

## YANKTON COUNTY COMMISSION MEETING

December 18, 2019

A special meeting of the Yankton County Commission was called to order by Chairman Dan Klimisch at 11:45 am on Wednesday, December 18, 2019.

Roll call was taken with the following Commissioners present: Gary Swensen, Joseph Healy, Cheri Loest and Dan Klimisch; Absent: Don Kettering.

Commissioner Klimisch asked for a brief moment to send prayers to Commissioner Don Kettering for a speedy recovery.

There were no conflicts of interest reported by Commissioners.

**Action 19591C:** A motion was made by Loest and seconded by Healy to approve the meeting agenda. All present voted aye; motion carried.

There was one public comment from Ray Epp.

**Action 19592Z:** A motion was made by Loest and seconded by Healy to recess the regular session and convene as Board of Adjustment. All present voted aye; motion carried.

Chairman Klimisch explained the format for the appeal hearing.

Todd Wilkinson, representing Jay Cutts, requested Commissioner Swensen be recused because of his social media posts expressing a bias against concentrated animal feeding operations. Wilkinson said that Mr. Swensen has previously been determined to have bias against hog operations. Wilkinson said at three prior hearings before the board, commissioners voted he was not able to be impartial. Since then, additional posts have been placed on social media by Swensen which indicates a bias. Mr. Wilkinson said he filed a request for extension due to the absence of Commissioner Kettering and to renew the request to accuse Mr. Swensen of bias.

Chairman Klimisch asked Commissioner Swensen if he could make an unbiased determination in this case. Commissioner Swensen responded by writing on paper, "No Comment."

Commissioner Loest asked Mr. Swensen if he filed a report with the Sheriff's Department on a confrontation with Mr. Cutts and if he requested a restraining order be

put in place. Loest then asked Swensen if that action would influence his vote today. Commissioner Swensen responded by writing on paper, "No Comment."

**Action 19593Z:** A motion was made by Loest to ask Commissioner Swensen to recuse himself from the proceedings for Mr. Cutts' hearing. Motion died for lack of second.

Phil Tau spoke for the complainant's case.

Chairman Klimisch closed complainant's time.

Todd Wilkinson, representing Jay Cutts, spoke on behalf of the applicant.

Mr. Wilkinson asked the Auditor to make note that Mr. Swensen responded to Commissioner Loest's question about being impartial in written form, stating no comment.

Mr. Wilkinson had Jay Cutts stand and verify materials presented.

Chairman Klimisch closed permit holder's time.

Phil Tau spoke on complainant's rebuttal.

Chairman Klimisch closed complainant's rebuttal time.

Todd Wilkinson and Jay Cutts spoke during permit holder's rebuttal time.

Chairman Klimisch closed permit holder's rebuttal time and opened board discussion.

**Action 19594C:** A motion was made by Healy and seconded by Loest to overturn the decision by Mr. Gary Vetter's decision in regards to Mr. Cutts permit 3431 based on the information and testimony today. Roll call vote was taken with Healy, Loest, Swensen and Klimisch voting Nay; motion failed 0-4.

**Action 19595C:** A motion was made by Loest and seconded by Healy to recess the Board of Adjustment and reconvene in regular session. All present voted aye; motion carried.

There were public comments by Ray Epp, Todd Wilkinson and Laura Nystrup.

**Action 19596C:** A motion was made by Healy and seconded by Loest to adjourn. All present voted aye; motion carried.

**Dan Klimisch**, Chairman  
Yankton County Commission

ATTEST:  
**Patty Hojem**, County Auditor