

Minutes of the Joint Jurisdiction Committee
04/25/19

Chairperson Mary Kidwiler called the meeting to order. Committee members Kidwiler, Mike Bartley, Tom Davis, Greg Fargen (arrived at 9:58 AM), Al Heuton (arrived at 9:38 AM), Robert Hexum, Duane Knutson, Steve Meyer (arrived at 9:35 AM), Scott Mohror, Lee Ann Pierce and Mike Struck were present. Luke Muller with First District Association of Local Governments, Deputy County Development Director Richard Haugen and Brookings County Commission Department Director Stacy Steffensen were also in attendance.

A quorum was determined to be present.

Pierce moved/Struck seconded that the agenda for the April 25, 2019 Joint Jurisdiction Committee be amended to add an election of a Chairperson and Vice-Chairperson. All members voted "aye." Motion carried. Pierce moved/Hexum seconded a motion to approve the agenda as amended. All members voted "aye." Motion carried.

Knutson moved/Bartley seconded that the minutes from the April 4, 2019 Joint Jurisdiction Committee meeting be approved as presented. Motion carried.

Pierce moved to nominate Mike Bartley as Chairperson of the Joint Jurisdiction Committee, Hexum seconded the motion. All members voted "aye." Motion carried.

Pierce moved to nominate Ope Niemeyer as Vice-Chairperson of the Joint Jurisdiction Committee, Bartley seconded the motion. All members voted "aye." Motion carried.

Meyer arrived.

Muller said he met with Meyer, Struck, Hill and Jay Gilbertson with the East Dakota Water Development District to discuss the specifics in the proposed ordinance about the well-head protection areas. He said they reviewed the map and recommend revising the well-head area.

Heuton arrived.

Struck said the map still included a well-head that served Western Estates that is no longer in service and they would like to take that area out of the well-head protection area. Muller said they do not want any new feedlots and no expansion of feedlots, which isn't an issue after the map changes as there are no feedlots in the newly proposed area. Kidwiler asked if there are any abandoned feedlots that could be restarted or abandoned homesteads that do not have to meet the 35 acre rule in this area that could apply to have a feedlot. Muller said there are not. And he noted that the issue of expansion isn't a concern since there are no feedlots in the well-head protection area with the proposed change of the map.

Davis asked that, as the city expands, if they won't need the well-head area they are proposing to eliminate. Meyer said the two well-head protection areas to the east and to the north of the city will provide 50 to 100 years of service, depending on growth. He noted that the east one-quarter to one-third of the east well-head protection area is contaminated and out of service. Meyer said there are several theories on how it was contaminated, but nothing specifically identified.

Meyer said his concern is that the current practices that are in place have not caused deterioration of the aquifer protection area and he wants to make sure they aren't allowing new development that could cause issues in the future.

Pierce asked if irrigation wells are allowed over the aquifer. Meyer said they are allowed, and they don't have any solid evidence that they cause pollution. He said there aren't many and are hard to regulate without hard proof as to their effects. Muller said irrigation wells are permitted by the state.

Fargen arrived.

Muller said they need to answer how they plan to handle the district itself and manage uses there. He said there are four options he would like to discuss. The first is picking what the committee doesn't want in that area and developing specific performance standards for what is allowed. The second option is to look at what is already going on in the area, know that it is fine, but not allow anything new. Muller said currently there are houses, crop farming and pasture land. Davis asked about home occupations. Muller said there could be home occupations if they make sense for the area.

Muller said the third option is to treat the area as a Natural Resources District where there are no permitted uses other than farming; everything else would require a conditional use permit and the 35 acre rule applies. The fourth option is having a consultation zone that would require consulting with the city and Brookings Municipal Utilities before a permit is issued.

Knutson said zoning people aren't experts on well-head protection areas. He said it should be a matter of policy that they consult on any activity in that area. Muller said he agrees, but that is only as good as the relationship is between the city and the county. He said that works now, but future personnel changes could change that relationship.

Muller said if there are things they do not want in the well-head protection area, they could make those prohibited uses and require conditional use permits for other activity and only if they meet specific conditions. Struck said he doesn't recommend rezoning anything in that area.

Pierce said she is concerned about home occupations. Muller said anything they can do in the house itself could be considered, but not extended home occupations where activity occurs outside the house. Pierce said applicants could submit findings of fact on conditional uses that state how a home occupation would not affect Zone A.

Muller asked which of the four options the committee would like consider: list things you don't do; list things already going on; permitted uses – pasture, crop, CUP for any structures (agriculture or residential); and a consultation zone.

Struck said he doesn't want to let perfect get in the way of better. Haugen said he would leave things as is, but try to fine tune over the next few years.

Meyer said the current ordinance allows for agriculture, horticulture and greenways; however, agriculture is not defined. He said he would like to keep things as narrow as possible. Meyer said they need to protect the aquifer protection area and this scarce resource.

Pierce asked if a bike path would be a permitted use. Meyer said he doesn't have issues with that. He said he would not want golf courses, as they use a lot of fertilizer.

Heuton asked what permitted uses are allowed now and are there some they don't want more of. He said they could set a specific date that would allow no more of that activity after that time. Struck asked if this discussion means turning the aquifer protection area into its own zoning district. Muller said essentially, yes.

Meyer and Pierce left the meeting.

Struck said if this is no longer an overlay, they would have to rezone the entire area.

Muller said they could be setting a standard for the other aquifer protection areas in the county, as well. Knutson said they're doing this for Brookings and aren't forcing changes on other communities or rural water providers.

Muller asked if they should send this portion to the planning commissions to review. Struck said he can see resistance from property owners if they rezone their property; and that may also sway how the planning commissions look at this ordinance. Muller said they could still treat this as an overlay district, but cut out many of the things people are permitted to do now in the ag zone.

Struck said they need to work with this as an existing overlay. Muller said, in his opinion, they shouldn't allow any more animals, no more subdivisions, what is there can be managed, pare down the list of permitted uses and review it over the next 3 to 5 years. Struck agreed – no more CAFOs, no more density, acknowledge existing uses and adjust as things come up. Bartley said the uses haven't changed much in many years. Heuton said Syngenta is new, but he hasn't seen any other new development. He said there isn't a demand for it, so they should leave it alone.

Muller briefly discussed CAFOs. He believes the large feedlots can be handled through setbacks, so their focus will need to be on the smaller operations.

The next meeting was scheduled for Tuesday, May 14, 2019 at 9:30 a.m.

Heuton moved/Hexum seconded a motion to adjourn. Motion carried.

Submitted by Stacy Steffensen
Brookings County
Commission Department Director