

Special Meeting August 14, 2019

The Village of Goehner Board of Trustees met in open and regular session on August 14, 2019, at the Goehner Fire Hall, as posted in three places in the Village. Chairperson Knisley announced the location of the OPEN MEETINGS ACT POSTER. The meeting was called to order by Chairperson Knisley at 8:02 p.m., at the Goehner Fire Hall. Upon roll call, the following board members were present: Wagner, Dodson, Meinberg, Ostrander and Knisley. Others in attendance: Bill Cronquist, Connie Dodson, Scott Felber, David Bargaen, Jacob Mayer, Jill Eberspacher, Nancy Gulley, Jon Eberspacher.

JON EBERSPACHER:

- Jon and Jill had their attorney present at the meeting to address questions; David Bargaen with Rembolt Law Firm.
- Village has retained a lawyer, Kent Rauert and Samuel O'Neill with Svehla Law Offices, Sam was present at the meeting.

Svehla Law offices: If this property is considered to be a prior non-conforming property. Their interpretation of 5.12 #2 "General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations.": This facility is not a general farming or ranching facility and because of that would have to go to section 6 of the zoning book for Special Use Permit. Would require first going to the planning committee and then their referral to the Village Trustee's on if they agree with the Special Use Permit.

Rembolt Law Firm: They disagree with the interpretation of the 5.12 #2 in the zoning regulations. Their disagreement is the verbiage after the comma "excluding any expansion of existing or development of livestock confinement facilities/operations." Would not have to have that if the first part general farming did not include those operations. Their interpretation is that this facility precedes the zoning for the Village of Goehner, letter from DEQ this property does not need a permit from DEQ. They do not feel any new footprint will be used for the operation. Rembolt Law Firm says the number of animals are equivalent to the number that was housed their previously. They do not feel the Eberspacher's need to get permission from the Village for their operation but just to inform the Village on what they will be doing.

Question on what will need to be changed about the existing buildings to conform to use for a cattle operations: There will be no changes to the barns other than the adjustments to house the cattle versus turkeys. There will be an apron in each barn for the flooring.

Settje Agri Services & Engineering firm was in attendance for meeting. Question regarding engineering plans that were promised to the Trustee's in the May meeting if those were available. Eberspacher said there was no engineering plans required for DEQ so they did not hire an engineering firm to proceed with plans for the facility. Question of their purpose at the meeting then if they have no input to the facility.

Question regarding waste containment that was never addressed in previous meetings. The waste will be collected in the buildings, it will then be stockpiled at the site or moved to fields as weather/time permits. Question on where specifically on the map the manure would be stockpiled. Answer: there is not a designated area where it has to be stockpiled. Questions: Is there requirement for stockpiling manure to insure no contamination of well water within the area. Answer: DEQ deals with that, and they have determined that this is not a concern or problem. They have done an onsite inspection and have signed off to not require a permit. They will be doing things the same as what has been done for the last 30 years. Village trustee's concern if the Village would expand to the east, feasible for this to happen may not be likely but for expansion and being closer to the Village lagoon would make more sense to expand that direction. Village Trustee expressed concern of it being in a wellhead protection area a run off of manure concern. Answer: DEQ does not make a requirement for a designated area to stockpile manure. Question on why there could not be a livestock waste control facility put in there with that amount of cattle. Answer: Because the buildings are covered there is no runoff. Rebuttal: but what about the stockpile that will not be in the covered buildings? Answer: DEQ would potentially comeback is if the manure would never be hauled and the stockpile got bigger and bigger DEQ would address it. Normal practice would be to stockpile until put on fields. Question on if they could stockpile on another property not so close to the Village. Answer: not cost efficient for them to move the manure in between time. Question from Trustee on current numbers for the amount of manure. Answer they provided at previous meeting. Response that was a study done in another state wanting numbers that pertain to Nebraska.

Summary from Svehla Law office: Eberspacher's are saying this is not an issue of the Village for a non-conforming use and they do not need the Villages permission to do anything. Their advice is that this was a prior non-conforming use and they would need a Special Use Permit to move forward. Would like to have the Trustee's to call the meeting to executive session to discuss further actions from the Trustee's. Eberspacher's are going to go through with what they want to do, it's up to the Village if they would like to take legal action to stop them. Recommended an executive session to discuss.

Eberspacher summary: Livestock is livestock and it should not make a difference what is housed at the facility.

Village resident asked the board "what is the main concern here why are you against this" (pointed out by trustee not all are opposed to this). Trustee pointed out that 4 months ago when this was brought to the board there were no definite numbers or facts brought to the board at that time. How can we sit back and not get involved with something that is going on a half mile from the Village if we expect the Village to grow and expand. Was brought up that we can have a Village meeting for something outside our jurisdiction that the Village had zero say in but no one is allowing a Village meeting for something that is a half mile from our Village. Felber pointed out that people pointed out the people in the Village could have called him to complain but no one complained. Village resident then pointed out "So it smells, this is a farming community." Trustee pointed out is wrong for the Village to have zero say it what's going on without the facts. Trustee said "how are we doing our job if we don't listen to the people in the Village".

Building permit for property addressed. Question was if Eberspacher's currently owned the property. First response was yes, but after Village Clerk pointing out she had called the Seward County Assessors office and no record of sale has been filed. Then it was told that the property is under contract to be purchased but has not been officially purchased yet. Disagreement on amount to be charged for permit fee's after a lot of discussion with the lawyers representing both sides they agreed the wording of ordinance pertaining to new construction was contradicting to other wording in the ordinance book. Fee was agreed on. Had to have Felber (current owner of property) sign permit and pay for permit because he currently owns the property.

EXCEED BUDGET BY 1%: Meinberg made a motion to increase the budget by 1%, Ostrander second. No discussion. RCV: Aye-Trustee Wagner, Dodson, Meinberg, Ostrander and Knisley. Motion carried.

2019-2020 EMPLOYEE WAGES AND REIMBURSEMENTS:

- **Maintenance** – Wages will remain the same at \$16.50; \$125 for insurance reimbursements. Ostrander made motion to keep the wages the same, Wagner second. No discussion. RCV: Aye-Trustee Wagner, Dodson, Meinberg, Ostrander and Knisley. Motion carried.
- **Clerk/Treasurer** – Wages at \$16.50; \$100 for insurance reimbursement. Meinberg made a motion to increase insurance reimbursement to \$125 and keep wages the same, Wagner second. No discussion. RCV: Aye-Trustee Wagner, Dodson, Meinberg, Ostrander and Knisley. Motion carried.
- **Seasonal** – No change will be made, kept at \$12 per hour. Meinberg made a motion to keep the same, Ostrander second. No discussion. RCV: Aye-Trustee Wagner, Dodson, Meinberg, Ostrander and Knisley. Motion carried.
- **Trustee and chairperson** - keep the same \$55 per meeting for Chairperson, \$40 per meeting for Trustee. Ostrander made a motion to keep the same, Wagner second. No discussion. RCV: Aye- Wagner, Dodson, Meinberg, Ostrander and Knisley. Motion carried.

Called to executive session at 9:05, adjourned from executive session at 10:14.

Motion to adjourn at 10:14 P.M. by Dodson, second by Ostrander.

Janice Nitz
Clerk-Treasurer