



Gage County Board Minutes

The Gage County Board of Supervisors met on November 1, 2023, at 8:47 a.m. with Terry Jurgens, Emily Haxby, Don Schuller, Erich Tiemann, Eddie Dorn, Dave Swavely and Gary Lytle present.

Notice of said meeting was posted at the County Clerk's Office and published prior to the meeting in compliance with State Statutes.

Let the record show that all proceedings are electronically recorded.

Pledge of Allegiance recited.

Chairman Tiemann announced that a complete copy of the Open Meetings Act is posted at the back of the Board of Supervisors Room.

Consent Agenda included the following items: 1. General Agenda; 2. Minutes from previous meeting and committee meetings; 3. claims audit in the amount of \$565,946.20, which does not include claim #23110075 to R.L. Tiemann, Const. Inc., in the amount \$33,499.58 to be voted on separately; 4. approve correspondence received and place on file; 5. Approve Utility Permit #1294 to Great Plains Communications. Great Plains Communications will be installing new fiber cable for a new communications tower. Great Plains will bore under intersections, culverts, and driveways along planned route. Located South of Section 7, 8, & 9 in Midland Twp T-4-N, R-6-E and South of Section 9, 10, 11, 12, East of Section 5 & 8, North of Section 5 & 6 T-4-N, R-5-E, Blakely Twp.; 6. Approve FY 22-23 NBCS Report.

<u>General Fund</u>	<u>Description</u>	<u>Amount Allowed</u>
Courthouse Employees	Salaries	159,302.66
Adams Rescue	Qtrly EMS svcs	4500.00
Advanced Correctional Healthcare	Jail on-site medical svc	146.37
All Copy Products	Ext Offc copy overage	154.93
AT&T Mobility Accounts, LLC	Shf FirstNet mobile phone svc	526.21
Beatrice Board of Public Works	Utilities	241.67
Black Hills Energy	Utilities	253.22
Blackburn Technologies	Co Atty equip	64.48
Charter Communications	Jail cable TV	195.90
City of Wymore	Qtrly EMS svc	10,000.00
Clatonia Rescue Squad	Qtrly EMS svc	4500.00
Clerk of District Court	Court costs	546.47
Comfort Inn	Lodging	196.00
Consolidated Management Co.	Meals at Shf training	213.75
Correctional Risk Services, Inc.	Inmate medical	5889.01
Credit Information Systems	Pre-employment screening	13.75
Critical Hire	Pre-empl exams	50.00
Crowne Plaza – Kearney	Lodging	487.80
Datashield Corp.	Doc shredding – Prob.	27.60
FAC	Court calendars	50.19
First Wireless, Inc.	EM svc contract, tower rental, equipment	2527.83
Fox Funeral Home	Autopsy transport	300.00
Gage Co. Sheriff's Offc.	Shf fees/mlg	873.90
Gage Co. Treasurer	Co veh title	10.00
Garcia Clinical Lab	Inmate medical	30.00
Garrison Law Firm	Atty fees	1154.25
Great Plains Uniforms	Uniforms	100.38
Guardian RFID	Security control	4995.00
Holiday Inn – Kearney	Lodging	114.95
Hometown Leasing	Prob & Co Atty copier leases	611.52
Idemia Identity & Security USA	Jail AFIS agrmt	3257.00
Jerry Shelton, Atty	Atty fees	332.50
Ken's Pest Control	Pest control	400.00
LaQuinta Inn & Suites, Kearney	Shf lodging	629.70
Lepant Law Office	Atty fees	1786.00
Lynn Peavey Co.	Law Enf supplies	159.72
NE Health & Human Svcs.	St. Inst. patient care	366.00
NE Public Health Env. Lab	Blood alcohol tests	210.00
Nelson, Clark & Timan, PC LLO	Public Defender	6346.15
Pickrell Rural Fire Dist.	Qtrly EMS svc	1500.00

Polaris Law Group	Atty fees	1881.00
Primary Arms, LLC	Law Enf supplies	358.11
Priority Printing	Atty bus cards	70.00
Quill – Ext.	Offc supplies	89.28
Quill – EMS	Offc supplies	323.98
R&B Arms, LLC	Law Enf supplies	3827.00
Ray’s Welding, LLC	Weld blade	190.00
Richardson Co. Jail	Board inmate	165.00
Spectrum	EMS cable TV	45.15
Stephen Kraviec, PC LLO	Child Suppt. Enf. Atty	2398.05
Summit Food Service, LLC	Jail meal svc	8482.23
The Home Depot Pro	Restroom supplies	1103.59
U.S. Bank – Purchase cards	Furniture, supplies, dues, etc.	1478.92
Valvoline Instant Oil Change	Shf veh oil change, repairs	142.63
Verizon Wireless – EMS 8923-1	Em Mgmt cell phones	217.20
Verizon Wireless – EMS 6384-1	Em Mgmt phone, ipad, hotspot	327.97
Verizon Wireless – Prob	Cell phones	393.88
Washington Co. Shf.	Housing inmates	13,500.00
Windstream – Ext.	Phones	273.07
Windstream – Cths	Phones	2089.26
Windstream – Hwy	Phones	209.90
Windstream – Shf. 4340	Phones	679.74
Windstream – Shf	Phones	613.93
Windstream – Vets 4377	Phones	120.73
Windstream – Cths	Phones	2258.30
Windstream – Vets Ctr	Phones	246.80
Zultys, Inc.	Prob phones	473.14
<u>Road Fund</u>		
Highway Department Employees	Salaries	43,882.34
Beatrice Concrete Sand & Gravel	Rock & gravel	18,645.33
Black Hills Energy	Utilities	104.94
Bomgaars	Supplies, drill	412.35
Cather & Sons Const.	Asphalt	3905.92
First Wireless, Inc.	Repeater rental	350.00
Mainelli Wagner & Assoc.	Engineering consulting	30,953.46
Midwest Towing & Recovery, LLC	CDL testing	600.00
Norris Public Power Dist.	Utilities	228.93
R.L. Tiemann Const.	Twp gravel & hauling	33,499.58
Road Builders	Parts	306.95
Surnali, LLC	Drug/alcohol testing	180.00
Verizon Connect NWF, Inc.	Veh GPS	259.04
<u>Visitor’s Promotion Fund</u>		
Beatrice Area Chamber of Commerce	Lodging tax	8391.65
<u>Visitor’s Improvement Fund</u>		
Beatrice Hoops Basketball, Inc.	Auditorium scoreboards grant	5000.00
<u>Insurance Fund</u>		
Gage County Health Insurance	Employee hlth ins claims paid	59,632.82
Lucent Health Solutions, LLC	Ins. Premiums, admin. Fees	32,646.40
<u>Community/Economic Development Fund</u>		
NGage – Gage Area Growth Ent.	Co. share of expenses	40,133.20
<u>General Fund</u>		
Ameritas	County share of Employees Retirement	11,448.67
Security First Bank	Co. share of Empl. Soc. Sec. & Medicare	11,619.18
Gage County Clerk – Health Plan	Co. share of Empl. health insurance	26,188.91
<u>Road Fund</u>		
Ameritas	County share of Employees Retirement	2,962.07
Security First Bank	Co. share of Empl. Soc. Sec. & Medicare	3,228.04
Gage County Clerk – Health Plan	Co. share of Empl. health insurance	9,391.42

Motion made by Swavelly, seconded by Dorn to approve the consent agenda. Motion carried 7-0.

Motion made by Dorn, seconded by Swavely to approve claim #23110075 to R.L. Tiemann, Inc. in the amount of \$33,499.58, bringing the total amount of claims paid through November 1, 2023 to \$599,445.78. Motion carried 6-0-1 with Tiemann abstaining due to conflict of interest.

No public present for comments or request for future agenda items.

Committee reports were given by Dave Jones on Bldg. & Grounds/Winter Lights, Tiemann on Equalization, Jurgens on Finance/Insurance, Shf. Gustafson on Law Enforcement, and Haxby on Road & Bridge. Topics of discussion were security system update; possible cameras at Hwy Dept.; Winter Lights Ceremony on Nov. 19th at 5:25 p.m.; possible 5 more lamp posts; courthouse exterior renovation update; Avenue of Flags will be up Nov. 9-12 for Veteran’s Day; and school resource officer for area schools.

Tourism Coordinator Dakota Hurley presented the quarterly tourism report. She said they have had advertising in a social media blitz with NE Tourism where they reached 140,000 people, did another outreach highlighting Holiday Lighted Parade, ad in North American Welsh Festival flyer, Goden Ride Bike Event, Nebraska Life Magazine for Applejack Festival in Nebraska City, and in the NE State Visitor’s Guide. Just wrapped up Trail of Treasures which spans NE on Hwy 136. They’re planning Holiday Lighted Parade and did sponsorships this year to help pay for advertising. Dakota is in the Leadership Beatrice Class 18, and is the Chamber rep for the re-launched Young Professionals of Gage County Group. She also reported on visitor improvement & promotion grant applicants, increase in financials, recruiting stops for next year’s Passport Program, and Airbnb and VRBO possibilities in the works.

Motion made by Lytle, seconded by Swavely to approve receiving the tourism report and placing it on file. Motion carried 7-0.

Motion made by Dorn, seconded by Swavely to close bidding at 9:15 a.m. for Gage County 2023 Culvert Projects C-34(1072), C-34(1143) and C-34(1232), and accept, reject or award bid. Motion carried 7-0.

Bids for the total of the 3 projects were received from Contech Engineered Solutions of Lincoln, NE in the amount of \$133,266.00; Metal Culverts, Inc. of Jefferson City, MO in the amount of \$130,391.70; and Ace/Eaton Metals of Kearney, NE in the amount of \$121,816.60. Bids were referred to the Hwy Supt. for review and to come back with recommendation later in the meeting.

Extension Educator Nicole Stoner presented an Extension Office update. She told the board they really appreciate the new entrance to the office and expressed the need for an additional staff member.

Motion made by Lytle, seconded by Dorn to approve receiving the Extension report and placing it on file. Motion carried 7-0.

RESOLUTION

**SIGNING OF THE
YEAR-END CERTIFICATION OF COUNTY HIGHWAY SUPERINTENDENT
2023**

Resolution No. 23-20

Whereas: State of Nebraska Statutes, sections 39-2302, and 39-2501 through 39-2505 detail the requirements that must be met in order for a county to qualify for an annual Incentive Payment; and,

Whereas: The State of Nebraska Department of Transportation (NDOT) requires that each county must annually certify (by December 31st of each year) the appointment of the County Highway Superintendent(s) to the NDOT using the Year-End Certification of County Highway Superintendent form; and,

Whereas: The NDOT requires that such certification shall also include a copy of the documentation of the county highway superintendent’s appointment, i.e., meeting minutes showing the appointment of the County Highway Superintendent by their name as it appears on their License (if applicable), their License Number (if applicable) and Class of License (if applicable), the type of appointment, i.e., employed or under contract (consultant, or interlocal agreement with another county and/or incorporated municipality), and the beginning date of the appointment; and,

Whereas: The NDOT also requires that such Year-End Certification of County Highway Superintendent form shall be signed by the County Board Chairperson and shall include a copy of a resolution of the County Board authorizing the signing of the Year-End Certification of County Highway Superintendent form by the County Board Chairperson.

Be it resolved that the County Board Chairperson of Gage County is hereby authorized to sign the attached Year-End Certification of County Highway Superintendent form(s).

Adopted this 1st day of November, 2023 at Beatrice, Nebraska.

County Board Members

<u>/s/ Eddie Dorn</u>	<u>/s/ Emily M. Haxby</u>
<u>/s/ David Swavely</u>	<u>/s/ Terry Jurgens</u>
<u>/s/ Gary Lytle</u>	<u>/s/ Erich Tiemann</u>
<u>/s/ Don Schuller</u>	

County Board Member Lytle moved the adoption of said resolution.

Member Dorn seconded the motion.

Roll Call 7 Yes 0 No 0 Abstained 0 Absent

Resolution adopted, signed, and billed as adopted.

Attest:

/s/ Dawn Hill (SEAL)

County Clerk

Motion made by Lytle, seconded by Dorn to approve adopting Resolution #23-20 for the Signing of the Year-end Certification of the County Highway Superintendent. Motion carried 7-0.

Motion made by Jurgens, seconded by Dorn to approve the Year-end Certification of the County Highway Superintendent for determining an Incentive Payment in Calendar Year 2023, and authorizing the Chairman to sign the certification. Motion carried 7-0.

RESOLUTION #23-21
FOR AMENDMENT AND ADDENDUM TO
NIRMA/NIRMAII INTERGOVERNMENTAL/INTERLOCAL AGREEMENTS

WHEREAS, Gage County has previously entered into Intergovernmental/Interlocal Agreements with various other Nebraska Counties and other public agencies to form and participate in the Nebraska Intergovernmental Risk Management Association (NIRMA) and the Nebraska Intergovernmental Risk Management Association II (NIRMA II) as authorized by the Intergovernmental Risk Management Act (Neb.Rev. Stat. §44-4301 et seq.) and the Nebraska Interlocal Cooperation Act (Neb.Rev.Stat. §13-801 et seq.); and,

WHEREAS, Counties and other Public Agencies as defined in Neb.Rev.Stat. §44-4303 are allowed to participate in said cooperative undertakings; and,

WHEREAS, the Legislature has found that proper risk management requires the spreading of risk so as to minimize fluctuation in insurance needs and that benefits can be derived through the pooling of insurance purchasing by local government; and,

WHEREAS, NIRMA and NIRMA II have provided coverages to the County in a cost effective way which meet and exceed that provided by standard insurance carriers; and,

WHEREAS, NIRMA and NIRMA II provide risk management services such as loss prevention, safety audits, claims and litigation management, and coverages tailored to address loss exposures counties and other related public entities face not economically available from other sources; and,

WHEREAS, these coverages and risk management services are essential for the continued effective and efficient use of county taxpayer dollars; and,

WHEREAS, the current Intergovernmental/Interlocal Agreements will expire on June 30, 2024, and,

NOW, THEREFORE, BE IT RESOLVED that the Gage County Board hereby:

1. Extends its commitment to participate in NIRMA and NIRMA II for the period July 1, 2024 through June 30, 2027; and,
2. Declares that this Resolution shall serve as an amendment and addendum to the previous Intergovernmental/Interlocal Agreements entered into by the County Board, said Intergovernmental/Interlocal Agreements readopted by and incorporated herein by this reference as amended.

After motion duly made by member Lytle and seconded by member Swavely, the following members voted by roll call vote in favor of passage and adoption of said Resolution:

The following members voted in favor of the same: Jurgens, Haxby, Schuller, Tiemann, Dorn, Swavely, Lytle.

The following members voted against the same: None

The following members were absent or not voting: None

PASSED AND APPROVED this 1st day of November, 2023.

Attest:

Gage County Board

/s/ Dawn Hill (SEAL)
County Clerk

By: /s/ Erich Tiemann
Chairperson/Presiding Officer

Motion made by Lytle, seconded by Swavely to approve adopting Resolution #23-21 for an Amendment and Addendum to the NIRMA/NIRMA II Intergovernmental/Interlocal Agreement, extending it through June 30, 2027. Motion carried 7-0.

RESOLUTION NO. 23-22

RESOLUTION
&
STATEMENT OF FACTS

WHEREAS, the Gage County Board of Supervisors has been presented with a request for a special use permit, (SUP) #2023-5 for the placement of a Commercial Agriculture Business;

WHEREAS, the Gage County Planning Commission (“Planning Commission”) and Gage County Board of Supervisors (“Board”) are duly authorized under the Gage County Zoning Regulations and are required to adopt a Statement of Factual Findings according to Neb. Rev. Stat. § 23-114.01(6) (Reissue 2012);

WHEREAS, the Planning Commission and County Board have established the following Statement of Factual Findings:

1. An application was submitted for a Special Use Permit (“SUP”) for a Commercial Agriculture Business located in an agricultural zoning district for the placement of a Commercial Agriculture Business in the northwest quarter of the northwest quarter, Section 3, of the Holt Township.
2. On September 26, 2023, the Planning Commission held public hearings to receive input on SUP #2023-5. Public comments were heard in support of, neutral to, and/or in opposition to the SUP.
3. On September 26, 2023, the Planning Commission voted 6-0 to recommend approval of the SUP #2023-5 without conditions.
4. In recommending approval of SUP #2023-5, the Planning Commission found that the Application complied with the guidelines of Article 6.2 of the Gage County Zoning Regulations.
5. On October 18, 2023, after proper notice and publication, the Board held a public hearing and public comments were heard in support of, neutral to, and/or in opposition to the SUP #2023-5.

- 6. On November 1, 2023, the Board held a meeting to consider whether the Application met all of the requirements of the Gage County Zoning Regulations and held a vote to approve or disapprove SUP #2023-5 without conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE GAGE COUNTY BOARD OF SUPERVISORS OF GAGE COUNTY, NEBRASKA that the special use permit #2023-5 for the placement of a Commercial Agriculture Business in the northwest quarter of the northwest quarter, Section 3, of the Holt Township, shall be:

- approved for the reasons stated on the record.
- approved with stated conditions: _____
- disapproved for the reasons stated on the record.

Motion made by Jurgens, seconded by Dorn to adopt the foregoing Resolution. All members present as listed and voted as follows:

Yea: Jurgens, Haxby, Schuller, Tiemann, Dorn, Swavely, Lytle
 Nay: None

Gage County Board of Supervisors

11/1/2023
 Dated

By: /s/ Erich Tiemann
 Erich Tiemann, Chairman

Subscribed and sworn to before me this 1st day of November, 2023.

(SEAL) /s/ Dawn Hill
 Gage County Clerk

Motion made by Jurgens, seconded by Dorn to approve adopting Resolution #23-22 granting Special Use Permit #2023-5, for the placement of a Commercial Agriculture Business to be located on a tract of land located on a part of the NW ¼ of the NW ¼ of Section 3-5-6, Holt Township. Motion carried 7-0.

Short break at 9:44 a.m. Back in session at 9:57 a.m. with all members previously listed present.

Hwy Supt. gave his recommendation of accepting the lowest bid from Ace/Eaton Metals for the 2023 Culvert Projects that were opened earlier in the meeting.

Motion made by Schuller, seconded by Haxby to approve awarding the bid for Gage County 2023 Culvert Projects C-34(1072), C-34(1143) and C-34(1232), to Ace/Eaton Metals in the total amount of \$121,816.60 for the three projects. Motion carried 7-0.

Schuller stated that John Hay, a University of NE biological engineer, will present a program on solar and wind energy in Wymore on Nov. 2nd at 6:30 p.m. at the Fire Hall Meeting Room.

Tiemann announced that he would need to recuse himself from discussion and voting on the agenda item regarding the Resolution on Special Use Permit #2023-4 for a swine CAFO, due to a conflict of interest. Tiemann turned control of the meeting over to Vice Chairperson Haxby.

Haxby asked County Attorney Roger Harris to explain the voting calculations with Tiemann abstaining and the petition that was filed, requiring a super majority vote to take affirmative action on approving the CAFO. Harris said that all of these factors make the requirement set at 5 votes FOR in order to approve the Special Use Permit for the CAFO.

Haxby asked Tiemann if he would like to explain why he would be recusing himself from the vote. Tiemann stated that he filed a C-2 Form with the NE Accountability and Disclosure Commission and it was determined by them that due to financial interest in a similar facility built prior to this facility, it could be a conflict of interest. He said that Dorn had also filed a C-2 Form but the Commission determined there was no conflict of interest for him.

Haxby asked for a motion on the resolution to start discussion.

Motion made by Jurgens, seconded by Swavely (with some conditions to be stated later) to approve adopting Resolution #23-23 granting Special Use Permit #2023-4 for the placement of a Swine Feeding Operation to be located on a tract of land located on a part of the SW ¼ of the NW ¼ of Section 25 of Island Grove Township. Haxby asked Swavely to state the conditions he would like added to the permit. Swavely read the conditions into the record as follows:

There shall be 3 rows of trees on each side of the facility running the span of the building's length and width plus an additional minimum of 10 feet and connecting (excluding driveways/waterways/field access). They shall be planted at a minimum of 2 feet in height with a variety of evergreen species, at least 1 row of western red cedars. The trees must be maintained over the life of the facility. If a tree must be replaced, it must be redone within 1 year and of similar size. Trees must be planted before livestock enter the facility.

There shall be a minimum of 3 groundwater monitoring wells.

The facility shall maintain the state's requirement of 180 days of holding pre-winter. All manure shall be injected in the ground unless there is an emergency situation. In that instance, surface application will be acceptable, however, if surface application is within ½ mile of a dwelling, business, school, or church, the applicant will be required to furnish a written good neighbor agreement. Any application of the manure (surface or injected) shall maintain a 100-foot buffer from any tile and/or waters of the state. It shall be up to owner of the facility to make sure the farmer abides by these rules when applying the manure.

The applicant shall utilize an incinerator to manage mortality and shall acquire all necessary permits (i.e. air quality) and have approved by the state before construction can begin. As for secondary mortality management practices for emergency purposes, dead pile for rendering shall not be visible from the road and if composting is used, the area in which they are composted must have a concrete floor and sides.

The applicant shall not apply for National Pollution Elimination Discharge System permit at any time in regards to discharging livestock waste.

Motion made by Swavely, seconded by Jurgens to approve adding amendments listed above to the original motion to approve, granting Special Use Permit #2023-4 for the placement of a Swine Feeding Operation to be located on a tract of land located on a part of the SW ¼ of the NW ¼ of Section 25 of Island Grove Township. Jurgens asked if he should read the list of 7 guidelines for Special Use Permits that are in the P&Z Regulations under Section 6.2 of Article 6. He read the guidelines as follows:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan

Haxby asked if there was any discussion on the motion to amend the original motion with adding the conditions as stated by Swavely. Schuller commented that, just as he stated in the Hanover project, he didn't agree with the trees needing to be 2 feet tall as this eliminates any local source for trees. He said a 2-foot tree doesn't mean better success, but it limits where you can buy the trees and where you can plant them, which creates issues with getting the windbreak planted. He realizes that this is what the Hanover project regs say and that he's just stating that these guidelines are being put in place to match that project. Haxby asked if there was any further discussion on the amendments. Hearing none, Haxby called for a vote on the amendment, clarifying that the vote is strictly to add Swavely's amendment to the initial motion, not a vote for or against the resolution. Clarification was made that the amendment calls for 3 rows of evergreen trees with at least one row being western red cedars. This is the same as was required for the Hanover project, but differs from the P&Z regs. Haxby again asked for a vote to add the amendment as presented. Motion carried 5-1-1 with Schuller voting nay and Tiemann abstaining.

Lytle asked Co. Atty. Harris if there could be any conditions or constraints put in place regarding taking care of the road since Island Grove Twp. has stated that they would not be doing anything with the road until there is a decision on this project. He said if it comes to a vote and it passes, nothing has been agreed upon or put in place with the township to ensure the road would be taken

care of. Harris said that first of all, safety should be the main concern of everyone. He said the board could encourage cooperation between the county, the applicant and the township, but as far as the board dictating or putting conditions on that, he doesn't know that it's enforceable. Lytle said he has driven the road several times recently and would consider it safe for it's current use, but that could change with increased commercial traffic. Discussion continued on policies regarding new construction on substandard roads and whose financial responsibility it is to bring road up to standards; rules can be different for each township; if we're using traffic as reason in decision, are we setting precedent for other commercial businesses like wedding venues, etc.; whether commercial or residential road standards are different than bus route road; drivers on roads should be aware of conditions and drive accordingly; the board needs to set personal feelings aside and make the best decision for the county and its future; conditions are put in place for protection of residents, land and water; permit stipulates that Summit is responsible for comply with manure application as stated in the permit and the amendments that were added, with the state overseeing it; permit for incinerator is separate permit and will have location of incinerator, and process of incineration; permit allows for alternate forms of disposal including rendering, burial, composting or landfill in emergency situations; incinerator building will be attached to the confinement building; temporary mortality storage location is in the operating permit plan; handling of air emissions from incinerator are addressed in incinerator permit, have to report back to NDEE; there are thresholds of air emissions that determine the permit applied for; Summit is willing to work with township on rectifying any safety issues with the road; grass and pasture are listed as alternative land for manure application management but would require permit process if not included in the original manure application locations; permission has been given by all landowners of the additional available acres listed for manure application; options are in place to protect tile risers to minimize 100' setback such as injection of manure, or covering tile with a sleeve for a period of time; need to consider that tile risers are in base of the channel of the terrace so typically the 100' setback is more of a half-moon on the upside of the terrace, it doesn't make sense to require the 100' setback on the back side of the terrace that is 6-8 feet higher than the riser. Haxby asked if there was any further discussion. None was stated.

Haxby asked for a motion to have all information received by the board, all exhibits presented, and all information received by the Planning & Zoning Commission be placed on file.

Motion made by Lytle, seconded by Swavelly to place on file all information received by the board, all exhibits presented, and all information and exhibits received by the Planning & Zoning Commission. Motion carried 6-0-1 with Tiemann abstaining.

RESOLUTION NO. 23-23

RESOLUTION AND STATEMENT OF FACTS

WHEREAS, the Gage County Board of Supervisors has been presented with a request for a special use permit, (SUP) #2023-4, for the placement of a Livestock (Swine) Confinement Facilities/Operation for 2,500 A.U.;

WHEREAS, the Gage County Planning Commission ("Planning Commission") and the Gage County Board of Supervisors ("Board") are duly authorized under the Gage County Zoning Regulations and are required to adopt a Statement of Factual Findings according to Neb. Rev. Stat. § 23-114.01(6) (Reissue 2012);

WHEREAS, the Planning Commission and County Board have established the following Statement of Factual Findings:

1. Summit Pork V, LLP and Otto Acres, LLC ("the Applicants") filed an Application for a Special Use Permit ("SUP") for a Livestock (Swine) Confinement Facilities/Operations for 2,500 A.U. located in an agricultural zoning district on a part of the SW ¼ of the NW ¼, Section 25 of the Island Grove Township, east side of the 176th Road, Gage County, Nebraska.
2. On August 29, 2023, and September 26, 2023, the Planning Commission held public hearings to receive input on SUP #2023-4. Public comments were heard in support of, neutral to, and/or in opposition to the SUP.
3. On September 26, 2023, the Planning Commission voted 5-1 to recommend approval of the SUP with three Special Conditions:
 - A. Manure to only be applied by injection method, except in the event of an emergency or catastrophic event;
 - B. To include 3 monitoring wells, with locations to be determined by a licensed professional hydrologist; and

- C. Two (2) rows of Red Cedar trees to be placed 15 ft apart; placed alternately; on the west side of the building along 176th Road.
- 4. In recommending approval of SUP #2023-4, the Planning Commission found that the Application complied with the guidelines of Article 6.2 of the Gage County Zoning Regulations.
- 5. On October 18, 2023, after proper notice and publication, the Board held a public hearing and public comments were heard in support of, neutral to, and/or in opposition to the SUP #2023-4.
- 6. On November 1, 2023, the Board held a meeting to consider whether the Application met all of the requirements of the Gage County Zoning Regulations, and held a vote to approve or disapprove SUP #2023-4 with the following conditions:
 - A. Manure to only be applied by injection method, except in the event of an emergency or catastrophic event;
 - B. To include 3 monitoring wells, with locations to be determined by a licensed professional hydrologist; and
 - C. Two (2) rows of Red Cedar trees to be placed 15 ft apart; placed alternately; on the west side of the building along 176th Road.

Motion was made by Swavely, seconded by Jurgens to add the following required conditions to the Resolution as read into the record:

- There shall be 3 rows of trees on each side of the facility running the span of the building’s length and width plus an additional minimum of 10 feet and connecting (excluding driveways/waterways/field access). They shall be planted at a minimum of 2 feet in height with a variety of evergreen species, at least 1 row of western red cedars. The trees must be maintained over the life of the facility. If a tree must be replaced, it must be redone within 1 year and of similar size. Trees must be planted before livestock enter the facility.
- There shall be a minimum of 3 groundwater monitoring wells.
- The facility shall maintain the state’s requirement of 180 days of holding pre-winter. All manure shall be injected in the ground unless there is an emergency situation. In that instance, surface application will be acceptable, however, if surface application is within ½ mile of a dwelling, business, school, or church, the applicant will be required to furnish a written good neighbor agreement. Any application of the manure (surface or injected) shall maintain a 100 foot buffer from any tile and/or waters of the state. It shall be up to the owner of the facility to make sure the farmer abides by these rules when applying the manure.
- The applicant shall utilize an incinerator to manage mortality and shall acquire all necessary permits (i.e. air quality) and have approved by the state before construction can begin. As for secondary mortality management practices for emergency purposes, dead pile for rendering shall not be visible from the road and if composting is used, the area in which they are composted must have a concrete floor and sides.
- The applicant shall not apply for National Pollution Elimination Discharge System permit at any time in regards to discharging livestock waste.

NOW, THEREFORE, BE IT RESOLVED BY THE GAGE COUNTY BOARD OF SUPERVISORS OF GAGE COUNTY, NEBRASKA that the special use permit, #2023-4 for the placement of a Livestock (Swine) Confinement Facilities/Operation for 2,500 A.U., shall be in the SW ¼ of the NW ¼, Section 25 of the Island Grove Township.

- approved for the reasons stated on the record.
- approved with stated conditions: _____
- disapproved for the reasons stated on the record.

Motion made by Jurgens, seconded by Swavely to adopt the foregoing Resolution. All members present as listed and voted as follows:

Yea: Jurgens, Schuller, Swavely
Nay: Haxby, Dorn, Lytle
Abstain: Tiemann
Super majority of 5 was required to pass.

Gage County Board of Supervisors

11-1-2023
Dated

/s/ Erich Tiemann
Erich Tiemann, Chairman

/s/ Emily M. Haxby
Emily M. Haxby, Vice Chairman

Subscribed and sworn to before me this 1st day of November, 2023.

(SEAL) /s/ Dawn Hill
Gage County Clerk

Haxby stated that there is a motion to approve adopting Resolution #23-23 granting the Special Use Permit #2023-4 with the conditions stated previously which she read again. Haxby asked if there was any further discussion. Hearing none, she called for a vote on adopting Resolution #23-23 granting Special Use Permit #2023-4 for the placement of a Swine Feeding Operation to be located on a tract of land located on a part of the SW ¼ of the NW ¼ of Section 25 of Island Grove Township. Motion failed 3-3-1 with Jurgens, Schuller and Swavely voting aye, Haxby, Dorn and Lytle voting nay, and Tiemann abstaining.

Schuller read a statement explaining how he came to his vote through his research, gathering information, and getting answers to questions he had, and questions raised by his constituents, so that he could make an informed decision in this matter and would have the information to merit his decision.

Jurgens left meeting at 11:03 a.m.

Haxby asked if any other board members wanted to comment on their vote. Having none, she turned control of the meeting back over to Chairman Tiemann.

Tiemann asked if there was any further business, there was none.

Motion made by Dorn, seconded by Haxby to adjourn the Board of Supervisors Meeting at 11:10 a.m. Tiemann thanked everyone for coming to the meeting and for their patience and respectfulness through this process. Motion carried 6-0.

Chairman declared Board of Supervisors meeting adjourned at 10:08 a.m. until November 15, 2023.

Board minutes can also be viewed on the Gage County website at www.gagecountynebraska.us.

/s/ Dawn Hill
Dawn Hill
Gage County Clerk

/s/ Erich Tiemann
Erich Tiemann, Chairman
Gage County Board of Supervisors

I, Dawn Hill, County Clerk of Gage County, do hereby certify that the above records are true and accurate to the best of my knowledge.

Witness my hand and official seal this 1st day of November, 2023.

(SEAL)

/s/ Dawn Hill
Dawn Hill
Gage County Clerk