

## YANKTON COUNTY COMMISSION MEETING

December 11, 2019

A special meeting of the Yankton County Commission was called to order by Chairman Dan Klimisch at 10:00 am on Wednesday, December 11, 2019.

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

Commissioner Loest noted she had purchased three quarter section of land from Karl Schenk in 2007, but said it would not influence her decision on today's hearings. No action was taken.

**Action 19560C:** A motion was made by Swensen and seconded by Loest to approve the meeting agenda. All present voted aye; motion carried.

There was no public comment.

**Action 19561Z:** A motion was made by Healy and seconded by Loest 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.

Brian Donahoe, representing Josh Johnson, requested Commissioner Swensen be recused from the hearings because of his social media posts expressing a bias against concentrated animal feeding operations.

Commissioner Kettering asked States Attorney Rob Klimisch what would be the ground work for a commissioner who is biased.

Mr. Klimisch said it could upset the decision making of the board if the individual is coming in with preconceived bias and not looking at the facts.

**Action 19562Z:** A motion was made by Kettering and seconded by Loest to ask Commissioner Swensen to recuse himself because of bias. Roll call vote was taken with Kettering, Loest and Healy voting Aye; Swensen and Klimisch voting Nay; Motion carried, 3-2.

Commissioner Swensen left the meeting.

Phil Tau spoke for the complainant's case. Attorney Mitch Peterson, representing the complainants, spoke on their behalf.

Chairman Klimisch closed complainant's time.

Brian Donahoe, representing Josh Johnson, spoke on behalf of the applicant.

Mr. Donahoe had Josh Johnson stand and verify materials presented.

Ray Epp spoke on the applicant's behalf.

Chairman Klimisch closed permit holder's time.

Phil Tau and Mitch Peterson spoke on complainant's rebuttal.

Chairman Klimisch closed complainant's rebuttal time.

Brian Donahoe spoke on behalf of the permit holder, Josh Johnson.

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

**Action 19563C:** A motion was made by Kettering and seconded by Healy to reverse the determination that the building permit and conditional use permit has expired for the reasons set forth in discussion. Roll call vote was taken with Kettering voting Aye; Healy, Loest and Klimisch voting Nay Motion failed 1-3.

Commissioner Swensen reentered the meeting.

Brian Donahoe, representing Karl Schenk, requested Commissioner Swensen be recused for reasons stated in the previous hearing.

**Action 19564C:** A motion was made by Kettering and seconded by Loest to request Commissioner Swensen recuse himself. Roll call vote was taken with Kettering, Loest and Healy voting Aye; Swensen and Klimisch voting Nay; Motion carried, 3-2.

**Action 19565C:** A motion was made by Kettering and seconded by Loest to request Commissioner Swensen to recuse himself from this meeting and the next. Roll call vote was taken with Kettering, Loest and Healy voting Aye; Swensen and Klimisch voting Nay; Motion carried, 3-2.

Commissioner Swensen left the meeting.

Phil Tau spoke for the complainant's case on building permit #3429 for Karl Schenk. Attorney Mitch Peterson representing the complainant's spoke on their behalf.

Chairman Klimisch closed complainant's time.

Brian Donahoe, representing Karl Schenk, spoke on behalf of the applicant.

Mr. Donahoe had Karl Schenk stand and verify materials presented.

Chairman Klimisch closed permit holder's time.

Phil Tau and Mitch Peterson spoke on complainant's rebuttal.

Chairman Klimisch closed complainant's rebuttal time.

Brian Donahoe spoke on behalf of the permit holder, Karl Schenk.

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

**Action 19566C:** A motion was made by Kettering and seconded by Healy to overturn the Zoning Administrator's decision. Roll call vote was taken with Kettering voting Aye; Loest, Healy and Klimisch voting Nay; Motion failed, 1-3.

**Action 19567C:** A motion was made by Healy and seconded by Loest to recess for 10 minutes. All present voted aye; motion carried.

**Action 19568C:** A motion was made by Healy and seconded by Loest to reconvene. All present voted aye; motion carried.

Phil Tau spoke for the complainant's case building permit #3428 for Karl Schenk.

Attorney Mitch Peterson representing the complainant's spoke on their behalf.

Chairman Klimisch closed complainant's time.

Brian Donahoe, representing Karl Schenk, spoke on behalf of the applicant.

Mr. Donahoe had Karl Schenk stand and verify materials presented.

Chairman Klimisch closed permit holder's time.

Mitch Peterson spoke on complainant's rebuttal.

Chairman Klimisch closed complainant's rebuttal time.

Brian Donahoe spoke on behalf of the permit holder, Karl Schenk.

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

**Action 19569C:** A motion was made by Healy and seconded by Loest to overturn the decision made by Mr. Vetter. Roll call vote was taken with Kettering voting Aye; Healy, Loest and Klimisch voting Nay; Motion failed, 1-3.

Mr. Donahoe requested the board state their reason for the decisions.

**Action 19570C:** A motion was made by Loest and seconded by Healy to clarify the reasons for the decisions. The motions are set forth by the decisions on the merits during the hearings. Roll call vote was taken with Loest, Healy, Kettering and Klimisch voting Aye; Motion carried, 4-0.

**Action 19571C:** 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 was no public comment.

**Action 19572C:** A motion was made by Loest and seconded by Healy to adjourn. All present voted aye; motion carried.

**Dan Klimisch**, Chairman  
Yankton County Commission

ATTEST:  
**Patty Hojem**, County Auditor