

THE MINNEHAHA COUNTY COMMISSION CONVENED AT 9:00 A.M., February 22, 2005, pursuant to adjournment on February 15, 2005. Commissioners present were: Twedt, Pekas, Hajek, Kolbe, and Zweep. Also present were Sandy Kinder, Deputy Auditor, and Gordy Swanson, Chief Civil Deputy State's Attorney.

Chairman Twedt called the meeting to order.

MINUTES

MOTION by Zweep, seconded by Pekas to approve the Minutes for February 15, 2005. 5 ayes.

VOUCHERS TO BE PAID

MOTION by Pekas, seconded by Hajek to approve the following bills for payment. 5 ayes.

A & B Business Equip	Var. Depts	299.00	A to Z Language Inte	Var. Depts	1,967.50
AAFCS Annual Confere	Cnty Exten	329.00	Ace Group, LLC	Hiway Cons	197.42
Adams, Jason	Pub. D.	51.52	American Legion Post	Cnty Exten	75.00
Anderson-Crane Rubbe	Hiway Cons	711.78	Anderson, Kris	Cnty Exten	26.00
Anderson's Collision	Sheriff	45.00	Anesthesiology Assoc	Human Svcs	144.00
Argus Leader	Comm.	350.94	Avera McKennan	Human Svcs	25.00
Avera McKennan Hospi	Var. Depts	41,602.04	Avera McKennan Hospi	Pub. D.	17.93
Bakken, Larry	Dir. Eq.	11.37	Berreth, Deborah	Metro-911	182.96
Boyer Trucks Sioux F	Hiway Cons	2.75	Brandon Lumber Co.,	Hiway Cons	33.60
Brennan Hill Townhou	Human Svcs	450.00	Brown & Saenger	Var. Depts	78.41
Builders Supply Comp	Facilities	2,393.75	Bumblebee-Gibson Inc	Facilities	380.00
Bunger, Adam	Metro-911	22.00	Cadwell, Sanford, Deib	Court Sys.	1,602.00
CBM Food Service	Correction	19,331.73	Century Business Pro	Var. Depts	95.00
Classic Cleaners	Var. Depts	167.50	Clayminn, LLC	Human Svcs	450.00
CNA Surety	Sheriff	50.00	Coffee King, Inc.	Museum Ent	58.80
Cole's Petroleum Inc	Hiway Cons	12,942.19	Communication Servic	Pub. D.	55.00
Concrete Materials	Hiway Cons	9,492.23	Conklin, Gary W. Att	Court Sys.	5,212.40
Contech Const Produc	Hiway Cons	210.00	Credit Bureau of Tol	Correction	8.15
Curry, Aaron B.	Pub. Adv.	160.04	Dakota Lettering, In	Juv Det Cn	957.32
Dakota Riggers & Too	Hiway Cons	55.50	Daniels-Olsen Bldg P	Museum	201.74
De Raad Welding & M	Hiway Cons	200.00	Dee Bee Management-L	Human Svcs	350.00
Dell Rapids Ambulanc	Comm.	5,000.00	Dell Rapids Chamber	Sheriff	60.00
Diego, Pedro	Human Svcs	350.00	Dust Tex Service, In	Museum Mtc	12.12
Eastgate Towing	Sheriff	62.50	Edmunds Brake & Alig	Sheriff	413.23
Election Systems & S	Elec Audit	1,875.00	Evans, Preston	Mental Ill	190.08
Fastenal Company	Hiway Cons	118.43	Fedex Kinko's, Inc.	Metro-911	11.87
Galland Legal Clinic	Court Sys.	266.40	Galls, Inc.	Sheriff	127.49
George Boom Funeral	Human Svcs	1,850.00	Goebel Printing, Inc	Var. Depts	355.80
Graham Tire Co. - Do	Sheriff	525.15	Graham Tire Co. - No	Hiway Cons	15.00
Great Plains Psychol	Pub. D.	70.00	Gregory, Candise	Cnty Exten	11.60
Guzman, Sandra V	Court Sys.	100.00	Haas, Michael A	Human Svcs	350.00
Hagen, Joanne C	Human Svcs	700.00	Hajek, Anne C	Comm.	149.12
Harold's Photo Cente	Pub. D.	9.28	Harris Communication	Law Enf Gr	250.00
Hauk, Bert	Human Svcs	450.00	Haworth, Inc.	St Atty	2,150.40
Helgeson, Eric	Metro-911	22.00	Hidden Meadows, LLC	Human Svcs	225.00
Hoekstra, Denise A	Court Sys.	254.60	Hy-Vee Food Store #1	Cnty Exten	47.06
Hy-Vee Pharmacy #162	Human Svcs	33.98	Hy-Vee Pharmacy #163	Human Svcs	50.28
Insight Public Secto	Metro-911	430.37	Inter-Lakes Communit	Social Ser	5,000.00
Interstate Office Pr	Var. Depts	1,717.74	J.C. Penney Company,	Juv Det Cn	69.98
J.D.'s House of Trop	Hiway Admi	38.60	Janitor's Closet, Lt	Juv Det Cn	19.92
Jim & Ron's Service,	Sheriff	101.50	Johnstone Supply	Museum Mtc	35.34
Kennedy, Renee S.	Pub. Adv.	74.00	Kenneth E Elmore DBA	Law Enf Gr	1,901.82
Koch Hazard Baltzer,	Build Fund	128.02	Kolbe, Robert	Comm.	38.40
Kuiper, Kevin L	Human Svcs	142.00	L G Everist, Inc.	Hiway Cons	8,642.34
Landborg, Richard J	Human Svcs	305.00	Language Line Servic	Metro-911	368.60
Larson, Deanna	Metro-911	22.00	Lassegaard, Samuel C	Human Svcs	350.00
Lewis Drugs	Correction	21,706.50	Lexis-Nexis / Reed E	Var. Depts	1,777.00
Linweld, Inc.	Hiway Cons	155.38	Lockwood Law Office,	Court Sys.	1,643.16

Mannie, Corey	Human Svcs	560.00	Maxwell Food Equipme	Juv Det Cn	30.37
McIntire, Kent	Metro-911	22.00	Medical X-Ray Center	Mental Ill	112.96
Menards - East	Var. Depts	243.24	Menards - West	Hiway Admi	78.14
Meyer, Jason A	Metro-911	22.00	Michael's Purple Pet	Facilities	80.00
Microfilm Imaging Sy	Reg Deeds	690.00	Midamerican Energy C	Pettigrew	1,197.58
Midwest Alarm Compan	Var. Depts	548.64	Midwest Psychiatric	Mental Ill	1,692.40
Midwestern Mechanica	Museum Mtc	230.51	Miller, Steve	Court Sys.	229.29
Minnehaha Cnty Priso	Correction	10.01	Minnehaha Cnty Sheri	Sheriff	27.58
Minnehaha County Fir	Emer Mgmt	175.00	Monarch Sales	Metro-911	303.93
Motorola, Inc.	Metro-911	199.00	Murray Construction,	Human Svcs	450.00
Myrl & Roy's Paving,	Hiway Cons	4,955.37	NASW-SD	Human Svcs	140.00
Nelson, Brian	Human Svcs	450.00	New World Systems	Metro-911	2,356.13
Nold, Nancy	Human Svcs	350.00	Ob Gyn & Gynecologic	Human Svcs	1,763.25
Orthopedic Institute	Human Svcs	2,106.75	Pankratz, Jeromy	St Atty	24.31
Payflex Systems USA,	Human Svcs	283.00	Physicians Laborator	Human Svcs	5.66
Pontiac Cadillac of	Var. Depts	104.04	Presto-X-Company	Juv Det Cn	64.00
Priority Signs	Correction	309.75	Qualified Presort Se	Court Sys.	317.20
Quest Engineering, I	Hiway Cons	166.04	Qwest	Metro-911	23,337.97
RDO Equipment Co	Hiway Cons	235.39	Restful Lodging, Inc	Human Svcs	565.00
River Tower Apartmen	Human Svcs	246.00	RJ Rental Properties	Human Svcs	875.00
Roust, Sue	Var. Depts	221.50	Rural Metro Ambulanc	Var. Depts	476.75
Schultz, Richard	Human Svcs	450.00	Sd Assn of County of	Treasurer	37.50
SD Newspaper Assn Se	Comm.	47.58	SDSM&T-Concrete Conf	Hiway Admi	95.00
Servall Towel & Line	Var. Depts	51.77	SF Rubber Stamp Work	Human Svcs	31.58
SF Two Way Radio Ser	Metro-911	160.00	Sigler Fire Equipmen	Sheriff	88.00
Simons, Duane	Cnty Exten	16.40	Sioux Falls Ford, In	Sheriff	3,212.38
Sioux Falls School D	Pass-Thru	810,735.75	Sioux Falls Utilitie	Human Svcs	53.30
Smythe, Toby D DBA	Human Svcs	187.46	Sourcecorp	Pub. D.	38.43
Southeastern Behavio	Pub. D.	16.05	Spence, Rebecca L	Court Sys.	2,654.26
Srstka, Cynthia L	Court Sys.	407.00	St. Michael Cemetery	Human Svcs	275.00
Surgical Institute O	Human Svcs	622.00	Talavera, Zoila Judi	Court Sys.	358.33
Tammen Oil	Sheriff	17.40	Thorin, Deyanira T	Var. Depts	749.99
Tooley, Matthew A	Metro-911	22.00	Triangle Properties,	Human Svcs	700.00
TSP Four, Inc	Build Fund	6,630.40	U.S. Records	Reg Deeds	2,676.00
United Parcel Servic	Metro-911	31.48	Urban Indian Health	Human Svcs	5.00
US Postal Service	Dir. Eq.	9,480.00	US Postmaster	Museum	150.00
Vantek Communication	Metro-911	25.00	Velgersdyk, Dr. Scot	Human Svcs	81.00
Velvet Uniforms, Inc	Var. Depts	1,950.89	Viia Insurance Ptnrs	Human Svcs	274.09
Volunteers of Americ	Juv Det Cn	2,460.00	Wal-Mart Business /	Metro-911	7.44
Walden Carpets, Inc	Museum Mtc	375.00	Walgreens Pharmacy	Human Svcs	933.54
West Group	Pub. D.	1,772.40	Wheelco Brake & Supp	Hiway Cons	209.40
Wieczorek, Julie	Cnty Exten	18.96	Willard, James A	Cnty Exten	26.00
Wright, Larry	Cnty Exten	16.40	Xcel Energy, Inc.	Var. Depts	6,131.93
Yankton Medical Clin	Human Svcs	234.09	Zabel Steel Co.	Hiway Cons	43.79
Zep Manufacturing Co	Hiway Admi	190.25	Commission	Salaries	15,663.02
Auditor	Salaries	27,049.48	Treasurer	Salaries	37,551.17
Informatio	Salaries	46,667.01	States Att	Salaries	114,379.93
Public Def	Salaries	81,592.90	Public Adv	Salaries	18,401.95
Facilities	Salaries	42,566.26	Equalizati	Salaries	53,059.00
Register O	Salaries	30,003.13	Human Reso	Salaries	9,709.45
Sheriff	Salaries	571,237.60	Juvenile D	Salaries	128,099.84
Metro Comm	Salaries	130,731.02	Highway	Salaries	93,646.52
Human Serv	Salaries	45,440.77	Museum	Salaries	47,542.82
Planning	Salaries	23,576.80	Extension	Salaries	6,040.95

REPORTS

The following reports were received and placed on file in the County Auditor's office: Register of Deeds Official Statements of Marriage, Recording, Transfer, and Express Fees and the Minnehaha County Sheriff's Department Monthly Report for January, 2005.

PERSONNEL

MOTION by Hajek, seconded by Zweep to approve the following personnel changes. 5 ayes.

1. To hire David Rowe as part-time Correctional Officer I (9/3) for the Sheriff's Office (Project 24/7) at \$15.238 per hour effective 2-22-05.
2. To increase the hourly rates for the following part-time temporary Clerical Workers for the Director of Equalization to \$9.25 per hour effective 2-12-05: Kathleen Behrend, Joanne Frazee, Judy Vandernick, Bonnie Wenzlaff.
3. To amend the promotion of Jon Harris to Deputy Sheriff Sergeant (16/10) for the Sheriff's Office at \$24.863 per hour effective 2-12-05.

Step increases due:

1. James Metzger – Security Officer (Army Guard) – Sheriff – 8/1 to 8/2, 1-13-05 – \$13.771 per hour
2. Kevin Tomshack – Security Officer (Army Guard) – Sheriff – 8/1 to 8/2, 1-21-05 – \$13.771 per hour
3. Michael Walsh – Deputy Sheriff – Sheriff – 12/7 to 12/9, 3-4-05 – \$20.253 per hour
4. Steven Ruitter – Juvenile Correctional Officer III - JDC - 12/4 to 12/5, 2-15-05 – \$18.710 per hour
5. Micki Leesch – Juvenile Correctional Worker - JDC - 5/5 to 5/6, 2-3-05 – \$12.286 per hour
6. Christine Thom – Accountant – Museum – 9/3 to 9/4, 2-19-05 – \$15.544 per hour
7. Wendy Rothenberger and Kimberly Gartamaker – Communications Operator – Metro Communications, 9/2 to 9/3 – 3-3-05 – \$15.238 per hour

Additional action requested:

To record volunteers in County departments for February 2005. The list is on file in the Human Resources Department..

ABATEMENTS

The following abatements were recommended by Dennis Whitney, Deputy Director of Equalization:

MOTION by Zweep, seconded by Hajek to approve the following abatement: Charles E. Berg, ID 74926, Property Taxes: 2003 - \$219.87 & 2004 - \$228.73. 5 ayes.

MOTION by Kolbe, seconded by Hajek to approve the following abatement: City of Sioux Falls, ID 17165, 2004 taxes - \$74.13 and ID 17167, 2004 taxes - \$142.79. 5 ayes.

NOTICES

MOTION by Hajek, seconded by Zweep to authorize the Auditor to post Notice of Hearing to Consider a Proposed 24/7 Sobriety Program Budget and Supplement. 5 ayes.

LIENS

Commissioner Pekas, County Aid Lien Liaison, briefed the Commission on a request to compromise DPNO 1218 in the amount of \$4,528.97 in full upon payment of \$2,265.00 (50%). He explained that the lien was for medical services for the petitioner's wife who is now deceased. Gordy Swanson, Chief Civil Deputy State's Attorney, commented on whether the lien could be recovered at a later date in the event of a sale of the petitioner's real estate. Commissioner Zweep noted the limited income of the petitioner. MOTION by Pekas, seconded by Kolbe to approve Resolution MC05-10. 5 ayes.

RESOLUTION MC05-10

WHEREAS, a County Aid Lien in the amount of \$4,528.97 purports to exist in favor of Minnehaha County and against DPNO 1281 as Lienee, and

WHEREAS, said lienee has filed an application with the County Auditor stating such facts as provided for by Law,

NOW, THEREFORE, BE IT RESOLVED that after due consideration of the circumstances the Board of County Commissioners finds it advisable and proper to authorize the Chairman of the County Board and the County Auditor to execute the following:

A compromise and release of the lien in full upon payment of \$2,265.00.

If payment is not made within one year from approval, this agreement is null and void.

Dated at Sioux Falls, South Dakota, this 22nd day of February, 2005.

APPROVED BY THE COMMISSION:
Carol Twedt, Chairman

ATTEST:
Sandy Kinder, Deputy Auditor

HEARING

Dell Rapids City Council Members Kris Langer, Chad Hansen, David Sommerfeld, Dick Woolf, and Todd Wiebenga and County Planning Director, Scott Anderson, were present for the 2nd reading and public hearing to consider a proposed amendment to the 2001 Revised Joint Zoning Ordinance for Minnehaha County and the City of Dell Rapids. The proposed amendment would rezone from the A-1 Agricultural District to the C Commercial District property legally described as the S 400' Pliska's Tract 1 SE1/4 in Section 12-T104N-R50W to allow for a veterinary clinic on the site. The Planning Commission recommends approval of the amendment. No one spoke in opposition to this request. MOTION by Zweep, seconded by Kolbe to approve Ordinance MC28-04-05. 5 ayes. Dell Rapids City Council concurred.

ORDINANCE MC28-04-05

AN ORDINANCE AMENDING ORDINANCE MC28-01 BY REZONING CERTAIN PROPERTY.

BE IT ORDAINED BY MINNEHAHA COUNTY, SOUTH DAKOTA:

That Ordinance MC28-01 be amended as follows:

The S 400' Pliska's Tract 1 SE1/4 in Section 12-T104N-R50W is hereby rezoned from the A-1 Agricultural District to the C Commercial District and the official zoning map referred to in Section 2.03(A) is amended to include the property in the C Commercial District.

Adopted this 22nd day of February, 2005.

MINNEHAHA COUNTY

Carol Twedt, Chair, Board of County Commissioners

ATTEST:

Sandy Kinder, Deputy Auditor

CHANGE ORDERS

Ken McFarland, Administrative Assistant, presented Change Order 23 to the general construction contract for the Minnehaha County Jail Project. The change order is in the amount of \$1,104 for modifications to the reception enclosure. Project Manager, Bob Winkels, recommended approval of the change order. MOTION by Zweep, seconded by Kolbe to authorize the Chairman to sign Change Order 23 in the amount of \$1,104 to Gil Haugan Construction for the County Jail General Contract. 5 ayes. This change order will bring the total contract sum to \$15,491,410.50. Commissioner Hajek noted that the specifics of change orders are presented to the Building Committee for consideration prior to approval of the Commission. Building Committee meetings are open to the public.

Marvin Hasenbank, TSP Contract Administration, presented Change Order 1 and Directive Order 1 to the general contract for the Minnehaha County Residential Detoxification Unit Project. The change order in the amount of \$24,759.00 is for vinyl composition tile, masonry work, and installing new ductwork and will change the project completion date to April 21, 2005. Directive Order 1 is for the removal of remaining abandoned waste piping and will not exceed \$7,531.00. MOTION by Zweep, seconded by Hajek to authorize the Chairman to sign Change Order 1 in the amount of \$27,759.00 and Directive Order 1 not to exceed \$7,531.00 to Jans Corporation for the Residential Detoxification Unit Project. 5 ayes. This change order will bring the total contract sum to \$722,059.00.

AGREEMENT

Dennis Ellett, Information Services Director, presented a Consulting Contract between the office of Court Appointed Special Advocate (CASA) and Minnehaha County for the installation of hardware and software upgrades on CASA computers. Under the terms of the agreement, the upgrades will be purchased by CASA and installed by personnel from the Minnehaha County IS Department. Total compensation would not exceed \$1,000.00 and work would be completed within one month of signing the contract. Commissioners questioned whether CASA could contract with a private vendor to provide the services. Mr. Ellett explained that county personnel could better oversee the work due to the familiarity with the building layout and could oversee the work being done thus reducing the cost to CASA. Commissioners cautioned performing this type of service to non-county entities. MOTION by Kolbe, seconded by Hajek to authorize the Chairman to sign the Consulting Contract. 2 ayes, Pekas, Zweep, and Twedt - nay. Motion fails.

TRANSFERS

MOTION by Hajek, seconded by Zweep to authorize interfund transfers from the General Fund to the Emergency Management Fund (\$110,642 in February) and the E911 Fund (\$35,560 January through

November and \$35,556 in December, total transfer \$426,716) in accordance with the 2005 annual budget. 5 ayes.

CONTRACTS

Ken McFarland, Administrative Assistant, presented the 2005 contracts to house inmates for 14 surrounding counties and the Santee Sioux Tribe. The 2005 per diem rates decreased from \$79.07 in 2004 to \$66.58 for 2005. The fee for work-release inmates will be \$30.00 per day. The contracts will be valid through December 31, 2005. MOTION by Hajek, seconded by Zweep to authorize the Chairman to sign the Contracts for inmate housing with the following: Aurora, Brookings, Duel, Gregory, Hanson, Hutchinson, Jerauld, Kingsbury, Lake, McCook, Miner, Moody, Sanborn, and Turner counties and the Santee Sioux Tribe. 5 ayes.

STUDY GROUP

Scott Anderson, Planning Director, briefed the Commission on forming a proposed study group to collect and evaluate data on the use of septic tanks in the county. The study group would consist of professionals in several areas related to water/wastewater and the environment. The group would examine maintenance of septic systems, alternatives to septic systems, and new technology and improvements for septic systems to preserve the quality of groundwater. A presentation would be made on the findings. Commissioner Kolbe spoke in support of the group and explained why he felt it would be beneficial. Commissioners stated that they would like to see a budget for this project and suggested that the group include members from other surrounding counties to participate in the study. Commissioner Kolbe stated that at this early stage, they are only asking for permission to proceed at this point, and did not want to wait until 2006. MOTION by Hajek, seconded by Zweep to defer this issue for two weeks. 5 ayes.

SUPPLEMENT

MOTION by Zweep, seconded by Hajek to supplement \$18,450 from the General Fund to the Sheriff's budget (ASN 16574), representing a grant from the SD Attorney General's Drug Forfeiture Fund, for the purchase of a drug dog and vehicle leases. 5 ayes.

APPEAL

On October 19, 2004, the Commission upheld a decision by the Planning Commission to deny a conditional use permit for the expansion of an existing concentrated animal feeding operation (CAFO) on property legally described as the S1/2 NW1/4 and the NW1/4 SW1/4 in Section 34-T104N-R52W, Tom Meyer, Petitioner. The subject property is located 8 ½ miles north of Humboldt. On November 9, 2004, the Commission voted 3 to 1 with 1 voting present, to reconsider the appeal. Phil Kappen, Assistant Planning Director, was present for the reconsideration. Mr. Kappen explained that the applicant, Tom Meyer, was requesting approval to expand his current 750 animal unit feedlot to 4000 animal units (2000 beef cattle and 20,000 sheep). Mr. Kappen noted that there have been questions by both the petitioner and the commission on how the boundaries of the Water Source Protection District are established, if the area is over a shallow aquifer, if the proposed facility is over-crowded with an excessive number of animals per acre, and if the applicant had obtained a 404 permit from the Army Corps of Engineers. He stated that the Water Source Protection Area (WSPA) boundary was developed by the Minnehaha County Planning Department and the SD Geological Survey with the aid of various resources and publications. The boundaries show the area with a likelihood of finding saturated sand and gravel at a shallow depth. According to construction standards from the Midwest Plan Service, a CAFO of 2000

beef cattle and 20,000 sheep should have a minimum lot area of 34.5 acres with an optimum area of 55.1 acres. The proposed site has 28.8 acres of lot area. Mr. Kappen also stated that the Corps of Engineers has informed him that the 404 permit application was deemed incomplete and that the information on potential impacts to waters of the U.S. were "sketchy". He also showed slides of the area and discussed the results of several soil borings which support that the site is in the WSPA. Gordy Swanson, Chief Civil Deputy State's Attorney, distributed copies of the Minnehaha County Zoning Ordinance and referred to section 3.03(J) Permitted Special Uses, paragraphs 2, 3, & 7. He advised the Commission that in order to allow the special use permit, the commission would have to find that there is adequate protection to natural resources. Dennis McFarland, Attorney for the petitioner, presented additional maps, reports, and correspondence. He introduced Nathan Hunke, Hydrogeologist for Coteau Environmental, who reported on boring findings he had done at the site. He reported that his findings show that the aquifer did not extend to the feedlot facility. Dan DeHaan, Engineer with DeHaan, Grabs & Associates, discussed the 404 permit application and stated that it was deemed incomplete because due to the denial of the Conditional Use Permit they could not complete the application process. He also discussed the permeability of the soil and stated that the soil in a feedlot is compacted and becomes almost impermeable. He also explained the berm construction and cutoff trench that will divert the stream runoff away from the feedlot. Dennis McFarland again stated that the expansion is not on an aquifer and because of the design of the facility it would clean up the area and would meet the ordinance condition that groundwater would not be threatened. He also noted that the petitioner has made a good faith effort to come into compliance with other agency requirements. John O'Hara, Susie O'Hara, and Glen Wintersteen, area residents, spoke in opposition to the request citing pollution to the West Skunk Creek tributary. Ms. O'Hara stated that the Department of Natural Resources has been aware of problems at the site since 2002 and have stated that they have had difficulty in monitoring CAFO's. She also stated that she supports responsible agricultural growth. Jay Gilbertson, East Dakota Water Development District Manager, discussed the maps that were used to determine whether a shallow aquifer existed at the site. He stated that borings bearing no water were not sufficient evidence to rule out the existence of an aquifer. He stated that the materials that were found, alluvium, sand, and gravel, support the potential of an aquifer over a portion of the site and support the map developed by the county. Phil Kappen stated that water in the soil boring will change and that the gray mottled soil shows the presence of water. He also noted that the existing feedlot may continue operating as a legal non-conforming use at 750 animal units. Mr. O'Hara asked about the removal of dead sheep at the site. Dennis McFarland responded that a composting facility would be constructed to contain the dead sheep. He also discussed monitoring wells that would be put in place. Mr. Hunke referred to the First Occurrence of Aquifer Materials map noting that the map shows the existence of aquifer materials and doesn't always mean that a particular area is necessarily an aquifer and that the explanation provided with the map states that site specific information should be examined when making land management or water development decisions. Commissioner Hajek asked Mr. Hunke if there was a difference between a Water Source Protection Overlay District and an aquifer. Mr. Hunke responded that there is a difference and that the site is in a Water Source Protection Overlay District. Dennis McFarland noted that the current operation was in the Water Source Protection Overlay District and that the expansion would fall outside of that area. Commissioner Twedt questioned whether the area was too small to accommodate a 4000 animal unit operation. Mr. DeHaan stated that the reference material used for density operation is only a guideline. Commissioner Pekas noted that denying the permit would not eliminate the pollution issues. MOTION by Hajek, seconded by Kolbe to approve Resolution MC05-11. 4 ayes, Pekas - nay.

RESOLUTION MC05-11

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Minnehaha County that an appeal was heard on the decision of the Minnehaha County Planning Commission to deny a conditional use permit for expansion of an existing concentrated animal feeding operation on property

legally described as the S1/2 NW1/4 and the NW1/4 SW1/4 in Section 34-T104N-R52W. The Board hereby upholds the Planning Commission decision to deny the conditional use permit.

Dated this 22nd day of February, 2005.

APPROVED BY THE COMMISSION:
Carol Twedt, Chairman

ATTEST:
Sandy Kinder, Deputy Auditor

LEGISLATIVE BRIEFING

The Commission dispensed with the Legislative Briefing for this week.

OLD BUSINESS

MOTION by Zweep, seconded by Pekas to reconsider action on an appeal to the Planning Commission decision to deny a Conditional Use Permit to transfer two building eligibilities 2 miles northwest of Renner, LeAnn Hummel, petitioner. 5 ayes. Commissioner Zweep noted that Resolution MC05-09 which was approved on February 15, 2005, overturned the Planning Commission decision and allowed the transfer of eligibilities. The petition was to transfer two eligibilities, one which was approved by the Planning Commission with conditions. Commissioner Zweep stated that he would like to add the two conditions to the permit and approve both transfers. MOTION by Zweep, seconded by Pekas to approve Resolution MC05-12. 5 ayes.

RESOLUTION MC05-12

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Minnehaha County that an appeal was heard on the decision of the Minnehaha County Planning Commission to deny a conditional use permit to transfer a building eligibility from the NE1/4 NE1/4 of Section 32-T103N-R49W to the NE1/4 NW1/4 Section 32-T102N-R49W. The Board hereby overrules the Planning Commission decision to deny the conditional use permit, and upholds the Planning Commission's approval of a transfer from the SE1/4 NW1/4 (except S417.42' W417.42' and except Tract 1 of Boy's Addition) in Section 32-T103N-R49W to the NE1/4 NW1/4 Section 32-T103N-R49W. The conditional use permit shall have two conditions:

1. All lots shall be platted.
2. A right-to-farm notice shall be filed on each plat prior to the issuance of a building permit.

Approved this 22nd day of February, 2005.

BOARD OF COUNTY COMMISSIONERS:
Carol Twedt, Chairman

ATTEST:
Sandy Kinder, Deputy Auditor

MOTION by Pekas, seconded by Hajek to adjourn until 5:00 p.m. on Tuesday, February 22, 2005. 5 ayes.

2/22/05

10275

APPROVED BY THE COMMISSION:
Carol Twedt, Chairman

ATTEST:
Sandy Kinder, Deputy Auditor