person, so I don't look into that. I don't get
18 into that. But you guys would find some good
19 people and good friends if you allowed this and
05:26 20 if they continued to bring a lot of people from
21 Mexico.

22 But also, you know, think about where's
23 our economy going? Are some of your kids going
24 to be coming back to the community, and where
05:26 25 will they work even if they're coming back now?

1 Where would they find work?

2 These people, I asked them and there's
3 been four or five family members work with JW in
4 Ainsworth. And they left -- most of them because
05:27 5 they just couldn't be inside all the time.

6 They're outside people, and they wanted to be out
7 with cattle and horses. But, yeah, these people
8 want to be there. Thank you.

9 MR. CHAIRMAN: Thank you, Myra.

05:27 10 MR. CASPERSON: Hi, guys. Travis
11 Casperson with Settje Agri-Services. Dean was
12 unable to make it today, so if there's anything
13 with the application itself or the facility, I
14 will try to answer that question for you guys
05:27 15 this afternoon. Really that's what I'm here for,
16 is to answer any questions, I guess, if there's
17 anything that anybody has.

18 There was one question that was brought
19 up from the audience, and that was the soil
05:28 20 sampling and the water testing. It's part of the
21 nutrient management plan. We've got to test the
22 soil before they apply any manure on it.

23 I'm not sure if she was talking -- the
24 water that she was talking about, if it's the
05:28 25 effluent or irrigation water or groundwater. If

1 it's irrigation water or the manure itself, it's
2 got to be tested. If it's groundwater -- we've
3 talked about that in previous -- that's the DEQ's
4 determination whether or not that's required or
05:28 5 not. And if they require it, then we'll test it.

6 Other than that, I don't want to get
7 into any more about the economics. You guys have
8 heard enough about that. We just want to make
9 sure that everybody understands we have been very
05:28 10 transparent with this, that we're asking for
11 above the 2,000. We're not trying to hide
12 anything and want to come back in the future.
13 We're being transparent. This is the head count
14 we want to be at.

05:29 15 With that said, we're asking for the
16 recommendation and simply that. A recommendation
17 that it gets passed on to the board of
18 commissioners. And we know that there's going to
19 be more testimony at that point in time. But
05:29 20 what we're asking for you guys this afternoon is
21 just your recommendation that they look at it and
22 that you guys approve it for them.

23 Really, the bottom line is we've met
24 all the obligations of the conditional-use
05:29 25 permit. We filled that out. We meet the

1 setbacks. It's not setbacks that we come up
2 with. It's the setbacks that the regulations of
3 Cherry County has, and we meet those. And so
4 there's not a whole lot more we can do about the
05:29 5 setback.

6 There is a lot of stuff that we're
7 trying to do to eliminate odor. There's an
8 additional expense of a deep pit. Quite a bit of
9 an additional expense. That's one thing that
05:30 10 they're doing to try to reduce the odor. There's
11 plenty of other things that I'm sure will come up
12 later on in other testimony down the road of what
13 they're doing. But Dean has went through the
14 presentation in depth with you guys. If there's
05:30 15 questions about any of that, I'll try to answer
16 to the best of my ability. That's all I have.
17 Thank you.

18 MR. CHAIRMAN: Thanks, Travis.

19 Okay. We have a few minutes left.
05:30 20 Probably enough time for one more person. Is
21 there anybody else that wants to say anything?

22 MR. MURPHY: Mike Murphy, Middle
23 Niobrara NRD. I just want to lay out some
24 things.

05:30 25 Number one, this permit got submitted

1 to the State, the Department of Environment and
2 Energy. That agency has to follow this document,
3 Title 130 Livestock Waste Control Regulations.
4 If you haven't seen it, it's online. They have a
05:31 5 very stringent review by the State. They have to
6 follow grounding standards, groundwater quality
7 and geology standards, and engineering and
8 design.

9 The State does not regulate odor.
05:31 10 That's been known. Everybody has a different
11 opinion of odor. Cement-lined pits, as we've
12 heard, are the best there is. They will not
13 allow chloride to move through them. You don't
14 risk the same potential issue that you do with
05:31 15 clay-lined lagoons. You have no sunshine, and
16 you can control the temperature.

17 It was determined that this -- the
18 proximity -- or location of this facility is over
19 100 foot to groundwater. I think the other big
05:31 20 thing is -- the fact is, is that this is the use
21 of organic matter versus commercial fertilizer.
22 That's what everybody here has been talking
23 about; the safety, welfare, wellbeing, and what
24 better way to do it than use organic matter? Any
05:31 25 questions, I'll be here for that, too.

1 MR. CHAIRMAN: Thanks, Mike.

2 Okay. Is there anyone else? We're
3 about to close the public comment period.

4 MR. TATE: Norman Tate. I was
05:32 5 wondering what they do with the dead animals? If
6 -- what do they do with them? Compost them? Is
7 there smell from that and all that stuff?

8 MR. CHAIRMAN: Anybody else?

9 Okay. Well, we're about to close the
05:33 10 public comment period and move on to the rest of
11 the meeting. And, of course, the reason we have
12 the public comment period is so folks can address
13 issues, and we respect that and want to hear
14 them.

05:33 15 And then on the flip side, when we
16 start working on the other items in the agenda
17 here today, we would ask that you respect our
18 time to try and work our way through this.

19 So the next item on the agenda: New
05:33 20 business. Discuss and act on CUP 001/20
21 Danielski Farms/Valentine Feeders Swine facility
22 to be used for breeding, gestation, and
23 farrowing.

24 Okay. Planning commission members,
05:34 25 where do we want to start? Anybody have any

1 comments to begin with?

2 MR. RODGERS: I do. If Nina Nelson's
3 number one is true, then can we even act on it?
4 It's not allowed.

05:34 5 MR. CHAIRMAN: Well, it wouldn't be in
6 the zoning regulations if it wasn't allowed. It
7 says specifically that it is allowed in the
8 zoning regulations.

9 MR. RODGERS: Okay.

05:34 10 MR. CHAIRMAN: Comprehensive plan is a
11 plan that tries to create a vision, and maybe
12 create something for people to gravitate to, but
13 it is just that, a vision. It does not carry any
14 type of...

05:35 15 MR. KIME: Not chiseled in stone.

16 MR. CHAIRMAN: The zoning code is the
17 implementation. If there was not to be any hog
18 confinements in Cherry County, it would say no
19 hog confinements allowed. It specifically has a
05:35 20 couple pages for hog confinements and the
21 conditions that they have to have to be met.

22 MS. LUTHY: So clarification on new
23 business between A and B -- so we have the
24 resolution over here. What's the goal for A
05:35 25 versus B on our agenda?

1 MR. CHAIRMAN: Good question. They
2 probably are about the same. Initially, we're
3 going to be talking about the resolution, I
4 think. A is to get started. And the
05:36 5 resolution's on there to make sure we're able to
6 discuss it. If we didn't include it, we may not
7 be able to.

8 Okay. So is there anything -- anybody
9 have any other comments or questions? Do we need
05:36 10 to move to the resolution and work on it? My
11 intention would be to go through it line by
12 line.

13 MS. LUTHY: I would be ready for that.

14 MR. CHAIRMAN: Okay. All right. So
05:37 15 this is a draft resolution. And first part of
16 this was provided to us by the county
17 commissioner -- or county attorney. Excuse me.
18 Items 1, 2, 3, 4 are cookie cutter. Number 5 is
19 where the project starts.

05:38 20 Okay. I will read number 5 out loud.
21 "Planning commission and county board of
22 commissioners must show the owner of the proposed
23 confinement feeding use can provide assurance
24 acceptable to the county board of commissioners
05:38 25 that the larger number of animal units will not

1 result in more properties being subject to
2 unreasonable levels of odor for unreasonable
3 duration periods."

05:39 4 MR. ANDREWS: Should we put in there
5 the actual numbers?

6 MR. CHAIRMAN: I was almost ready to --
7 wondering the same thing, Wade. I was almost
8 ready to go something to the effect -- start it
9 out, "As the proposed confinement operation is
05:39 10 greater than 2,000 animal units, the planning
11 commission and county board of commissioners must
12 show that" -- I'm not sure that -- I don't think
13 we have to.

14 MR. ERICKSEN: It should be the owner.

05:39 15 MR. ANDREWS: We could put the 2,000 in
16 there, though, as our baseline, so they have it
17 there in front of them.

18 MR. CHAIRMAN: Maybe we could start it
19 out, "Because the proposed feeding operation is
05:40 20 greater than 2,000 animal units, the county board
21 of commissioners must show -- must be shown by
22 the owner of the proposed feeding operation" --
23 are we getting there?

24 MS. LUTHY: Yes.

05:40 25 MR. ERICKSEN: Yeah.

1 MR. ANDREWS: Or we could put at the
2 end of it, "The CUP exceeds the 2,000-animal-unit
3 maximum of this section." Keith had that in
4 there.

05:42 5 MR. CHAIRMAN: So did you want to add
6 something?

7 MR. ANDREWS: Well, like on Keith's
8 deal, he just had another sentence at the end of
9 this one where he says, "This CUP exceeds the
05:42 10 2,000-animal-unit maximum of this section."
11 Something to that extent, I guess.

12 MR. CHAIRMAN: Okay. What I've just
13 written down on my paper is -- for part 5, it
14 would read, "Because the proposed confined
05:43 15 operation exceeds 2,000 animal units, the county
16 board of commissioners must be shown by the owner
17 of the proposed confined feeding use can provide
18 assurances acceptable to the county board of
19 commissioners that such large numbers of animals
05:43 20 will not result in more properties being
21 subjected to unreasonable level of odors for
22 unreasonable duration periods." Still a little
23 awkward.

24 MR. ANDREWS: That sounds good.

05:43 25 MR. CHAIRMAN: Okay. Jessica do you

1 and I need to compare notes?

2 MS. COYLE: You need to read it again,
3 please.

4 (Mr. Chairman walks over to Ms. Coyle.
He then returns back to his seat.)

05:44

5
6 MR. CHAIRMAN: Okay. Anything else on
7 part 5? Everybody is good?

05:45

8 Okay. Part 6, "All manure applications
9 shall be through injection regardless of the
10 waste management plan on file with the Nebraska
11 Department of Environmental -- Environment and
12 Energy or its successors." So is everybody good
13 with that?

14 MS. LUTHY: Yes.

05:45

15 MR. ERICKSEN: Yes.

16 MR. CHAIRMAN: Part 7, "Phasing of the
17 project: Phase 1, including any shared
18 facilities with Phase 2, shall be allowed. All
19 shared facilities and dirt work may be completed
20 during Phase 1. Part B, Phase 2 shall require a
21 second CUP."

05:46

22 MR. ERICKSEN: That's the way it has to
23 be.

24 MR. ANDREWS: Sounds good.

05:46

25 MR. CHAIRMAN: Part 8, "Monitoring

1 wells shall be installed according to the NRD and
2 NRCS identified location -- locations at
3 applicant's expense."

05:47 4 And Mike Murphy is here if we have any
5 questions concerning NRD and what they want to
6 do. And at present he's looked at this and, as
7 far as I know, is okay. So are you still okay,
8 Mike?

9 MR. MURPHY: Yeah, I mean, we've had
05:47 10 conversations with Conservation and Survey --
11 like I say, the biggest muster was getting past
12 the DEQ or DEE test of greater than 100 foot to
13 groundwater. I think most everything in this
14 area is 120 foot or greater. You know, so
05:47 15 working with the Conservation and Survey division
16 of the university to identify, you know, some
17 additional locations for the flow of -- flow of
18 groundwater.

19 MR. CHAIRMAN: So is everybody good
05:48 20 with this?

21 MR. ANDREWS: Yeah.

22 MR. MURPHY: We sample a lot of
23 different locations -- irrigation, domestic, and
24 monitoring wells -- in that area currently.

05:48 25 MR. ERICKSEN: The nitrate management

1 plan, is that correlated close to that?

2 MR. CHAIRMAN: Well, that's part 16,
3 and it has a question mark. And we're going to
4 add to it, I think. I don't have a good -- it's
05:48 5 going to be a separate issue. So the monitoring
6 wells will be put in to monitor for the nitrates,
7 but through the -- with the help of the NRD, they
8 have specialists that will be able to determine
9 where we should put the wells, where the wells
05:49 10 should be placed for monitoring.

11 MR. MURPHY: When you get into the
12 nitrate management plan, that gets more into the
13 application aspects of it, which is what the
14 individual from Settje talked about. The
05:49 15 nutrient management plan is required through the
16 Title 130 process. But then on top of that, we
17 have a local NRD groundwater management plan
18 application process that they have to follow,
19 too, so -- but, I mean, State requirements are a
05:49 20 lot more strict than what the local NRD has.

21 MS. LUTHY: Something else on that one
22 -- and I don't know, maybe it talks about it as
23 we go on. It doesn't talk about when the
24 monitoring wells should be included. We talked
05:49 25 about a baseline. I think it should say

1 something about being installed during the
2 construction phase, so that it's not something
3 that's included afterward or anything like that,
4 where everything is built and then there's a
05:50 5 monitoring well. You know what I'm saying?

6 That's something that I think should be added in
7 that line, is "during the construction phase."

8 MR. ERICKSEN: What's the NRD say?

9 MR. MURPHY: Well, most of the
05:50 10 facilities that get tested, they've got to put in
11 a well for use anyway. So generally it's a
12 sampling point that we've used. So, I mean, if
13 you guys as a committee determine that more
14 monitoring sites are needed, then that's what the
05:50 15 landowner will have to address.

16 MR. CHAIRMAN: Okay. So, Chelsea, you
17 would like to see it be "Monitoring wells shall
18 be installed according to NRD and NRCS identified
19 locations at applicant's expense during
05:51 20 construction phase"? Okay.

21 How do the rest of the planning
22 commission members feel about that?

23 MR. ANDREWS: Sound good.

24 MR. LEE: Do these test wells, Mike --
05:51 25 I mean, do they have to be -- probably drill

1 wells for the facility itself, and then do these
2 test wells have to be separate from those wells?

3 MR. MURPHY: They can be. Yes, they
4 most definitely can be. If you've got a well
05:51 5 within the facility, that's going to be your
6 first place of contamination. Monitoring wells
7 outside of it -- I mean, ours are set to -- the
8 State expects that Conservation and Survey come
9 out and do the geological boring of the holes and
05:52 10 set the requirements, the depth and stuff. I
11 mean, not saying it's a concern to Chelsea's
12 need, but at the end of the day, if you want
13 stuff set up to meet our State and energy
14 standards, it's a timing thing to get
05:52 15 Conservation and Survey out there.

16 I mean, they've got a pretty -- you
17 know, we've been trying to get seven or eight
18 monitoring wells the last two years. Well, with
19 the high water and their schedule, we've skipped
05:52 20 about half of them in the last two years. You
21 know, just having a well driller come out and
22 drill a hole is a little bit different than going
23 through the full-blown monitoring well process.

24 MS. LUTHY: I guess I don't have a
05:52 25 preference to what wells they monitor, per se.

1 You know what I mean?

2 MR. CHAIRMAN: It's going to be --
3 they're going to have some recommendations. And,
4 actually, this is a map of wells that they
05:53 5 already monitor. You can pass that on.

6 MR. MURPHY: The thing about a
7 registered monitoring well is that you know the
8 exact construction, you know the exact depth of
9 the well, you know exactly where the screening is
05:53 10 and everything, where a household well, you know,
11 versus irrigation well are two different things.

12 MS. LUTHY: So for clarification, this
13 makes it seem like monitoring wells would be
14 added.

05:53 15 MR. MURPHY: That's my understanding of
16 what you've got drafted, yeah.

17 MS. LUTHY: Okay.

18 MR. CHAIRMAN: All right. Are we good
19 with number 8?

05:54 20 Number 9, "Monitoring wells shall be
21 tested annually by the NRD for both nitrates and
22 phosphorus annually, with all fees associated
23 with testing borne by the producer."

24 Mike has suggested that we add after
05:54 25 "NRD": "Or a licensed individual."

1 MR. MURPHY: The only reason why is we
2 at the NRD -- we have to follow State standards.
3 We get licensed and certified. We have to
4 maintain them standards, just as a licensed well
05:55 5 driller does. I believe Settje have licensed
6 people on staff that can maintain that same
7 licensing and stuff. So, you know, it's up to
8 the landowner at the end of the day who they want
9 to have do that monitoring and reporting back to
05:55 10 the State.

11 MR. ANDREWS: Just maybe not have "NRD"
12 in there, just have "a licensed professional."

13 MR. MURPHY: You know, we -- I mean,
14 it's not out of our way. Like I said, it's, you
05:55 15 know, adding another sampling point. You know,
16 we've been trying to add additional monitoring
17 across our district.

18 MR. ANDREWS: I mean, it doesn't put
19 that burden on you guys. I mean, any licensed
05:56 20 person can do it that way.

21 MR. MURPHY: I mean, only certain
22 people can actually open and break the seal on a
23 well. That's the big license requirement. You
24 need to have that license to break that seal.
05:56 25 You, as an individual, don't have that.

1 MR. ANDREWS: Put "NRD and/or a
2 licensed individual" or --

3 MR. CHAIRMAN: "NRD or licensed
4 individual"?

05:56 5 MR. ANDREWS: Yeah, that would work.

6 MR. CHAIRMAN: Okay. Is everybody good
7 with number 9?

8 Jessica, are you good?

9 MS. COYLE: Yes, mm-hmm.

05:57 10 MR. CHAIRMAN: Number 10, "The
11 applicant/producer shall work with the county
12 board of commissioners on a road maintenance
13 program in order to maintain the roads used by
14 the facility and local residents." Comments?

05:57 15 MR. KIME: Looks good to me.

16 MR. ANDREWS: For clarification, would
17 that mean like, say, if the road needed millings
18 or something on the shoulder and the County
19 didn't have any or didn't have a budget for that,
05:58 20 Danielski would be able to do that themselves? I
21 don't know. I was curious.

22 MR. CHAIRMAN: Is everybody good with
23 10?

24
05:59 25 MR. ERICKSEN: Yeah.

1 MR. CHAIRMAN: Number 11, "The
2 facility's proposed deep-pit capacity of 365 days
3 of waste shall remain at this capacity and shall
4 not be reduced when Phase 2 comes on line."

05:59 5 MS. LUTHY: Good.

6 MR. ANDREWS: I think that one is good.

7 MR. CHAIRMAN: Number -- part 12, "The
8 application of manure shall be done immediately
9 prior to planting a crop or cover crop."

06:00 10 MR. ERICKSEN: 12 and 13 are identical.

11 MR. CHAIRMAN: Could be. I'm okay with
12 just having bullet points. They say paper never
13 refuses ink.

14 MS. LUTHY: In the letter we got today
06:01 15 related to number 12, should we include something
16 in there about not to exceed, for instance,
17 University of Nebraska recommendations for manure
18 application? Is that something that should be
19 included?

06:01 20 MR. ANDREWS: According to
21 mismanagement practices type of deal?

22 MS. LUTHY: Yeah.

23 MR. CHAIRMAN: Well, I'm little
24 hesitant to delve into the farming end of the
06:03 25 thing. I'm more keen on the water quality issue

1 of application.

2 MR. RODGERS: I think it would be very
3 difficult to enforce. I think it should be
4 stricken.

06:03 5 MR. CHAIRMAN: What's that?

6 MR. RODGERS: We're talking about 12,
7 the line "manure immediately prior to planting."

8 MS. LUTHY: You mean the whole thing?
9 Strike all of 12?

06:04 10 MR. RODGERS: They're going to do it
11 most advantageous way possible. It's a very
12 valuable resource, and they're not going to
13 squander it. So to put somebody else in charge
14 of making sure what they do --

06:04 15 What do you think?

16 MR. CHAIRMAN: We had enough input that
17 there's issues with application that -- that's
18 probably the reason why it's in there.

19 MR. RODGERS: I understand that.

06:04 20 MR. CHAIRMAN: I'm comfortable with
21 leaving it in. I'm not comfortable with going as
22 far as using University of Nebraska
23 recommendations because it is a recommendation.

24 So where is everybody else at on this?

06:05 25 MR. LEE: I'm comfortable with leaving

1 it where it's at.

2 MR. ERICKSEN: I am, too.

3 MR. ANDREWS: That's fine.

4 MR. CHAIRMAN: All right. Thanks for
06:05 5 your input, Dave. I appreciate it.

6 Number 13, "The application of manure
7 shall not be done on frozen ground." Any
8 comments on that?

9 MR. RODGERS: If it's going to be
06:06 10 injected in the field, you wouldn't inject it on
11 frozen ground.

12 MR. CHAIRMAN: Well, it seems that some
13 places have had issue with it for some reason. I
14 don't know why. Like you say, it seems like a
06:06 15 no-brainer.

16 All right. Are we good with number 13?

17 MR. ANDREWS: Yes.

18 MR. CHAIRMAN: Number 14, "Site
19 inspection shall be done by the zoning
06:06 20 administration as needed." Which would seem like
21 a no-brainer, too, probably, but part of the
22 issue will be that it's a bio -- what do they
23 call it? -- zone, and you may be required to
24 wear booties and a suit to -- maybe even take a
06:07 25 shower before you can go into the facility to

1 count the little piggies. There have been issues
2 at other facilities over that, so that's part of
3 the reason that's included. So everybody is
4 aware that it might happen.

06:07 5 MR. ANDREWS: Gary, on that one, I read
6 one part of that -- I don't remember where I read
7 that, but that the zoning administrator or
8 somebody that the zoning administrator appoints
9 can do that. Should we put that in there also?

06:08 10 MR. CHAIRMAN: What's your input,
11 Jessica?

12 MS. COYLE: I think it should be
13 somebody that could be appointed by zoning
14 administrator.

06:08 15 MR. ANDREWS: You or somebody else?

16 MS. COYLE: Yes.

17 MR. CHAIRMAN: Probably makes sense.

18 MR. KIME: I agree with that.

19 MS. COYLE: Because if you leave it
06:08 20 just the zoning administrator and you have no
21 zoning administrator -- and history has shown
22 that that happens.

23 MR. CHAIRMAN: Or maybe the zoning
24 administrator doesn't really want to go count the
06:08 25 little piggies.

1 MR. ANDREWS: That way it gives us a
2 little room. Make one of the Cherry County
3 commissioners do it.

4 MR. CHAIRMAN: Okay. So how do you
06:08 5 want to word that, Wade?

6 MR. ANDREWS: "Site inspection shall be
7 done by the zoning administrator or an appointee
8 of the zoning administrator." Would that work?
9 I read that somewhere. "As needed."

06:09 10 MR. CHAIRMAN: As needed.

11 MR. ANDREWS: Yeah, that's fine.

12 AUDIENCE MEMBER: Can I ask you a
13 question?

14 MR. CHAIRMAN: No.

06:10 15 Are we good?

16 Part 15, "Snow removal remains on
17 schedule as it is now with no special
18 considerations due to workers or hauling of
19 animals." Okay.

06:10 20 We have part 16. It's nitrogen -- or
21 nitrate management plan with a question mark.
22 And Part A for that would be to create a nitrate
23 level baseline -- create an existing nitrate
24 level baseline for the area. And that would
06:11 25 involve testing as many people's wells as they

1 wanted -- would allow to -- domestic wells in the
2 surrounding area and create a baseline for what
3 the nitrate levels are before the facility goes
4 into production.

06:11 5 MR. RODGERS: Doesn't the
6 responsibility of nitrate management come to the
7 NRD or DEQ rather than zoning? In the past, they
8 tested ours for nitrate.

9 MR. CHAIRMAN: Well, the reason for the
06:12 10 logic behind this is that at some point someone
11 might decide that they have high nitrates in
12 their domestic well or house well, and -- because
13 they tested it after the facility goes in, and
14 then they're going to blame the facility. Okay.
06:12 15 And that has happened before. And so the idea
16 behind this is to get as many folks to go ahead
17 and establish what the nitrate level is in their
18 wells in the surrounding area so that --

19 MR. RODGERS: Is that work to be done
06:12 20 by the NRD?

21 MR. CHAIRMAN: I don't know as we
22 necessarily decided that, but --

23 MR. MURPHY: I would offer that.

24 MR. CHAIRMAN: I think probably the NRD
06:13 25 could do it quickly.

1 MR. MURPHY: I would offer assistance
2 to accomplish that task.

3 MR. CHAIRMAN: I think the applicant is
4 going to be interested in getting that done
06:13 5 because they're the ones that have the most to
6 lose, and then perhaps the County. And then the
7 other parts can be added to the nitrate
8 management plan.

9 MS. LUTHY: Did you have something else
06:13 10 in mind to add to that?

11 MR. CHAIRMAN: Not at this time. So
12 comments?

13 MS. COYLE: Do you want me to read what
14 I wrote down?

06:14 15 MR. CHAIRMAN: That would be okay,
16 Jessica.

17 MS. COYLE: Okay. "Create an existing
18 nitrate level baseline of the area by testing
19 domestic wells, prior to the facility being
06:14 20 constructed, at the applicant's expense." Is
21 that what you were stating?

22 MR. CHAIRMAN: I think Wade's got his
23 eyes closed thinking about it.

24 MR. ANDREWS: I was thinking if we
06:15 25 should add in there -- is that going to be a

1 yearly process? To test every year at the
2 applicant's expense type of deal?

3 MR. CHAIRMAN: Once that -- that's just
4 to create a baseline, and that's it. And then
06:15 5 after that, then it's whatever happens, happens.

6 MR. ANDREWS: That makes sense.

7 MR. CHAIRMAN: It's an attempt --

8 MR. ANDREWS: Just to get a baseline.

9 MR. CHAIRMAN: So we know where they're
06:15 10 at when they started.

11 MR. ANDREWS: That makes sense.

12 MR. CHAIRMAN: Then if somebody wants
13 to test their domestic well, they can do it any
14 time, whatever they want to do. And there will
06:15 15 probably be some folks that choose not to
16 participate, but it's the recommendation to try
17 and do that. So is everybody good with this
18 part?

19 Okay. Number 17. At the last meeting
06:16 20 we're a little bit worried about the
21 decommissioning or what would happen to the
22 organic material in the deep pit. So we threw
23 this one in.

24 17, "Decommissioning plan of the deep
06:16 25 pit. The applicant, prior to construction, will

1 provide the County with a decommissioning plan
2 including: A, the disposal of remaining waste
3 and compost; B, elimination of said deep pit
4 structure; and, C, funding mechanism producer
06:16 5 intends to use to ensure the costs will not be
6 borne by the County or taxpayers of Cherry
7 County."

8 Now Mike Murphy addressed this just a
9 little bit. He doesn't believe that there will
06:17 10 be a problem getting rid of the waste because he
11 thinks that there will be people that want to put
12 it on the fields, so that wouldn't be as big of
13 an issue as maybe what some of us are thinking or
14 talking about it.

06:17 15 And, Mike, do you still kind of agree
16 with that?

17 MR. MURPHY: We're seeing a big trend
18 in going more organic. I mean, people are buying
19 organic material. We're working with them on
06:17 20 composting and utilization and stuff like that.
21 I mean, the costs of commercial fertilizers has
22 been a limiting factor. It just -- back to
23 economics, activity, and everything else. I
24 mean, at the end of the day, you know, it's an
06:18 25 organic waste product that can be utilized.

1 MR. CHAIRMAN: The commissioners can do
2 whatever they will with these recommendations.
3 This isn't holding them to anything. It's just a
4 recommendation from us.

06:18 5 And comments on Part 17?

6 MR. ANDREWS: I just had one thought.
7 Say, worst case scenario, people want that manure
8 on their field, would we have to include language
9 that say that it wouldn't necessarily have to be
06:19 10 directly injected? That might not be available.
11 I don't know. Just apply it broadcast on a field
12 just to get rid of it.

13 MR. CHAIRMAN: You may want to put it
14 in your pasture.

06:19 15 MR. ANDREWS: Might. Direct injection
16 might be kind of difficult in that avenue there.

17 MR. LEE: They've got to figure out how
18 to do it.

19 MR. ANDREWS: They'd have to figure out
06:19 20 how to do it, yeah.

21 MR. LEE: If they still have their
22 injection stuff and a farmer sees this and says,
23 "I'd sure take it."

24 MR. ANDREWS: You're right.

06:19 25 MR. LEE: I think "C" covers that.

1 MR. ANDREWS: Sounds good then.

2 MR. CHAIRMAN: So we want to keep 17
3 kind of how it is?

4 MS. LUTHY: Mm-hmm.

06:20 5 MR. ERICKSEN: Yeah.

6 MR. ANDREWS: Sounds good.

7 MR. KIME: Back on -- I had a thought
8 on 16. On that, what's going to keep somebody
9 from two years down the road, they test high for
06:20 10 nitrate and they've got cattle there or they have
11 farm ground next to that well and blame it on
12 this hog operation?

13 MR. CHAIRMAN: Well, there is precedent
14 for that. That's happen. Usually, the State
06:20 15 comes in and investigates. And that's why
16 they've got this existing nitrate level to start
17 with.

18 MR. KIME: If nobody else has it, then
19 -- okay.

06:21 20 MR. CHAIRMAN: It should provide some
21 evidence of what's going on either way.

22 Okay. Are we ready to have Jessica go
23 type this up in realtime and look at it? We'll
24 try not to get in any trouble while she's gone.

06:33 25 (Meeting recessed.)

1 MR. CHAIRMAN: Planning commission
2 folks, procedurally, let's go back -- go ahead
3 here. Jessica has this resolution typed up, and
4 at first glance, it looks good. Everybody needs
06:33 5 to look at it. I think we will proceed by voting
6 on this resolution, and that will be completed.
7 And then we'll discuss and act on the CUP 001/20.

8 Just a reminder to everybody, this
9 permit, if we choose to vote on it tonight, if we
06:34 10 vote to approve it -- or to recommend approval,
11 would be the correct language -- it will go to
12 the commissioners. If we give a recommendation
13 of disapproval, it still goes to the
14 commissioners. And if it's a tie vote -- which
06:34 15 is a reality -- it still goes to the
16 commissioners. And so -- just so everybody
17 understand that procedure.

18 And the commissioners are the people
19 that are going to make the decision on this. And
06:35 20 both of our deal is to listen to what folks say
21 and try to address some of those issues and also
22 answer the question, "Does the permit meet the
23 requirements of our zoning regulations?" So,
24 anyway.

06:35 25 So, at this point, let's review this.

1 And after everyone has had a chance to
2 read it, is there any discussion? Are we ready
3 to make a motion?

4 MR. KIME: I make a motion to approve
06:38 5 the Cherry County Planning Commission Resolution
6 No. 2021, January 5, 2021, and Statement of
7 Findings of Facts.

8 MR. CHAIRMAN: Duane has made --

9 MR. LEE: Second.

06:39 10 MR. CHAIRMAN: Duane Kime has made a
11 motion to approve Cherry County Planning
12 Commission Resolution No. 2021, January 5, 2021,
13 and Statement of Facts -- Findings of Facts. It
14 has been seconded by John Lee.

06:39 15 We'll now vote on the resolution.
16 Chelsea Luthy?

17 MS. LUTHY: Yes.

18 MR. CHAIRMAN: Wade Andrews?

19 MR. ANDREWS: Yes.

06:39 20 MR. CHAIRMAN: Michael McLeod?

21 MR. McLEOD: Yes.

22 MR. CHAIRMAN: Duane Kime?

23 MR. KIME: Yes.

24 MR. CHAIRMAN: John Lee?

06:39 25 MR. LEE: Yes.

1 MR. CHAIRMAN: Albert Ericksen?

2 MR. ERICKSEN: Yes.

3 MR. CHAIRMAN: Dave Rodgers?

4 MR. RODGERS: Yes.

06:40 5 MR. CHAIRMAN: Chair votes yes. Motion
6 carries.

7 All right. Other item on agenda:

8 Discuss and act on CUP 001/20 Danielski

9 Farms/Valentine Feeders swine facility to be used
06:40 10 for breeding, gestation, and farrowing.

11 Jessica, as zoning administrator, does
12 the -- in your opinion, does the CUP meet the
13 requirements of our zoning regulations?

14 MS. COYLE: Yes, it meets the
06:41 15 requirements of the zoning regulations except for
16 it exceeds the 2,000 animal units.

17 MR. CHAIRMAN: Okay. Is there a
18 discussion among the planning commission members?

19 MR. ERICKSEN: Mr. Chairman, I move we
06:41 20 approve the CUP 001/20 Danielski Farms/Valentine
21 Feeders swine facility to be used for breeding,
22 gestation, and farrowing.

23 MR. KIME: I second that.

24 MR. CHAIRMAN: All right. Albert
06:41 25 Ericksen made a motion to approve 001/20 permit

1 application. Duane Kime has seconded it. We'll
2 now vote.

3 Chelsea Luthy?

4 MS. LUTHY: Yes.

06:42 5 MR. CHAIRMAN: Wade Andrews?

6 MR. ANDREWS: No.

7 MR. CHAIRMAN: Michael McLeod?

8 MR. McLEOD: No.

9 MR. CHAIRMAN: Duane Kime?

06:42 10 MR. KIME: Yes.

11 MR. CHAIRMAN: John Lee?

12 MR. LEE: Yes.

13 MR. CHAIRMAN: Albert Ericksen?

14 MR. ERICKSEN: Yes.

06:42 15 MR. CHAIRMAN: Dave Rodgers?

16 MR. RODGERS: No.

17 MR. CHAIRMAN: Chair votes yes. Four
18 "yes" votes. Three "no" votes. Motion carries.

19 MS. COYLE: I have five.

20 MR. CHAIRMAN: Five?

21 MS. COYLE: Five yeses. I have Chelsea
22 voted yes --

23 MR. CHAIRMAN: Yep, yep, you're
24 correct.

06:43 25 All right. Next item on the agenda:

1 Set the regular meeting date and time.

2 MS. COYLE: The 2nd of February at
3 4:30.

4 (Additional discussion had off the
5 stenographic record. Meeting was
6 adjourned at 6:45.)

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C E R T I F I C A T E .

I, Amanda L. Colburn, General Notary Public,
duly commissioned, qualified, and acting under a
general notarial commission within and for the
State of Nebraska, do hereby certify that the
foregoing proceedings were taken by me at the
time and place herein specified; that I am not
counsel, attorney, or relative of either party or
otherwise interested in the event of this suit.

IN TESTIMONY WHEREOF, I have hereunto set my
hand officially and attached my notarial seal at
Valentine, Nebraska, this 21st day of January,
2021.

General Notary Public