

**MINUTES - PLANNING COMMISSION/BOARD OF ADJUSTMENT MEETING**

**TUESDAY, APRIL 10, 2012, 7:00 P.M., COMMISSIONER ROOMS, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MINNESOTA**

**MEMBERS PRESENT:** Thooft, Ludeman, Nassif, Chalmers, Steen, Anderson, Ritter, Biren and Rick Maes

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**IDENTIFY ANY CONFLICT OF INTEREST - None**

**AMEND/APPROVE AGENDA** – Motion by Thooft, seconded by Nassif to approve agenda. All voted in favor. Motion carried.

**CORRECT/APPROVE MINUTES FROM THE MARCH 12, 2012 MEETING** - Motion by Ludeman, seconded by Chalmers to approve minutes as presented. All voted in favor. Motion carried.

**BOARD OF ADJUSTMENT: NONE**

**PLANNING COMMISSION:**

**CONDITIONAL USE PERMIT/PUBLIC HEARING – MINNESOTA SESSION LAW 2000 – MINN. STAT. §116.07, SUBD. 7(l), FEEDLOT:**

Chuck Deutz, 3065 State Highway 19, Marshall, Minnesota, for a Conditional Use Permit request for a feedlot expansion and to hear public comment to fulfill Minnesota Session Law 2000 – Minn. Stat. § 116.07, subd 7 (l), to construct or expand a feedlot with a capacity of 300 animal units or more. Odor OFFSET setback requirement is 94%. The land is zoned agricultural and described as following:

The West 32.37 acres of the Northwest Quarter of the Northeast Quarter (NW1/4NE1/4) of Section Five (5), Clifton Township.

Existing Facility Consists of:

Cattle (270 x 1.0 animal factor) = 270 Animal Units

Type of Buildings:

Open Lot 140’x125’

Proposed Facility to Consist of:

Cattle (270 x 1.0 animal factor) = 270 Animal Units

**(new) Finishing Hogs (2400 x .3 animal factor) = 720 Animal Units**

Type of Buildings:

Open Lot 140’x125’

**(new) Approximately 102’x200’ Total Confinement Barn with a 102’x200’x8’ Pit**

Manure from Cattle to be spread as needed.

Manure from Hogs to be applied agronomically up to two times a year.

The Total Animal Unit Capacity = 990 Animal Units

*Board Action – motion/recommendation to County Board.*

Chuck Deutz was present. Nassif – will have Biren explain 94% setback. Biren – setback based on distance and odor. 94% means – at a level not annoying to most people for odor. U of M model, average range annoyance factor. 6% time in ag distance expect feedlot to be at an annoyance level. Can predict that model looking with manure source, and other factors, odor control technology and distance. Consider wind is always down wind. How it works. Cattle operation, was a hog operation there, last summer wind took down hog barn. Expanding portion of feedlot must meet 94% offset. 2400 hog building. Area on farm can be accomplished. Showed picture of building site, taken before July 1<sup>st</sup> storm. Chuck and his father own feedlot together. Under 1000 animal units, county will issue feedlot permit. Will submit manure management plan, specs of building. Odor OFFSET distance of 1118’, based on cattle barn and hog building dimensions. Formula calculates distance. Building needs to be 120’ from center of ditch. Deutz – will be south more towards ditch, further from houses. Biren – finishing barn, tunnel ventilated barn with fans on one end, pit fans on each end. Stub end, curtain allow airflow. Nassif – number hogs on site before July 1st? Deutz – couple thousand a year, more with this set up. Nassif – more contained. How are you going to apply the manure? Deutz – enough storage, one time in the fall. Nassif – township board comments? Oakland- talked with Larry Polfliet today. He was going to drop off comment form. Have not received it. Biren – talked with two other board members, no comments. No letters received. Nassif – audience comments? None. Board reviewed Findings of Fact. Biren – don’t have to answer these, just a checklist. Attached is a copy. 2. Existing road will be improved with fabric and gravel.

Ludeman moved, seconded by Thooft to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit to Chuck Deutz, 3065 State Highway 19, Marshall, Minnesota, for a feedlot expansion and to hear public comment to fulfill Minnesota Session Law 2000 – Minn. Stat. § 116.07, subd 7 (1), to construct or expand a feedlot with a capacity of 300 animal units or more. Odor OFFSET setback requirement is 94%. The land is zoned agricultural and described as the West 32.37 acres of the Northwest Quarter of the Northeast Quarter (NW1/4NE1/4) of Section Five (5) Township 111, Range 40 (Clifton Township).

Existing Facility Consists of:

Cattle (270 x 1.0 animal factor) = 270 Animal Units

Type of Buildings:

Open Lot 140’x125’

Proposed Facility to Consist of:

Cattle (270 x 1.0 animal factor) = 270 Animal Units

**(new) Finishing Hogs (2400 x .3 animal factor) = 720 Animal Units**

Type of Buildings:

Open Lot 140’x125’

**(new) Approximately 102’x200’ Total Confinement Barn with a 102’x200’x8’ Pit**

Manure from Cattle to be spread as needed.

Manure from Hogs to be applied agronomically up to two times a year.

The Total Animal Unit Capacity = 990 Animal Units

With the following stipulations:

1. That the applicant undertakes the project according to the plans and specifications submitted to the county with the application.
2. That the permit is invalid if the holder has not started construction on the feedlot within a year of the issued land use permit. (A land use permit is valid for one year, and can be renewed administratively for a second consecutive year.)
3. That the county may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and other applicable statutes, rules, and ordinances.
4. Manure in a slurry or liquid form that is being applied in accordance to the manure management plan on file with the MPCA shall be injected or spread and incorporated within 24 hours of spreading except for approved emergency spreading.
5. Manure being hauled on public roads must adhere to policies of the particular road authority involved.
6. The applicant shall obtain all appropriate licenses and permits relevant to the request. Agency involved could be the DNR, MPCA, Board of Animal Health, MDA, MDH, etc.
7. Dead animals shall be disposed of in accordance with the Board of Animal Health Regulations. (Structures used for storing dead animals prior to rendering or structures used for composting shall meet appropriate county and state regulations.)
8. The offset model must indicate 94% annoyance odor free. Any odor control technologies used in the offset model must be in place and maintained.
9. The feedlot shall meet the minimum standards side, rear, and road right of way setbacks, other setbacks, and lot size. Any trees to be planted shall be at least 60 feet from the road right of way.
10. Violations of these conditions or other regulations found in the Lyon County Zoning Ordinance are grounds for enforcement proceedings.
11. Adopt Findings of Fact as part of this Motion.
12. A copy of the County Board of Commissioner's Motion shall be filed with the County Recorder's Office along with the legal description of the property. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.

VOTING FOR: Ludeman, Thooft, Nassif, Steen, Chalmers

OPPOSED: None

ABSTAINED: None

ABSENT: None

Motion carried.

Dean Noyes, 2974 230<sup>th</sup> Avenue, Marshall, Minnesota, for a Conditional Use Permit request for a feedlot expansion and to hear public comment to fulfill Minnesota Session Law 2000 – Minn. Stat. § 116.07, subd 7 (1), to construct or expand a feedlot with a capacity of 300 animal units or more. Odor OFFSET setback requirement is 94%. The land is zoned agricultural and described as the Northwest Quarter (NW1/4) of Section Thirty (30), Fairview Township.

Existing Facility Consists of:

Finishing Hogs (2200 x .3 animal factor) = 660 Animal Units

Type of Buildings:

Two 41'x120' Total Confinement Barns with Two 41'x120'x8' Pits

One 51'x164' Total Confinement Barn with 51'x164'x8' Pit

Proposed Facility to Consist of:

Finishing Hogs (2200 x .3 animal factor) = 660 Animal Units  
**(new) Finishing Hogs (1200 x .3 animal factor) = 360 Animal Units**

Type of Buildings:

Two 41'x120' Total Confinement Barns with Two 41'x120'x8' Pits

One 51'x164' Total Confinement Barn with 51'x164'x8' Pit

**(new) 51'x192' Total Confinement Barn with a 51'x192'x8' Pit**

Manure to be applied agronomically up to two times a year.

The Total Animal Unit Capacity = 1020 Animal Units

*Board Action – motion/recommendation to County Board.*

Dean Noyes was present. Nassif – we make a recommendation to the County Board. Biren – currently has 660 animal units. 3 barns. Adding 1200 head. Current barns are traditional curtains. 2 CUPs in past for expansion 2005 and 2002. Expanding portion must meet Odor offset, meets setbacks. His home doesn't meet setback. NPDS permit required by MPCA, over 1000 animal units. Granted for 5 years, renewed after that. Showed site on powerpoint. Received phone calls and letters. City limits, one mile and 200 feet. Showed locations of residences. Will put flags on site to make sure meets setbacks are met. Far enough away from residences. Odor OFFSET model 1297', 1/4 mile equals 1320'. Comfortable to say site meet requirements. Neighboring residences asked me to talk about wind. Odor direction relationship of building. Dust carried with wind. Relationship with wind direction and site of facility. Wind Rose, percentage in time by month, direction of wind. January-March, 23% northwest January. Oct-Dec prevailing wind northwest. April – June more directions, southeast. Does not take into consideration miles per hour, percentage of time. Wind down don't notice smell. July- Sept. wider circle. Biren received letters and emails. Biren read letter. Attached to these minutes are copies of the correspondence that was received and read. Letter 1) City of Marshall. Questions? None. Letter 2) Darin L. Brink letter. Nassif – ¼ mile from dwelling, distance from city limits? Biren - one mile plus 200' from city limits. Noyes – which is land city just bought. Biren – not a firm date, 2010 annexed in (about two years). Ludeman – statements in last two letters about applying manure, part of manure management plan. Digester-mass proven not to work on these types of barns. Not enough carbon. Dairy or hop barn works with a lot of straw. Concrete pit not enough methane to work. Nassif – not curtain barn. Noyes - tunnel barn just east of other barns, running north and south. My understanding that do not stink as much as a curtain barn. Letter 3) Nuytten property. Biren – she is in the nursing home, upset got notice at nursing home. Explained correspondence is mailed to tax paper, owner of real property. After I described where barn will be built, nothing to say. Biren – next three letters, people are in the audience. Letter 4) Tom and Karen Winn. Letter 5) Gordon, Judy and Becky Timmerman. Letter 6) Terry and Karla Chlebeczek Audience Comments 7) Mona DeVries speaking on behalf of my husband Ron and herself. We live directly across from the proposed expansion. Before we purchased our home in May of 2006 we knew there was a hog facility across from us. We were told that there would be no further expansion. I understand the rules have changed since then. We are here as property owners and taxpayers of Lyon County to say that we are opposed to this expansion. Some of the reasons include: odor, noise of squealing hogs. We cannot sit out in our yard during the summer. Decrease in property values. Increase in insects. Health issues. Terry and the others have expressed things on compliance. I do want to say that Dean has been good. When he has sprayed, he has called and told us I'm going to be spraying and plowed away. Appreciated those things. Don't appreciate the added things that are going to come. If this does come about, I have a request about the trees. Need to be addressed. We are opposed to this. I didn't want to move out to the country, I'm a city kid. Husband moves me out

to the country, goes on the road and leaves me out there. I was not happy. I like it out there now. Please let's leave it that way. Thank you. Nassif – Audience comments if more than your letters. Gordy Timmerman – I would say that Dean has never spoken to me when he is going to spread, haven't spoken since 2002. Karla Chlebeczek – bio-mass issue, talking to another farmer today, used in Iowa. Why it cannot be applied to SWMN, smells. Why we are proposing biomass, is used in other states. Ludeman – depends on the type of manure that is produced in the barns. Karla Chlebeczek - injected still smells, cannot be outside my shop, injected in the field behind us. Customers say it stinks. What do I tell them? Deal with it, love it or leave it. Ludeman – a lot of farmers would like to use it to generate electricity. Current type of barn, cannot do that without remodeling. Not enough carbon, works in dairy facility or facilities that they use a lot of straw. Most of these barns don't use any straw at all. There are other technologies, biofilters that can be used. Do have some in this county. Different than a biomass. Other technologies that can be used to mitigate smell by capturing dust odor, wood chips. Tunnel barn, work with this facility or not. Pit fans work through a biofilter to reduce odor. Gordy Timmerman – Dodge County every barn over there has to have an odor scrubber. How much land will this encompass? How many gallons? Where is it all going to go? Cannot put it on his land, where is he going to put it, by the airport? Noyes – I have enough land. Nassif – how much land? Noyes - 660 acres to spread it on. Nassif – further from neighbors? Ludeman – setback on record? Biren – past CUP. Noyes – I didn't realize, I thought it was 600' from Gordy. 600' is a long ways. Oakland – manure must be applied at least 600' from existing rural residences. Tom Winn – enough land to get rid of manure? Legal limits you can put on? Meet setbacks? Enough land without renting? Curious where it is going to go. Noyes – Gordy was saying I have 1.5 million gallons now, more like 800,000 after expansion. Biren – more storage. 5,000 gallons an acre corn production. MPCA take care of manure plan for acres. 500 acres corn/corn, corn/soybean rotation may be a little short. Noyes - 300 acres, use 180 acres now. Nassif – should be possible to keep it 600' from any house. Noyes – I am sorry, I did not realize it was from everybody's dwelling (600'), thought it was from Gordy. Nassif – have to follow otherwise problems. Good neighbor. Ludeman – couple of letters talked about family farm/commercial farm. Our ordinance doesn't stipulate one over the other. We deal with size, setback requirements. As far as a family farm or contract operation or owned by someone else and raise them, no bearing on our decision. Ludeman – we regulate size. Oakland – 2000 animal units for hogs. Biren – yes, over 1000 animal units MPCA permits. 3000 cattle/other. Thooft –MPCA, NPDS permit, they will check all acres? Biren – they will require a manure application plan and require him to keep records of where he is putting it, based on agronomic rates. MPCA will not care about the 600' setback. That is ours to enforce. Thooft – pollution issues the same? Biren – yes. Nassif – believe Dean will meet those setbacks. If he doesn't, neighbors are going to come and talk with us. Then we are going to talk with Dean. Terry Chlebeczek – who do we call if there is a violation, who does the inspections? Nassif – John Biren. Terry Chlebeczek – in the last 5 years how many times have you been to the site to inspection the site? Biren – at least once, site is right on Hwy 68, drive by it a lot. Since our last CUP I don't have a complaint on file. Nassif – problem, visit with John. He has a lot of power. Biren – last CUP, did have some issues with getting the trees started. Requirement of putting trees around barn. In 2005, pre-plant chemical down that wasn't productive to growing trees. Didn't specify type of trees or how big they had to be. Dean worked with Soil & Water District. In 2012, tree are 6' now. Nassif – type of trees? Noyes – ash trees. Mona DeVries – why don't you put a tree that give a berry or like the Finney farms on 67? Biren – prerogative of the board. Reasons of health, safety and welfare they can put conditions on. Can justify in their mind, can force and

specify trees, reasonable. 40' scotch pine, no. Mona DeVries - cannot tell there is a hog operation there. Terry Chlebeczek – properties around, value of homes, big effect. Realtor shows our house, and find out there if hog buildings next door. Hogs next door affect value of home biggest concern. Nassif – understand concern. Terry how long has your home been there? Terry Chlebeczek – lived there 17 years. Nassif – Dean was there too. Terry Chlebeczek – that is right. Nassif - ag county, balance your needs as homeowners and Dean's needs as a businessman/farmer. Someone unhappy, know how you feel. Once state gets manure plan, going to be on Dean to make sure it is done exactly right. Ours is the 600' setback from homes. Violated come talk with John, John will talk with us and we will talk with Dean. Terry Chlebeczek - works both ways. He was there also. Again, the barns weren't. Look at the presence not something that happened 25-20-15 years ago. Talking about what is happening from this moment on. Moving in certain amount of farm there, livestock and we didn't disagree with moving on. Now there is more. At this point, we pay commercial taxes, ag operation commercial. Nassif – that is not something we deal with at all. Understand what you are saying. Noyes – when Terry moved there, I had one hog barn then, outdoor facility with lots of hogs which I think stunk a lot worse than these barns. Ludeman – Wondering is there some technology to mitigate some of the odor with this type of barn? Would that be acceptable or not? I am not familiar enough with tunnel barns. Gordy Timmerman – I work at the Marshall Waste Water Treatment Plant. We do have a system. Odor scrubber that takes ammonia out. Any time you guys want to see this. If they can put this in Dodge County. Glenn Olsen alluded to this. We will show you how this works. Odor off manure is very minimum. Ludeman – what type? Gordy Timmerman – room, has coarse rock in the bottom, extended tree roots, shredded tree roots. Dodge County having some problems, require them on all the barns. But they were using a different type of wood chips. It does require some days cranking up the speed on it. Ph shows a little different, crank it up a little bit and it puts more air into the system. Bacteria will eat up wood otherwise. Noyes – all the years where I lived, I have not had one person north in Marshall city limits complain. They moved there. Gordy Timmerman – we were there before the barns were there. Noyes – right. Randy Boomgaarden – I can talk on the biofilters too. I live just north of the airport. Right on the city limits. I have smelled it over there. Never complained about it, just thought it was a casual thing once in a while. It has gotten worse. I have been over to Mona and Ron's, the flies over there are outrageous. Cannot stand to be outside, squealing pigs. I was raised on a farm, I think everyone should be able to raise hogs if they want to. When it gets to be too many, get to be a problem. Wondering with the expansion of our airport, new businesses coming to town, expand in Marshall get off that airplane and they smell that, what are they going to think? Agricultural area, I understand that. Also a lot of businesses right in town. You turn those businesses away, Marshall is not going to expand. Terry Chlebeczek – reason why Marshall got rid of lagoons. Why we are here now to try not to do the same thing again. We have all lived with what happened in the past, we accepted it, what is to happen from now on, we cannot go back. Go from here. Now we have something to say about what is going to happen. We don't want to repeat that mistake like the lagoons, that didn't turn out so well. Gordy Timmerman – system on Hwy 19 that you approved and are being built, barns are out in the field. Very accommodating. Did well to try to accommodate people, not close to city limits. Nassif – explain barns. Biren – curtain ventilated barns, in the winter time a biofilter would work real well. Fans on either side of the barns. Would be a nightmare for Dean to refit them because CFM not enough get through biofilter. New fans, electrical upgrades. Could be done but want to caution that during the summer months when the curtains are down, very little benefit from biofilter on 3 existing barns, don't see how you can retrofit for them to operate that way. The new barn, the fans

on the pits could have a biofilter on them. Tunnel ventilated barn very difficult to capture end fans. Very cost prohibited. Few years ago biofilter used in a barn in Lyon County, \$150 a pig space to put system in. Extra cost for electricity and maintenance. 4-5 years ago, could not meet setback unless put them on. Nassif – designed building. Biren – part of building plan. Thooft – any other place, other land, different area? Noyes – trying to keep everything together. Wouldn't go over well. Biren – new site 1320', 1200 head barn, would need ¼ mile. Noyes – 2400 head. Biren – 2400 head barn will not fit on this site. That is why 1200 is being built. Thooft – trees, NRCS involved, did they pick trees for a specific reason? Noyes – I wanted the ash trees for curtain barns, don't want a lot of drop dead air, will have to cut them so I get a breeze. Ludeman – underground aquifer, neighbors have trouble with water, wells, documented? Noyes – 4 wells on site. Ludeman – neighbors? Noyes – all on rural water. Biren – conditions, state agencies, DNR water appropriations permit, will use existing monitoring wells around to make sure the use on the aquifer. Nassif – any other questions? Steen – no. Chalmers – no. Ritter – no. Board reviewed Findings of Fact. Attached is a copy. 1. Biren - City has tools, ability to take over zoning within 2 mile radius of city limits, public process option out there. Townships orderly annexation, city takes over management. City does have power within their statutes to protect themselves, some discussions there, but nothing has materialized, City has a job to protect themselves as well. Nassif – and they have the tools. Thooft – 1 mile plus 200', within 2 miles. Ludeman – previously when we rewrote the ordinance, Marshall did not express a concern. Tracy and Cottonwood expressed concern, not an issue. Tom Winn – letter from city, don't want land application within 2 miles of city. Biren – no land application during the winter months when incorporation is not possible. Nassif – plow then work it, mitigates the smell. Dean Noyes - has gotten better. More dirt over manure, let it dry a couple of days. Thooft – incorporated? Dean Noyes - Hire it done, disk/cover manure, after it dries a couple of days, I dig. Gordy Timmerman – when you run short of space, for example last fall before harvested soybeans, you hauled a little on the City property, in a low water area, ¼ mile from Merit Center, does it happen often that you run out of space? Did you have to notify them? Dean Noyes – worked with guy that farms it. Tom Winn – two mile issue, clarified. Nassif – only action we have to night is approval/non-approval. Tom Winn- can you delay your recommendation? Nassif – no. Here is why, 60 day time period. If we don't act on it, gets approved. Chuck Deutz – ADM smells 20 plus years, is that okay? Hog facilities different? Nassif – in my mind a lot of people working there, more jobs than on Dean's farm. Ludeman – they have been sited by MPCA and Dept of Health have paid fines in past. Starts with a citizen complaint, discharge to river is monitored, regular basis. Gordy Timmerman – sludge comes to treatment plant, ADM, Schwans, Turkey Valley. Spent millions of dollars covering up our tanks to avoid that smell. Changed our complete process from anaerobic to aerobic system. We have had to do that to maintain those companies in our town. Exact reason why we are here fighting this thing tonight. Thooft – referenced Dodge County? Biren – biofilters would be my guess. Chalmers – City of Marshall possesses a problem. Oakland – Findings of Fact indicates just that the items have been discussed. 2) Thooft – other access? Noyes – no. 4) Nassif – different manure plan/record keeping. Ludeman – under number 7) 600' application rule of any residence or business. 6) Thooft – pit additives help with ammonia, do you use any of them currently? Noyes – no. Thooft – way to check that out? Biren – something you dump in for odor only? Make manure better, crust, odor nothing proven to work. U of M experimenting with sprinkling oil on top, worked to a degree, time consuming. Nothing on market that works. Ludeman – 7) state manure not to be applied within 600' of residence. Noyes – how do you want me to handle that? Nassif – 600' from residence or property line? Oakland- from existing rural residences. Biren – GIS can

provide a map from existing rural residences. Gordy Timmerman – residence or business? Grocery store wouldn't count? House is back further. Terry Chlebeczek – store? Noyes – property line too much. Ludeman – only business out there at this time. Someone indicated that you are missing some trees? Mona DeVries – those trees are no barrier to anything out there. Noyes – they are going to be. Mona DeVries – 20 years. Did put up anything until 5 year when they told you to. Noyes – I put them up the next spring. Didn't do that fall due to chemical in the ground. Terry Chlebeczek – tree mover, don't need 14' or 6' tree. Nassif – how many were planted? Dean Noyes – 100. Nassif – replace trees that are missing, like size as there now, 6' tall now. Jon Chalmers – trees block air flow of barn, still serve purpose? Biren – trees barrier for site. No promises trees reduce odor, may make worse, block air flow. Nassif – some site advantage. Biren – when we went through ordinance last time, an expert come in, trees won't help with odor. Gordy Timmerman – main reason for trees was to hide barns. Dean Noyes – last time you said it was for the odor. Timmerman – odor also. I do know that trees do stop the odor. Example, comes off your barn and comes to my place, I have a 900' lineal grove, when it hits the grove, it stops. Not on the windy days, on the two mile an hour wind. Nassif – grove does that, same as stopping the snow. Not going to have a grove, fence. Gordy Timmerman – not a fence now. Nassif – in time it will be. Trees are, are what they are and they are there. Has agreed to replace anything that has died with like size. Grove planted, make stink worse, funnel out, go somewhere. Thooft – stipulation spreading within 2 miles of Marshall, incorporated within one hour of spreading. Doesn't work. Dean Noyes – makes it worse. Incorporated as they go, disk. Two days dries up. Biren – say immediately incorporate after application, cover 2<sup>nd</sup> time within 24 hours? Dean Noyes – better off letting it dry. Biren – spell it out. Thooft – incorporated immediately. Dean Noyes – talking about the guys applying it? Thooft – yes. Dean Noyes – that is what they are doing. Biren - say within 2 miles of the City of Marshall shall be incorporated immediately by applicator. Terry Chlebeczek – way to keep manure off highway so cars don't drive through it? Gets on vehicle and in garage. Nassif – is that a problem? He hires applicators, spill some, applicators do there best to keep it clean. Biren – several times a year this has come up, not all that uncommon. When I get a complaint, I will call applicator and they bring a blade out and blade it off. If I don't know it, cannot make the call. Nassif – we have to know, cannot act until we know. Ritter – this board needs to address not only the City of Marshall but residence. Call everybody within one mile when pumping, obviously an issue in the past. Ludeman – good neighbor policy. Ritter – doing good neighbor thing for the City of Marshall, do it for everybody. Steen – one of the concerns I have heard, regular inspection. Can John go out once a year, just do to the amount of concern? Biren – if that is the board's wishes, yes. You are the boss, whatever you ask. We have 337 feedlots in county inspected once every 4 years. Dean Noyes – no concerns with my place. Nassif – folks in audience talk with Dean first, then John. Dean Noyes – we haven't been exactly cordial. Nassif – all sides need to work, issue with Dean's place to start. Stipulation 15 added. So they can make plans. Chalmers – holiday, know you are going to have Easter in a week, not necessary. Dean Noyes - didn't happen, pump in the fall. Thooft – applicator's come, limited time. They themselves try not to do it around a holiday.

Gordy Timmerman – ammonia scrubber thrown out? Nassif – not something we are considering. Gordy Timmerman – check out Dodge County? Biren – I will give Dodge County a call to see what they are doing over there. I am sure it is the biofilters. Not sure if they area requiring it on all of them or what they are doing. Our ordinance deals with setbacks. Can go above and beyond that. Based on health, safety and welfare. Thooft – stipulation #4 took out emergency spreading.



Dean Noyes – just incorporate. If run out of room, sell to farmers or put on small grain, incorporated. Biren – only time emergency would be in the winter time. Ludeman – we are only recommending to the County Commissioners. John should check with Dodge County before their meeting see if there is something that can be done. Brought up at Commissioner’s meeting. Technology, you as public can comment again. Gordy Timmerman – when the water runs off the roof are there drains around the building that can carry the water away from the building, are the drain tiles right next to the pits? If so, where does the water go, field tile line, is it tested? Biren – gutters? Runs on the ground. Tile around the base, goes out to a field tile, not tested. Leaking? Ludeman – sample tube used to test water to see if any manure is in it. Gordy Timmerman – should be tested, affects rivers. Ludeman - vertical tile, rod, 99% time nothing. Thooft - NPDS, new one have it. Biren – could require that, PVC pipe, inspected. Thooft – shouldn’t be anything in the tile line. Biren – test for icoli bacteria. Inspection port as close to building as possible.

Nassif moved, seconded by Thooft to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit to Dean Noyes, 2974 230<sup>th</sup> Avenue, Marshall, Minnesota, for a feedlot expansion and to hear public comment to fulfill Minnesota Session Law 2000 – Minn. Stat. § 116.07, subd 7 (1), to construct or expand a feedlot with a capacity of 300 animal units or more. Odor OFFSET setback requirement is 94%. The land is zoned agricultural and described as the Northwest Quarter (NW1/4) of Section Thirty (30) in Township 112N Range 41W (Fairview Township).

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Manure to be applied agronomically up to two times a year.

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With the following stipulations:

1. That the applicant undertakes the project according to the plans and specifications submitted to the county with the application.
2. That the permit is invalid if the holder has not started construction on the feedlot within a year of the issued land use permit. (A land use permit is valid for one year, and can be renewed administratively for a second consecutive year.)
3. That the county may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and other applicable statutes, rules, and ordinances.
4. Manure in a slurry or liquid form that is being applied in accordance to the manure management plan on file with the MPCA shall be injected.

5. Manure spread within two miles of the City of Marshall shall be incorporated immediately by applicator.
6. Manure being hauled on public roads must adhere to policies of the particular road authority involved.
7. The applicant shall obtain all appropriate licenses and permits relevant to the request. Agency involved could be the DNR, MPCA, Board of Animal Health, MDA, MDH, etc.
8. Dead animals shall be disposed of in accordance with the Board of Animal Health Regulations. (Structures used for storing dead animals prior to rendering or structures used for composting shall meet appropriate county and state regulations.)
9. The offset model must indicate 94% annoyance odor free. Any odor control technologies used in the offset model must be in place and maintained.
10. The feedlot shall meet the minimum standards side, rear, and road right of way setbacks, other setbacks, and lot size. Any trees to be planted shall be at least 60 feet from the road right of way. Trees that are missing shall be replaced with like size.
11. Violations of these conditions or other regulations found in the Lyon County Zoning Ordinance are grounds for enforcement proceedings.
12. Manure must be applied at least 600 feet from existing rural residences and existing rural businesses.
13. Adopt Findings of Fact as part of this Motion.
14. A copy of the County Board of Commissioner's Motion shall be filed with the County Recorder's Office along with the legal description of the property. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.
15. All neighboring dwellings and businesses shall be informed no more than 3 days but not less than 2 days, if possible, prior to pumping manure.
16. Inspection port located on perimeter tile of new confinement barn.

Discussion: Chalmers – as we consider this, we have heard concern that it will impede development of surrounding properties; concern from neighbors of issues in the past on controlling odor which does constitute a pollution nuisance. Have set a list of stipulations that in trying to comply with everything we want him to do, are we setting him up to fail? Nassif – Dean do you think this is too much? Noyes – no. Ludeman – have added conditions to other CUPs.

VOTING FOR: Thooft, Nassif, Steen, Ludeman

OPPOSED: Chalmers

ABSTAINED: None

ABSENT: None

Motion carried.

Oakland – for audience information, County Board meets next Tuesday. If you want to call me on Friday, I will know what time this is on their agenda.

### **RENEWAL - CONDITIONAL USE PERMITS – APRIL:**

Thad Lessman (Rolland and Mary Roseland), Mobile Home NW1/4NE1/4, Section 27, Sodus Township. Lessman constructed a new home on this site in 2010. Mobile home was to be removed in 2011, status. Biren – having a problem with mobile home not getting removed. Ludeman – will have to set a date. Biren - will send a letter giving him 30 days to remove mobile

home, next board meeting, removed by May 7, 2012. If not done by May meeting, will take it to County Board for action. Will not allow it to be moved to another site in Lyon County.

D&G Excavating, Operating a Demolition Landfill, NW1/4, Section 29, Custer Township. Issued: April 2002 (5 years, renewable). Biren – no problem, needed site, renew with motion. Anderson – what are they doing to do with concrete stockpiled, requirement on how often they have to do that? Biren – have not had a complaint on that, no problem with amount there. Glad concrete is going there and not buried all over. Site policed by State. State holds demolition permit. Motion by Chalmers, seconded by Nassif to renew for 5 years. All voted in favor. Motion carried.

Redwood Telephone Company, 195' Self-supporting Communication Tower, NW1/4, Section 34, Fairview Township. Issued: April 2002 (5 years, renewable). (name changed to: Redwood Tel Acquisition, Inc.) Biren – no complaints. Motion by Thooft, seconded by Nassif to renew for 5 years. All voted in favor. Motion carried.

**DISCUSSION:** Anderson – if John gets any meeting materials that the Board members would like to go to, should get it out to board members so they have a chance to attend conferences, informational. Biren – RDC with MCIT looking at hosting training this summer in Slayton. St. Cloud conference not as well rounded as in past. Anderson – good background information especially when starting.

Meeting adjourned at 9:16 p.m.

Respectfully submitted,

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Michael Nassif, Chairman  
Planning and Zoning/Board of Adjustments

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Carol Oakland, Secretary  
Planning and Zoning/Board of Adjustments