

Minutes of the Joint Jurisdiction Committee  
06/13/19

Chairperson Mike Bartley called the meeting to order. Committee members Bartley, Greg Fargen (at 10:10 a.m.), Robert Hill (at 9:40 a.m.), Duane Knutson, Steve Meyer, Ope Niemeyer, Lee Ann Pierce, Mike Struck and Holly Tilton-Byrne 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/Meyer seconded that the agenda for the June 13, 2019 Joint Jurisdiction Committee be approved. Motion carried.

Niemeyer moved/Struck seconded that the minutes from the May 14, 2019 Joint Jurisdiction Committee meeting be approved as presented. Motion carried.

Muller reviewed the project timeline and noted that this meeting is dedicated to discussion on small lot development in the joint jurisdictional area. He said the county's comprehensive plan essentially prohibits small lot development outside the joint jurisdictional area due to the 35 acre rule. Muller said they need to now consider if this is something they want to see in the joint jurisdictional area. He said the city would consider this large lot development and would have concerns with it impeding growth. Muller said there may be areas that are designated as low-density areas in the city's comp plan where this type of development could occur, but most of this is would be over the shallow aquifer or in the floodplain.

Muller said the policy in the joint jurisdictional area is that anything in the ag district is run through the county and everything else is run through the city. However, he also noted that the districts listed in the current joint jurisdictional ordinance from 1980 are not the same districts that exist today; and districts now exist in the city's ordinance that could make some small lot development available. Muller asked if they want to fall back on the city's ordinance and zoning districts or create something new.

Struck said there are lots in the city that require a minimum of 3 acres. He said West 8<sup>th</sup> Street South is an example of that – south of the airport. Struck said areas could be rezoned to create a low-density district administered by the city. He said there is a low-density plan as part of the comp plan, but these are more likely in floodplain or environmentally sensitive areas. Struck said they also have to look at the potential to service these areas. He noted that south of 44<sup>th</sup> Street South – south of the S-curves is realistically not economically feasible to provide city services to and they could maybe look at that area. Or, Struck said, they could create a separate zoning district under the county's regulations; but they would need to have discussions with landowners who may not want to rezone their land.

Tilton-Byrne said there is a desire throughout the community for acreages for small agriculture development, like a market garden. Niemeyer said they had the presentation early on in the process about developing a garden community. He asked if that would work anywhere. Struck said they would need to look at size and density. Muller said he believes the "Agri-Hood" type of development would need to be a planned development area. Tilton-Byrne asked if that could be allowed. Muller said it would, but right now it is created for city uses.

Struck said the original joint jurisdictional ordinance was established due to the growth along Main Avenue South. He said now those neighborhoods can't afford to bring their services up to city

standards. Meyer said Bridal and University Estates received a grant for an experimental sewer system, which would be hard to migrate to urban standards today. He said that system is starting to fail, but the cost to upgrade is prohibitive.

Bartley asked if they stay with the ag district does the county want small 3 to 5 acre lots, but only in the joint jurisdictional area. He said they need to find areas where the city isn't concerned about future development.

Meyer said when this committee was formed, he was uncertain on the reasons why. He said he knew there were issues with administering the current ordinance and they've been dealing with those concerns. But along the way, he said they've taken on well-head protection, CAFOs, mining and reclamation and are now into planning and density issues. Meyer said this is probably the most complex issue due to the desire to have small acreage developments. He said as acreage owners' property increases, the production value goes down due to conflicts. Meyer said the 35 acre rule helps mitigate that transfer of wealth.

Hill arrived at 9:40 a.m.

Meyer said they could also transfer wealth from the city to these lower density areas if they allow the small acreage developments. He said they need to find an area where they aren't impacting producers, transportation, fire protection, or drainage. Meyer said he's not sure their discussions are enough to tackle this issue; creating an opportunity for some without taking away from others. He said that's a big job and wondered if they should seek expert advice.

Pierce said they came into this process knowing workforce development and housing are big issues. She said she knows that the area north of town needs to be preserved for future growth, but there are areas that could allow for some type of acreage development. Pierce said the 35 acre rule was established to protect agricultural production, not protect against a transfer of wealth.

Tilton-Byrne said she thinks smaller scale production is possible without the large scale confinement operations. She said there are citizens who want to do small-scale, direct to consumer-type production.

Pierce said citizens spoke loudly on the 35 acre rule when the county updated its ordinance; that rule isn't changing. But she doesn't believe citizens should have to go through 4 or 5 boards to get something rezoned in the joint jurisdictional area. Pierce questioned why something would need to be rezoned. Struck said anything smaller isn't allowed due to the 35 acre rule. Pierce asked why this couldn't go through a conditional use process. Meyer said the rezoning gives the public an opportunity to give their input. Pierce said there is a public process with a conditional use permit through the joint board. Struck said they have to be cautious they aren't causing the same issues they have now.

Muller said subdivisions are the issue. Pierce said she's talking about small acreages, not subdivisions with rows of houses. Niemeyer said there is still the concern about potential pollution if animals are allowed. Knutson said he thinks people should go through the rezoning process which could cause them to rethink things. He said this isn't going to be "affordable housing;" it may be affordable for now, but won't be in the long run. Knutson said the process may make people look at why no one has developed an area already where they think they want to build.

Muller said if someone wants a house on 3 acres, the orderly development question comes up; without limitations the subdivision question comes up. He said if someone has 35 acres, they get a building permit; if they have less than that, it triggers the city's subdivision rules. Muller said they

could look at a straight density rule – X number of lots per 40 acres with a 3 acre minimum lot size, for example. He said the choices are to leave it as is or rezone to whatever city district is appropriate; but the ag concept really isn't available then. Muller said they could also create an overlay district that would allow ag uses at a small scale.

Pierce said 3 acres is too small. She said having a 5 to 10 acre minimum would further prevent higher density subdivisions.

Greg Fargen arrived at 10:10 a.m.

Tilton-Byrne said someone has to be extremely wealthy to afford 35 acres. She said there are no options to raise your own food right now and she isn't okay with that.

Struck said if they are going to allow small acreages, it needs to be in their master plans; or they allow this through the subdivision process, but look at issues like safety and traffic flow very closely.

Muller said what he's hearing is smaller lots are probably okay in the areas identified as low-density. Numerous access and utility connections are not okay. They want to limit the number to minimize impacts, but only in areas that stay out of the way of future development. Muller said he thinks some just want to have an option.

Muller reviewed how many potential residences could be added. Bartley said if they knew how many people want this kind of development, they could identify the space. Tilton-Byrne said there is no way to determine that.

Meyer said they could identify an area, start small and see how it works. Struck said if they allow this, it should be in an area the city will never annex. He said he would be willing to say south of 44<sup>th</sup> Street South, south of the S-curves on South Main. Tilton-Byrne asked how many lots could be available in that area. Muller said approximately 40. Tilton-Byrne said she doesn't just want the worst area. But Struck said they also don't want the most desirable land being taken up by this type of development, either.

Muller said he will draft the ordinance with an ag overlay district south of the S-curves, one acre per quarter-quarter section, with a minimum lot size of 5 acres.

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

Knutson moved/Bartley seconded a motion to adjourn. Motion carried.

Submitted by Stacy Steffensen  
Brookings County  
Commission Department Director