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December 4th, 2018 Minutes

Brookings County Planning & Zoning Commission
December 4th, 2018 – 8:00 PM
Brookings City & County Government Center
310 Chambers

Chair Rochel called the meeting to order at 7:03 PM. Commission members present were: Lee Ann Pierce, Robert Rochel, Darrell Nelson, Darrel Kleinjan, Randy Jensen, Chad Ford and alternate board members Tom Davis and Roger Erickson. Board member Kimberly Elenkiwich arrived during meeting and members Terrell Spence and Michael McHugh were absent.

Chair Rochel read **agenda item # 2: Approval of minutes from November 6th, 2018 meeting.** Roger Erickson moved to approve the minutes. Darrell Nelson second. Chair Rochel called for a voice vote. 8-ayes and 0-nays, motion carried.

Chair Rochel read **agenda item # 3: Items to be added to agenda by commission members or staff.** a) Robert Hill noted he would discuss the Coyote Ridge Decommissioning Plan during his Department report and no action would be taken, it was just a briefing.

Chair Rochel read **agenda item # 4: Invitation for citizen to schedule time on the commission agenda for an item not listed. Time limited to 5 minutes per person to address the board.** No one scheduled time to address the board.

Chair Rochel read **agenda item # 5: Approval of Agenda.** Tom Davis moved to approve the agenda. Darrel Kleinjan second. Chair Rochel called for a voice vote. 8-ayes and 0- nays, motion carried.

Chair Rochel stated, "We are now acting as the Brookings County Planning and Zoning Commission" read the opening statement and **agenda item # 6: Consideration of Plats: a. 2016plat024: "Plat of Lots 2, 3 & 4 VanderWal Addition in the N1/2 of Section 3, T111N, R50W of the 5th P.M., Brookings County, South Dakota."** Lee Ann Pierce moved to approve the plat. Chad Ford second. Chair Rochel opened up for discussion and asked Mr. Hill for his staff report. Mr. Hill stated, "Larry VanderWal is platting off Lots 2, 3 and 4 from the two parcels they own. The NW ¼ contains 144.73 acres and the NE1/4

contains 148 acres for a total of 292.73 acres. The parcels are being platted off for property line adjustments, to have separate legal descriptions for the pasture and the farmland. Lots 2 and 4 contain the farmable ground and Lot 3 contains the pasture and grassland. Lot 4 will not be a buildable lot for a residence as it does not contain 35 acres. The current use of the land is farm ground for crop production and pasture. The plat meets the platting requirements of the 2016 Comprehensive Plan-Unincorporated Rural Area Land Use statement on page 24 for Agricultural Land Use.” Mr. Hill used visuals to describe the plat. Chair Rochel opened up for questions from the board, hearing none. Chair Rochel opened up for discussion from the audience. Tom VanderWal came forward identified himself and stated, “I represent my dad and mom and the reason we are platting this is we are selling the ground, but it is staying in the family. One of us is buying the tillable ground and one of us is buying the pasture. Platting into Lots was the best way we felt to do that, that is the only reason we are platting the land. Chair Rochel asked the board for questions or comments, hearing none he called for a roll-call vote: Pierce-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Jensen-aye, Davis-aye, Erickson-aye, Rochel-aye. 8-ayes, 0-nays, motion carried.

Chair Rochel read **agenda item # 7: Brookings County Planning Commission By-laws December 4, 2018 Update.**” Chair Rochel opened up for discussion and asked Mr. Hill for his staff report. Mr. Hill stated, “In November a hard copy was given out at the meeting for the board to review. There have been only two minor changes since that time. Clean up of wording “is” to “shall be” and correct numbering of items. The attorney reviewed the document and a motion can be made to approve the document. Chair Rochel asked for a motion to approve the document. Chad Ford made a motion to approve the Article of By-Laws for Brookings County Planning Commission. Roger Erickson second. Chair Rochel called for a voice vote. 8-ayes and 0- nays, motion carried.

Chair Rochel read **agenda item # 8: Discussion on Ordinance Update.**” Mr. Hill requested that Luke Muller (First District Association of Local Government) be called forward to give an update. Chair Rochel opened up for discussion and asked Mr. Muller to come forward. Mr. Muller discussed various ordinance updates and working with the subcommittees. Drafting was the next stage then onto review and discuss. Mr. Muller highlighted: 1) Language would be simplified to state which office would be dealing with things in each District. 2) Ag District portion of the ordinance would go to draft phase 3) Work was being done to possibly adding another District to the Ordinance (Rural Residential District). Board member Pierce inquired on the possible addition of a new combination board of adjustment. Mr. Muller noted that that was still being considered and would consist of possibly 5 (five): 1- County Planning & Zoning Board Member, 1-County Commissioner, 1-City Council Member and 1- Brookings City Planning Commissioner, 1- Member at large. Only used in the Ag area under Joint Jurisdiction. Rezoning and Plats would still fall under the current board per state law. Thus there would be a Joint Jurisdiction Board of Adjustment and Planning Commission. Mr. Muller further noted that changes would be seen in the Joint Jurisdiction regarding mining, feedlots and the Aquifer protection area. Mr. Hill then moved the discussion onto

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the definition of a Well and noted work was being done to consider and define such as: 1) Abandoned Well 2) Human Consumption Well/Potable Well 3) Non potable well. Mr. Muller also discussed setbacks from wells – current, state, possible change and timeline consideration when establishing a well as usable or abandon. Mr. Hill also brought into the discussion the well head area around Brookings county and city and noted that mapping updates could be upcoming. If any changes were in the areas near small towns, the town involved would be included in discussions and in agreement with any change to the map. Mr. Muller further went over the state definition (SDCL 46-1-6) and used visuals in his discussion. Board members Pierce, Nelson and Kleinjan discussed: 1) well usage human vs. animals and considerations or limitations. 2) Timeline to be considered abandoned well (1yr, 2yr, etc....). At 7:40 PM Board member Kimberly Elenkiwich joined the meeting. Board members continues discussion on potable water and setting a timeline to define a well as abandoned or in use. Mr. Muller also went over distance considerations and what the State requirements currently were. He then noted he had enough information to continue on with the drafts.

Chair Rochel **read agenda item # 9: Department Reports and** asked Mr. Hill if he needed to read the Board of Adjustment statement also, Mr. Hill noted it was not needed as department reports were the only item left and wasn't needed for his report. Mr. Hill then discussed/noted: 1) Email was going to be used more in 2019 with reports for the board members sent via email and not printed to save on expenses. 2) Review of the Decommissioning plan for the Coyote Ridge Wind Project. Board member Pierce noted her concern with the decommissioning plan, stating "Nothing in here that protects the county or landowner in the event of the entity having any business problems." Board members Davis and Kleinjan discussed the possibility of a bond requirement, escrow account or some form of financial assurance. Mr. Muller input the PUC currently requiring "X" dollars per year in an escrow account on a specified wind farm and noted that they may not require on others, but that they had been consistent thus far. Mr. Hill noted that the current wind farms has been in operation in Brookings County since 2007 and had not sold any part to other companies. Board members Nelson and Pierce discussed how decommissioning requirements could affect other things such as bankrupt farming operations – grain bins, feedlots, etc.... Board member Pierce state, "The County does that on nuisance charges. That's why we have our nuisance laws and that's what our concern is with the wind towers down the road. I am a real supporter of wind energy but I just think we have to look at the end product. I think what wind towers look like today will be dramatically different in 50 years. Maybe the salvage value will take care of removing of but the landowner maybe is not going to have resources to do it, it is something we have to consider to protect that 50 – 100 year vision, but your right, that is why we have county nuisance laws on property. And we don't want to have people that follow us 50 years from now have to have common nuisance laws for wind towers." Mr. Hill went over his calendar: 1) attended a CAFO meeting put on by Dakota Rural Action in Mitchell on Friday, November 30, 2018. He told the board the information he received from the meeting would be scanned and emailed for them to review. He highlighted: 1) as of April 15, 2017 there were new CAFO rules in South Dakota.

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Kent Woodmansey of SD DENR offered to come to the board and explain in detail the new rules. 2) Jay Gilbertson had spoken and information from the meeting would also be emailed if the board members. 3) Mitch Peterson an attorney also presented at the Mitchell meeting. Mr. Hill noted there was no longer a de noble review – codified law had been changed. 4) Cost of maintaining township roads was final presentation at the Mitchell meeting.

Mr. Hill announced the next meeting would be on Tuesday, January 8th, 2019 and the location would probably be changed due to the city council also meeting on the same night and board members would be notified of location as soon as it was available. Mr. Hill wished the board members a Merry Christmas and Thanked Judge Pierce for serving on the Zoning board for the past 4 years. Lee Ann Pierce said, “Having served on this board with you all for the last 4 years and those of you that have been on here for more than a decade, this is a hard job And the work that you do is important. I go home from these meetings and I think about what we said to people, because we impact people’s daily lives and you guys just do an outstanding job for Brookings. Thank you for your service in doing that because it is really needed. I do believe Commissioner Bartley will be the liaison for the next year. Thank you for all the discussions and everything, I have learned a lot the last 4 years. I will still be involved with the ordinances as I am the liaison for the State’s Attorney’s office so I will continue to review things.” Mr. Hill noted that Rochel, Nelson and Kleinjan had been on the board the longest of the seated members. Board member Nelson recognized and thanked Lee Ann Pierce for her presentation she had given as the representative of the County Commission the recent Ag Appreciation Banquet.

Chair Rochel asked for a motion to adjourn. Darrel Nelson made a motion to adjourn the meeting, Kimberly Elenkiwich second.

Chair Rochel adjourned the meeting at 8:24 PM.

Rae Lynn Maher
Brookings County
Development Department.