

April 17, 2015  
Antelope County Supervisors  
Public Hearing  
Neligh, Nebraska

The public hearing regarding expansion of Thiele Dairy, Inc., south west of Clearwater in the SE ¼ of Section 14, Township 25, Range 8. Supervisors answering roll call: Brandt, Henery, Williby, Kerkman, Schindler, Schwager, and Bolling.

Hearing opened at 9:00 AM.

Char Carpenter, Antelope County Zoning and Planning Administrator read the notice as published in the newspaper, "Notice of Public Hearing Antelope County Board of Supervisors. Notice is hereby given that the Antelope County Board of Supervisors will hold two public hearings to review conditional use permits submitted by 1) Bill Thiele/Thiele Dairy for the purpose of expanding the dairy operations located in the SE¼ 14-25-8 and 2) Invenergy Wind Development for the purpose of erecting two Meteorological Towers located in a) SE ¼ 33-25-5 & b) SE ¼ 16-26-7. The hearings will be held, Friday, April 17<sup>th</sup>, 2015 beginning at 9:00AM at the Antelope County Courthouse, Neligh, Nebraska. The permits may be examined in the offices of the Antelope County Clerk or the Zoning Administrator during normal business hours at any time prior to the public hearing. All interested parties may offer oral comments at the public hearing and/or may file written comments with the Antelope County Board of Supervisors provided such written comments are received by the Board prior to close of business Thursday, April 16, 2015. Written comments may be mailed to: Antelope County Board of Supervisors, PO Box 26, Neligh, Nebraska 68756. This was published on April 8<sup>th</sup>, 2015, in the official county papers.

Schwager than asked for any information from the presenter. Char Carpenter, said the Planning Commission voted to recommend approval with three (3) conditions.

- 1) Phase 1, to be completed within two (2) years from obtaining the Supervisors' approval for the conditional use permit; and,
- 2) Phase 2, to be completed within five (5) years of the date of the permit being granted. Impact easements must be obtained prior to the Supervisor's Public Hearing; and,
- 3) DEQ permit must be provided to the Zoning Office.

Schwager than asked for a presentation from the applicant:

Bill Thiele steps forward. Make copies quick. He was not sure what to present. Char had summarized it well. Supervisor Schwager asked him to give some of the information on the project.

What the expansion is designed for is replacing our milking facility that is there now and consolidation of two milking sites. We are milking on the site two miles southwest of Gary Thiele's and our home place now. We want to bring those cows home now and consolidate into one (1) dairy site and building a new dairy parlor. We want to do the expansion in two (2) phases to increase our numbers. We are milking 1200 cows at the home site and 300 over at Gary Thiele's, a few more than that, 1250 total I guess it would be. With our dry cows, close-up cows at the home site phase one 1, would bump our numbers up to 1700 head to milk and 1850 total on the site. It would also include a phase 1 and a phase 2 addition to our lagoon and manure system. Phase 1, is scheduled for this year again which puts us at about 1850 there and built and we would have one cell of the lagoon there now to accommodate the additional cows we would build a second one at this stage. We was expecting to be yet milking and have it up and running yet by late this fall first of November is the plan. Including the lagoon and everything. Once that happens we will continue to run additional dry cows over at Gary Thiele's, and we will move those cows back and forth from when we dry them off at the end of the lactation, and bring them back home prior to calving. Phase 2 does not have a definite date for doing that. We wanted to get the permit numbers in hand. So when and if that happens, with two (2) nephews back home from college and part of the business, we intend to eventually build another free-stall barn which of course the milking facility would handle those additional cows. I have to actually look at the final number there; I think that was about 2600 head or 2800, somewhere in there with the total number on site after phase two. (Supervisor Henery asked if that is Phase 2 – 5 years) Mr. Thiele clarifies with a yes. (Supervisor Kerkman asked if that would be an additional number) Mr. Thiele clarifies, 2800 would be a total number of cattle. Again, probably would continue to use Gary Thiele site for housing dry cows over there. Business plan could change a little bit in five (5) years. But that would be the total number permitted than in phase 2. That would put us in the neighborhood of 2100 milking on the facility. It is basically all a flush facility where we are recycling. Our bedding is sand plus, on the plus side, 90% of that sand is recovered and reused every day year round. Right now we are probably bringing in an average of about 1 or 2 loads of sand for 1200 cows to bed. (Henery asked if they are expanding the Lagoon, then.) Yes, there will be a second cell included in the first stage this year and then if we build an additional free stall barns there will be a third cell that is added. All of the mechanics of it, the pumps, piping, etc. is all put in place in phase 1, so phase 2 would just be one (1) more cell placed out there for lagoon manure storage and another 800 cow free stall barn. (Supervisor Kerkman asked if they had a place to go with the manure.) Mr. Thiele affirms they do. We have met all of our nutrient management plans. It is in our package turned into the state, and in here. (Char Carpenter states the DEQ permit is in the file.) (Supervisor Bolling states most of the manure out there in the last year is being pumped through a hose so out there my roads are probably more stable than they are other places because there is not that much heavy loads going up and down the roads.) (they do that umbilical cord and eject it away)It's our first (Schwager asked if they have enough land for all of it.) Mr. Thiele responds we do. Now, we still want to keep that in place we've got a pipe buried across the road and we have been permitted for that for some of our pivots close by there, that we have that option. With a single stage lagoon, where we are at right now one manure storage it is a little bit of an issue if you try and pump that on a growing crop and especially during tasseling, so the second stage and the third stage of a lagoon really cleans up all aspects of the gray water, making it cleaner. It would make it more viable if we want to pump say right across the road. (Henery, asked if the impact easements are into Char. She confirms they are on file.)

Schwager asks for any more comments or questions from anyone. (No comments) Mr. Thiele responds, Thank You, and sits down.

9:10 AM Open Public Comments. Asked for people in favor to testify.

Robert Johnston, I have been here before and have (interruption) I have testified at numerous permitting processes for animal ag. I support economic development in the county. Anytime we can extend our tax base it is wonderful. Animal ag is a great idea for the county. Anytime we can add value on the hoof, corn, soybeans, alfalfa, we need to do that. So, once again I am in favor of animal ag in the county. Thank you.

Supervisor Schwager, thanks him for his comments.

(Discussion between Char and Jerry regarding letter.)

Supervisor Schwager says we will read the letter in a little bit.

Supervisor Schwager asked for anybody else in favor would like to speak. (no one)

Supervisor Schwager asked for anyone opposed to testify. (no one)

Supervisor Schwager asked for people who are neutral to testify. (no one)

Supervisor Schwager asked for any other testimony. (no one)

Char reading letter from Ray Moser:

"My name is Raymond Moser. For 40 years my wife and our family lived south of Thiele Dairy. I still come to the farm 2 or 3 days a week as I farm my own ground and work with our son. Two issues as Thieles expand again. The Dairy cuts silage across the road and to the west of our son and his family. Then they spread manure from the pit of Gary Thieles site where they milk. If the wind blows from the southwest the smell is terrible to the house and farm site. Last year the manure laid on top of the ground for days and one day when Chris had help working cattle, well the wind was in the southwest, and the smell was horrible. A health hazard no one should have to endure. Not good for a home either. I was angry and embarrassed. After talking to them, they disked it finally after several days. I would hope in the future, there would be a better plan. On other land of Gary's they disk the manure in and plant rye. Why not the same across from Chris.

Safety- they say this is a top priority. But, I can tell you people are very unhappy how fast their trucks go. A big truck coming hard can be very intimidating on country roads. Also, leaving the silage pit, some drivers tear back out on the road without stopping and looking properly. The article in the Nebraska Farmer says it all. "Use common sense and be a good neighbor." Thank you for your consideration.

Sincerely,

Raymond Moser"

(Attached is an article titled, "Use common sense when piling manure") Mr. Moser states the article does not need to be read.

Supervisor Schwager states anyone wanting to see it they can.

Supervisor Schwager asks for clarification on anything or any comments anyone wants to make.

Bill Thiele comes forward. Actually, Raymond lives in Norfolk, Nebraska now, which is fine. He does come out to help farm. It is his son, Chris, and daughter-in-law, Sandy, who live to the southwest of us between Gary Thiele's and our place. We did run into an issue on the particular time he is talking about here, we did surface supply manure which was pretty solid, rather than real liquid form this fall. Timing kind of went against us, it was just prior to when the ground froze and we did go back in and disc it in, as he stated in his letter, just as soon as it dried up. Now, unfortunately, the wind changed direction on us in the meantime. We also do have a signed easement from his son, Chris, who is the one living there and his daughter-in-law, Sandy. They built a new house, right there between us, and just moved into it. This is just an opinion, if we were that bad as neighbors, or using that bad of common sense I would hesitate, with the land base he has to build another house right beside us. In addition to that as everyone here probably knows our prevailing winds in Nebraska are south – southeast and in the winter it is the opposite direction. I will not deny, that we can have an occasional day that drifts the other direction, it does happen. It's rural Nebraska, we are an ag state and a livestock primary state. In an addition to that his son, Chris, has said it will probably help those occasional days, and he stated to me and to my brothers that when the smell affects them, it is usually coming from our second site and that manure that is being handled over there now is from lactating cows, which has a little different form than with dry cows. Those cows now are combined in the barn. When we go to dry cows out there we will continue to use the barn, but it will also be where they have free choice to go dry lot in and out. Which makes dryer manure. Which should help control those occasional times.

I would also like to also address the safety issue that Mr. Moser brought up. Apparently, he has an issue with our trucks. Again if you have 1500 milk cows and some young stock, we do have trucks on the road. We farm north of Clearwater so we do have trucks coming from the north more than the south, when we are cutting silage or haylage to be honest. In the easement and signed waiver easement, from Chris and Sandy it was noted, and I do not know if it is on the easement, but it was discussed, and we have agreed that it will get better with the placement of the new milking facility. That there will be better line of vision pulling out on the road. The south end of our property, which adjoins Chris's property there is a shelter belt on our property that is very close to the road. We have already promised him we will pull enough trees, a reasonable amount of trees out near the road to help the line of vision, on both, from the right and from the left. They did approach us first wanting to know if we would put, we have 1,two 2,three 3, four 4, four entries into the dairy for different sites, feed trucks, milk trucks, and housing, they had asked us to put stop signs on every before we approach the road. We tried to cover with them that if there is someone not stopping now, or looking both ways, probably a stop sign, if you have been in and out of it a thousand times a stop sign is not going to change anything. So we agreed cutting out some trees to the north and the south to clear the vision was probably a better way of dealing with it. And, I'm trying to think what else was in there, Jerry. One other thing, yes when we are hauling silage or haylage trucks are coming. I have my two brothers here, that are involved in the farming where I am the cow guy there, I think they will back me up on this, when we go to the field, before people leave, we have a meeting with the help and the truckers and we stress that they are to obey all laws and be courteous. We also have a standard farm policy that if you are on farm equipment and there are vehicles you are meeting it is your responsibility to pull off the road, or pull to the side, and slow down. We do have these meetings. Can we guarantee with 100% certainty, that 15 trucks, every person does exactly as we say, unfortunately, we can't, but we do try to the best of our ability to address these problems every time when we go to the fields.

Supervisor Schwager thanks him.

Char states, "according to the state regs the occasional orders are just that occasional. You cannot regulate those.

Supervisor Schwager states he has them in his area too.

Supervisor Schwager asks for any information or questions from the board.

9:20 AM Supervisor Schwager closes the public portion of the hearing.

Supervisor Schwager asks for a motion from the board.

Motion from Henery, to accept expansion provided all zoning recommendations are met and DEQ approval is here. Bolling seconded.

April 17, 2015 (continued)  
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Public Hearing Thiele  
Neligh, Nebraska

Discussion held on trees be taken out, if they should be part of motion. It is agreed Mr. Thiele testified they would be removing the trees and states it is a verbal agreement with his neighbor.

Supervisor Schwager reads the findings.

#### FINDINGS AND DECISION

##### **The application for conditional use filed by:**

Thiele Dairy  
Expansion of Dairy  
SE¼ 14-25-8

##### **FINDINGS:**

- YES 1. That the Zoning district in which the proposed use is to be located is Zoned AG-G (General Agricultural District).
- YES 2. That the proposed use that is the subject of this application is not a permitted use in such zoning district.
- YES 3. That the applicant has filed an application for conditional use.
- YES 4. That said application has been reviewed by the Antelope County Planning Commission.
- YES 5. That the Antelope County Planning Commission has held a public hearing as required by the Zoning Regulations.
- YES 6. That the Antelope County Planning Commission has recommended that the conditional use permit be granted. (If applicable-subject to certain conditions set forth in the recommendation).
- YES 7. That on April 17, 2015, a public hearing was held before this Board.
- YES 8. That Notice of hearing was published at least 10 (ten) days prior to the hearing, said date of publication being April 8, 2015. Said publication was in the Elgin Review, Neligh News & Leader, Orchard News and the Clearwater Record.
- YES 9. That the exhibits and comments introduced at the Planning Commission public hearing(s) are hereby incorporated into this record. That opportunity for additional evidence, comments and arguments was made.
- YES 10. That the proposed use is a conditional use, reasonably compatible with surrounding land uses with regards to traffic generation, noise, odors, dust, vibrations, and potential air, soil or water pollution or explosion or other hazards.
- YES 11. That this Board has considered the property, size and location of the requested improvement, the use of the improvement, location of access to public roadways, adequate access to water and sewage supply, parking considerations, nearby residences and other non-agricultural uses within one (1) mile of the property in question, water surface drainage and any issues regarding wetlands, as required by Zoning Regulation section 1002.
- YES 12. That said conditional use permit is compatible with the Antelope County Comprehensive Plan.

Supervisor Schwager takes roll call vote. Voting aye: Henery, Bolling, Kerkman, Williby, Schindler, Brandt and Schwager. Nays none. Motion carried

Motion by Williby, seconded by Brandt to adjourn public hearing. Voting aye: Henery, Bolling, Kerkman, Williby, Schindler, Brandt and Schwager. Nays none. Motion carried.

Public Hearing adjourned at 9:25 AM.

ANTELOPE COUNTY BOARD OF SUPERVISORS

By: \_\_\_\_\_

Chairman of the Board, Jerald Schwager

Attest: \_\_\_\_\_

County Clerk, Lisa Payne