

**MINUTES
DODGE COUNTY PLANNING COMMISSION**

Meeting of the Dodge County Planning Commission was called to order by Chairman, Marlin Brabec at 4:30 P.M., Tuesday, February 23, 2021 in the Board of Supervisors Room on 3rd Floor of the Courthouse, Fremont, Nebraska. The following members were present: Brabec, Fooker, Giesselmann, Hansen, Taylor and Weitzenkamp. Absent: Ruzicka and Wagner.

The meeting was declared legally convened, due to Public Notice given and is considered to be an Open Meeting.

Motion was made by **Giesselmann** and seconded by **Fooker** to approve the agenda. Motion carried by voice vote with the following voting yes: Brabec, Fooker, Giesselmann, Hansen, Taylor and Weitzenkamp. Absent: Ruzicka and Wagner.

Motion was made by **Hansen** to accept the Minutes of the January 19, 2021 meeting as mailed. Seconded by **Weitzenkamp**. Motion carried by voice vote with the following voting yes: Fooker, Giesselmann, Hansen, Taylor, Weitzenkamp and Brabec. Absent: Ruzicka and Wagner.

Continued Item: Consider request of City of Scribner and various citizens to develop guidelines or zoning regulations for the storage and disposal of Gypsum and Biomass in and around the County of Dodge as well as developing zoning changes required for the enforcement of Resolution No. Res 2000-001

Nate Hansen with Environmental Land Management of Minneapolis, MN was present to answer questions regarding the storage and application of Gypsum and Biomass. Giesselmann asked how many acres did they apply in 2020. Hansen stated they applied 30,000 tons of gypsum to approximately 7500 acres. He went on to say there was a 1000 to 2000 tons of Biomass that did not get applied and was stored at the Scribner Air Base. Fooker asked if there were different locations that their product was either stored or applied. Hansen stated they were in Iowa and Burt County. He stated that they could not stock pile due to possible run-off. Weitzenkamp asked when they normally applied the material. Hansen stated usually in October. He went on to say the earliest of storing would be a 60-day window. Weitzenkamp asked if they required a berm around it. Hansen stated they recommend gypsum be used as a barrier for the Biomass. Brabec asked if Gypsum supported a fly larvae. Hansen no, but the issue was at Scribner with flies. Weitzenkamp asked what the earliest time would be to stock pile it. Hansen stated August or September.

Attendees of the Meeting:

Tom Wiese of 1008 Howard St. in Scribner spoke asking if rain doesn't have an issue with the Biomass. Hansen stated that it can be a problem when it gets wet.

Leha Manderson of 1443 County Road H Blvd., Scribner, NE stated she was curious as to why other counties did not want this stuff. She said living in rural areas, she was concerned with the affect this stuff has on the well water. She asked what was other solutions for the disposal. How can we obtain some solution that will benefit everyone?

Steve Swanson of Scribner, NE stated he had offices in Hooper and Scribner and had a couple of questions and concerns. He stated he was not against livestock and not livestock waste, but this stuff carries an extreme amount of odor and the smell is definitely unbelievable. He said so many of his clients were farmers and dealt most of the waste was livestock material. He said he had a question for Nate. Why do the trucks hauling this stuff have to drive at excessive speed? They are a general danger to the people on county roads. Hansen stated that the last date that they drove trucks in Dodge County was September 11, 2020 hauling the stuff out of there. He went on to say that the complainant should get the truck number. Swanson stated the trucks are running stop signs. He asked why can't we end it just like other counties have?

Elmer Armstrong of 1295 County Road H, Scribner, NE stated he was concerned with comments made at the last planning commission meeting regarding the no-till program. If you can not incorporate the Biomass into the ground, then you can not let it set out due to the smell. Distances need to match what the biosolids or sludge in a conditional use permit.

Brad Fooker stated the Biomass is different from the Biosolids or Sludge as it is not anarobic. Nate Hansen stated it is Industrial Wastewater Biosolids. A conditional use permit requires set backs, length of time and how much tonnage per acre with 20 tons per acre. He went on to say should require a NDEE permit with site approval including a water table map from NRCS. If the water table is 2 feet or less, than only 10 tons per acre or if it is 4 feet, than 20 Tons per acre. Also, a land application and well search map ½ mile from a residence and 50 feet from an irrigation well. He went on to say that Environmental Land Management will not stock pile at the Scribner Airbase again. Someone stated the material should be composted. Hansen stated it would be too costly. The incorporation of the material is not always possible due to the weather.

The Planning Commission will take all the testimony at today's meeting and draft a possible set of guidelines or regulations regarding the storage and application of the Biomass to be heard at the March 16th Planning Commission.

With no further business **Giesselmann** moved to adjourn at 5:55 P.M. and seconded by **Weitzenkamp**. Motion carried: Giesselmann, Hansen, Taylor, Weitzenkamp, Brabec and Fooker. Absent: Ruzicka and Wagner. The next scheduled meeting will be March 16, 2021 at 4:30 P.M.

Respectfully submitted,

Allen Rolf
Secretary, Dodge County
Planning Commission

Dodge County
Planning & Zoning Commission

Approval Date

**DODGE COUNTY
BUILDING INSPECTION & ZONING DEPARTMENT**

**JEAN ANDREWS, Zoning Administrator
Flood Plain Manager**

Courthouse - 435 N. Park, Room 204
Fremont, Nebraska 68025
Phone: (402) 727-2724

February 10, 2021

To: Planning Commission Members

Good Day!

Enclosed please find an agenda for the February 23, 2021 Dodge County Planning Commission. I was unable to get the February 16th notice and agenda out as I was home ill. Due to the moratorium ending in March, I felt it was necessary to have another meeting to discuss the proposed regs for corn milling. I do not have anything that covers bio-mass, but am enclosing regulations that Washington County has for Sludge. We need to address the problems created by the Bio-Mass and hopefully arrive to some sort of resolution.

I would hope we could have some idea as to how to solve the problem.

If you have any questions, please feel free to contact me.

Thank you.



Jean Andrews,
Dodge County Zoning Administrator

Enclosures

Cc: File

AGENDA
DODGE COUNTY PLANNING COMMISSION

Dodge County Planning Commission, Tuesday, February 23, 2021 at 4:30 P.M., Board of Supervisors Room, Courthouse, Fremont, NE.

1. Call to Order at 4:30 P.M. – Roll Call – Declaration of Open Meeting
2. Legality of Meeting – Approval of Agenda
3. Declaration of Exparte
4. Approval of Minutes of January 19, 2021 Meeting

5. **Continued Item:** Consider request of City of Scribner and various citizens to develop guidelines or zoning regulations for the storage and disposal of Gypsum and Biomass in and around the County of Dodge as well as developing zoning changes required for the enforcement of Resolution No. Res 2000-001

6. Other business brought to the board (By Published Addendum)

7. Adjournment

AGENDA POSTED AND KEPT CONTINUALLY CURRENT AT THE DODGE COUNTY COURTHOUSE AND DISTRIBUTED TO THE PLANNING COMMISSION ON FEBRUARY 12, 2021. COPIES AVAILABLE AT THE OFFICE OF THE COUNTY ZONING ADMINISTRATOR AND COUNTY CLERK.

**NOTICE
PUBLIC MEETING
DODGE COUNTY PLANNING COMMISSION
AND
DODGE COUNTY BOARD OF SUPERVISORS**

NOTICE IS HEREBY GIVEN, that public hearing of the Dodge County Planning Commission will be held during their special meeting, February 23, 2021 at 4:30 P.M. and with the Dodge County Board of Supervisors during their regularly scheduled meeting on Wednesday, March 10, 2021 at 9:00 A.M. Both meetings will be held in the Dodge County Board of Supervisors Room., 3rd floor of the Courthouse, Fremont, NE for the purpose of hearing testimony of support, opposition, criticism, suggestions or observations for the following items:

1. Continued Item: Consider request of City of Scribner and various citizens to develop guidelines or zoning regulations for the storage and disposal of Gypsum and Biomass in and around the County of Dodge as well as developing zoning changes required for the enforcement of Resolution No. Res 2000-001

Questions or comments concerning the public hearings and proposed request should be directed to the Zoning Administrator at (402) -727-2724 and the Dodge County Clerk's Office at (402)727-2767. All interested parties may offer oral comments at the public hearings and/or may file written comments with the Zoning Administrator or County Clerk concerning the petition and such comments shall be considered by the Board, provided such written comments are received prior to the public hearing dates.

Article 25: Supplemental Regulations

Section 22 - Corn Milling Biosolids
(Liquid and or Cake Form)

Section 1: Purpose

It is found and declared that a safe, efficient and effective method of applicant of corn milling biosolids is in the best interest of the citizens of Dodge County and the residents of the State of Nebraska; provided it is done in such a manner as to prevent health, sanitation and aesthetic nuisances. The accomplishment of these ends will be fostered and encouraged by the enactment and enforcement of this Section, which is hereby declared to be essential to the public health, safety and welfare.

Section 2: Definitions

For the purpose of this Section, certain terms and words are defined. All words used in the present tense shall include the future tense; all words in the plural shall include the singular and all words in the singular include the plural; unless the natural construction of the wording indicates otherwise.

Applicant: shall mean any person who owns, or is in possession of real property upon which corn milling biosolids are proposed to be injected or spread.

Applier: shall mean any person responsible for the placement of corn milling biosolids at the application site.

Application Site: shall mean the property upon which corn milling biosolids are to be injected or spread, whichever is appropriate.

Generator: shall mean any person whose act or process produces corn milling biosolids.

Hauler: shall mean any person responsible for the transport of corn milling biosolids.

Injection: shall mean to insert material below the surface of the soil by mechanical means.

Person: shall mean any federal agency, individual, partnership, association, firm, company, corporation, agent, municipality or governmental subdivision, or organization of any kind.

Recipient: shall mean any person who owns, or is in possession of, real property upon which corn milling biosolids are proposed to be applied.

Corn Milling Biosolids: shall mean slurried or low moisture "Cake" residual materials, from the milling, fermentation, extraction and further treatment phases of a corn syrup and grain alcohol production plant. This material shall contain no sanitary or domestic waste water components and shall meet all applicable State and Federal regulations for safe and beneficial reuse as agronomic nitrogen source.

"Cake" Corn Milling Biosolids: shall mean a solid material produced by lowering the moisture content of the slurried biosolid residual material generated from the milling, fermentation, extraction and further treatment phases of a corn syrup and grain alcohol production plant. This material shall contain no sanitary or domestic wastewater components and shall meet all applicable State and Federal regulations for safe and beneficial reuse as agronomic nitrogen source.

Long Term Stockpile: shall mean a bulk supply of "Cake" corn milling biosolid stored for a period greater than three weeks up to 10 months at an approved site for future use.

Stockpile/Field Application Stockpile: shall mean a bulk supply of "Cake" corn milling biosolid temporarily stored for up to three weeks at a field application site.

Long Term Stockpile:

1. Low moisture "Cake" biosolids may be long term stockpiled at an approved site for a total of 10 months. Following the ten months, there shall be two consecutive months where the stockpile is nonexistent. The applicant must determine the allowable ten months at the time of application. The maximum amount stockpiled at any given time is limited to the amount proposed for future land application within Dodge County only. Low moisture "Cake" biosolids shall be applied at the agronomic rate recommended by an agronomist. The proposed number of acres times the proposed amount to be applied per acre is used to calculate the total allowable amount to be stockpiled.
2. Runoff must be controlled within 500 feet of a stockpile site and in areas where there is a possibility of contaminating waters of the state exist.
3. Measures must be taken to prevent and eliminate the possibility of pooling.
4. The stockpile shall not be located within 1500 feet of an inhabited residence, or business or facility, or land frequented by the public, excluding the residence or business of the landowner or applicant.
5. The Stockpile shall not be located within 500 feet of a well.
6. Non-compliance with any requirements or conditions shall be sufficient grounds to revoke the CUP. Revocation of the CUP is accomplished by the Dodge County Board of Supervisors, after recommendation from the Planning Commission.

Section 3 Permits

It shall be unlawful for any person to use any land, premises, or property in Dodge County for the application of any corn milling biosolids without first making application for and securing a conditional use permit (CUP) to do so. The Dodge County Board of Supervisors, upon receiving a recommendation from the Planning Commission, has the authority to issue a CUP, pursuant to procedures in the Dodge County Zoning Regulations.

The application shall include, but not be limited to, the following:

1. The name, address, telephone number, and ownership status of the generator of the corn milling biosolids.
2. The name, address and telephone number of the hauler.
3. The name, address and telephone number of the applier.
4. The name, address and telephone number of the applicant and recipient of the corn milling biosolids application site.
5. The legal description of the corn milling biosolids application site.
6. The current and future use of the proposed application site.
7. The type of vehicles or facilities used to transport the corn milling biosolids to the application site.
8. A description of the method of application, (liquid form) by injecting the corn milling biosolids into the soil or (low moisture "Cake") by surface spreading.
9. A topographic map of the application site(s), which shall include:

10. The locations and names of neighboring home sites or farmsteads and adjacent land owned by others.
11. The locations of wells within 500 feet of the application site boundary.
12. Corn milling biosolids shall be applied at the agronomic rate for nitrogen less the soil nitrate reserves.
13. A letter from the County Highway Superintendent stating that routes have been approved for the transportation of the corn milling biosolids to the application site.

Section 4 Conditions for Land Application

1. No person shall permit the unloading and application of any corn milling biosolids at any place except a County approved site.
2. The CUP is not valid when road and field conditions will cause vehicles to sling, track or deposit mud or soil onto traveled roads.

Section 5 Regulations

Any person to whom a permit is granted for the application of both liquid and low moisture forms of corn milling biosolids shall observe the following regulations. These regulations shall govern the transportation to, unloading of, injection and spreading of the corn milling biosolids in Dodge County and any failure to fully comply with these regulations shall be sufficient grounds for suspension or revocation of the permit granted.

1. The application of corn milling biosolids shall comply with the guidelines of the Nebraska Department of Environmental Energy.
2. The application to land of corn milling biosolids shall be monitored by the Dodge County Board of Supervisors through inspections, Laboratory analysis of the corn milling biosolids shall be provided quarterly to the County Planning Department. The costs of any analysis shall be paid by the permit holder. The analysis shall be calculated in the following units – level found in mg/kg, lbs./dry ton, and lbs./acre @ 2 dry tons/acre):
 - a. Kjeldahl Nitrogen
 - b. Phosphorus (total)
 - c. Potassium (total)
 - d. Sulfur (total)
 - e. Calcium (total)
 - f. Magnesium (total)
 - g. Sodium (total)
 - h. Iron (total)
 - i. Manganese (total)
 - j. Copper (total)
 - k. Zinc (total)
 - l. Ammoniacal Nitrogen
 - m. Nitrate Nitrogen
 - n. Arsenic (total)
 - o. Barium (total)
 - p. Cadmium (total)
 - q. Chromium (total)
 - r. Lead (total)
 - s. Mercury (total)
 - t. Molybdenum (total)
 - u. Nickel (total)
 - v. Selenium (total)
 - w. Silver (total)

3. Corn milling biosolids shall be injected immediately into the soil and such that minimal corn milling biosolids are visible on the land's surface. If immediate injection is not possible, the corn milling biosolids shall not be land applied.
4. Low moisture "Cake" biosolids shall be spread onto the soil surface.
5. Corn milling biosolids shall not be land applied within 500 feet of an inhabited residence, business or facility, or land frequented by the public, *excluding the residence of business of the landowner or applicator*.
6. Non-compliance with any requirements or conditions shall be sufficient grounds to revoke the CUP. Revocation of the CUP is accomplished by the Dodge County Board of Supervisors, after recommendation from the Planning Commission.

Section 6 Penalty for violations

Any person who violates any of the provisions of this Regulation shall be guilty of a Class III misdemeanor. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense.

Section 7 Other

1. For the purposes of this Section, the 200-foot notification for the CUP shall mean 200 feet from the outer boundary of contiguous property (in a legally described section of land) owned by the corn milling biosolids recipient. Road right-of-way shall not be encompassed in the 200-foot determination.
2. For fee purposes, a site is described as a contiguous property in a legally described section of land, under one ownership.

SECTION 7.16: SLUDGE REGULATIONS**7.16.01 Purpose**

It is hereby found and declared that unsanitary disposal of sludge creates health and sanitary hazards, promotes the breeding of vermin, flies, and other pests, pollutes water and the atmosphere, produces noxious odors and is an affront to the aesthetic values of the citizens of Washington County. It is further found and declared that the elimination of open disposal of sludge and the prevention of health, sanitation, and aesthetic nuisances in the future is in the best interests of the citizens of Washington County and the State of Nebraska; and that the accomplishment of these ends will be fostered and encouraged by the enactment and enforcement of this Regulation. The enactment and enforcement of this Regulation is hereby declared to be essential to the public interest and it is intended that this Regulation be liberally construed to effectuate the purposes as stated herein.

7.16.02 Definitions

For the purpose of this Regulation, certain terms and words are defined as set forth in this Regulation. All words used in the present tense shall include the future tense; all words in the plural shall include the singular and all words in the singular include the plural, unless the natural construction of the wording indicates otherwise.

Applicant: shall mean any person who owns or is in possession of real property upon which sludge is proposed to be disposed.

Application Site: shall mean the property upon which sludge is to be disposed.

Dispose: shall mean to apply, dump, leave, place, unload, or otherwise get rid of.

Generator: shall mean any person whose act or process produces sludge.

Incorporate into the Soil: shall mean to work a material into the surface of the soil by plowing, disking, or other means.

Person: shall mean any federal agency, individual, partnership, association, firm, company, corporation, agent, municipality or governmental subdivision, or organization of any kind.

Sludge: shall mean any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, or air pollution control facility, or any other such waste having similar characteristics and effects, which has been treated by a process to significantly reduce pathogens by one of the following methods:

1. **Aerobic digestion:** The process is conducted by agitating sludge with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15 degree C to 40 days at 20 degree C, with a volatile solids reduction of at least 38 percent.
2. **Air drying:** Liquid sludge is allowed to drain and/or dry on under-drained sand beds, or paved or unpaved basins in which the sludge is at a depth of nine inches. A minimum of three months is needed, two months of which temperatures average on a daily basis above 0 degree C.
3. **Anaerobic digestion:** The process is conducted in the absence of air at residence times ranging from 60 days at 20 degree C to 15 days at 55 degree C, with a volatile solids reduction of at least 38 percent.
4. **Composting:** Using the within-vessel, static aerated pile or windrow composting methods, the solid waste is maintained at minimum operating conditions of 40 degree C for five days. For four hours during this period the temperature exceeds 55 degree C.
5. **Lime Stabilization:** Sufficient lime is added to produce a pH of 12 after two hours of contact.
6. **Other Methods:** Other methods or operating conditions may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.
7. **Storage:** shall mean the temporary holding or leaving of a material in a location or position other than where it will ultimately reside or be used.

7.16.03 Permits

It shall be unlawful for any person to use any land, premises, or property in Washington County for the storage and disposal of any sludge without first making application for and securing a Conditional Use Permit (CUP) to do so. The CUP shall be issued by the Washington County Board of Supervisors pursuant to procedures in the Washington County Zoning Regulations.

The application shall include, but not be limited to, the following:

1. The name, address, telephone number, and ownership status of the generator of the sludge.
2. The name, address, and telephone number of the person who will be disposing sludge.
3. The name, address, and telephone number of the owner of the sludge application site.
4. The legal description of the sludge application site.
5. The current and future use of the proposed application site.
6. The type of vehicles or facilities used to transport sludge to the application site.
7. A description of the method of disposal and storage of sludge at the application site. If storage or disposal facilities are to be utilized, engineering plans and specifications must be included. Construction of such facilities shall not commence until the plans and specifications have been approved by the Washington County Board of Supervisors.
8. A description of the method of application of sludge.
9. A description of the method of incorporating sludge into the soil.
10. A topographic map of the application and storage site(s), which shall include:
 - a. The locations and names of neighboring home sites or farmsteads and adjacent land owned by others.
 - b. The locations of wells within 500 feet of the application site boundary.
 - c. The specific location(s) of proposed storage site(s).
11. Submit a soil analysis of the application site, which analysis shall include:
 - a. pH
 - b. Soil Cation Exchange Capacity
 - c. Nitrogen
12. Sludge shall be applied at the agronomic rate for nitrogen less the soil nitrate reserves.

7.16.04 Conditions For Disposal

No person shall permit the unloading, dumping, or other disposal of any sludge at any place except a licensed and permitted application site. This shall not prohibit a person from disposing of sludge from his own animals or household upon his own land as long as such disposal does not create a nuisance or hazard to health of others.

7.16.05 Regulations

The following regulations shall be observed by any person to whom a permit is granted for the disposal of sludge. These regulations shall govern the disposal, storage, and incorporation of sludge in Washington County and any failure to fully comply with these regulations shall be sufficient grounds for suspension or revocation of the permit granted.

1. Sludge will not be disposed of in Washington County unless it has 75 percent or less moisture content, unless otherwise permitted by the Washington County Board of Supervisors.
2. The disposal of sludge shall comply with the guidelines of the Nebraska Department of Environmental Quality and the United States Environmental Protection Agency as described in U.S. EPA 40 CFR part 503.
3. Sludge shall be applied at a rate as set forth in U.S.EPA 40 CFR part 503.
4. The application to land and storage of sludge shall be monitored by the Washington County Board of Supervisors through inspections and laboratory analysis of the sludge. The costs of any analysis shall be paid by the permit holder. Non-compliance with any requirements or conditions which may be dangerous to the public health shall be sufficient grounds to revoke the CUP. Revocation of the CUP may be accomplished by the Washington County Board of Supervisors. Upon such revocation, removal or proper disposal of the sludge shall be completed within a reasonable period of time, as specified by the Washington County Board of Supervisors.
5. During the months of March through November, all sludge that is land applied shall be incorporated into the soil within 48 hours of the application. If the sludge cannot be incorporated into the soil within such 48 hour period, it shall not be land applied.
6. Sludge shall not be land applied within 500 feet of an inhabited residence, business or facility, or land frequented by the public (excluding business, facility, residence or residences of owner or applicator). (9/24/13)
7. Storage of sludge shall not be located within 1280 feet of an incorporated city, village, or town, inhabited residence, business, facility or land frequented by the public, or, unless otherwise permitted by the Washington

County Board of Supervisors. The setback requirement excludes business, facility, residence or residences of owner or applicator. (9/24/13)

8. Storage of sludge shall comply with recommended Nebraska Department of Environmental Quality guidelines.
9. Sludge shall be mechanically de-watered or heat dried such that it can be stacked for stockpiling.
10. All sludge to be disposed of in Washington County shall undergo a heavy metals analysis and the results provided to the County as part of the application process.
11. A comment letter from the County Highway Superintendent.

7.16.06 Penalty For Violations

Any person who violates any of the provisions of this Regulation shall be guilty of a Class III misdemeanor. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense.

7.16.07 Other (added 01-27-2009)

1. For the purposes of this Section, the 200- foot notification for the CUP shall mean 200 feet from the outer boundary of contiguous property (in a legally described section of land) owned by the sludge recipient. Road right-of-way shall not be encompassed in the 200-foot determination.
2. For fee purposes, a site is described as a contiguous property in a legally described section of land, under one ownership.
3. A sludge conditional use permit is for one year only and shall be reviewed on an annual basis.
4. By 3:00 p.m. of the day prior (weekends and holidays shall be coordinated through the County Highway Superintendent) written permission (emails and faxes are preferred methods) shall be obtained from the County Highway Superintendent, for the next day, for the transportation of sludge traveling on Washington County Highway Department maintained roads. Copies of such daily written Permission from the County Highway Superintendent shall be provided to the Washington County Planning and Washington County Sheriff's Departments and the requesting party. Penalty for violation of this requirement may include a cease and desist order, payment for damages to County Highway Department maintained roads and monetary fines.
5. A minimum of 15 working days, and a maximum of six months, (Saturday, Sunday and County holidays excluded) prior to start-up of hauling operations to a Washington County approved (with a Conditional Use Permit) application site, the Zoning required soil analysis shall be submitted to the County Planning Department for all fields requested to be applied-upon. Also to be provided shall be the calculated application rates based on the soil analysis. The County will then transfer this information to an independent third party qualified in soil analysis for review. Hauling to the site shall not commence until the County Planning Department has received the results of the independent review and as determined the results are in compliance with the County's Zoning Regulations and any other County placed conditions. The County Planning Department will notify the hauler \ generator once compliance has been established.

