

MINUTES OF BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING 2019
AT 2:00 P.M., TUESDAY THE 2nd DAY OF JULY 2019
AT THE MILLARD COUNTY FAIRGROUNDS, DELTA, UTAH

PRESENT: Dean Draper.....Chairperson
Wayne Jackson.....Commissioner
Evelyn Warnick.....Commissioner
Richard Waddingham.....Deputy Attorney

These Minutes are in
DRAFT form and
are subject to change

EXCUSED: Pat Finlinson.....County Attorney
Marki Rowley.....County Clerk
Jamie Hair.....Deputy County Clerk

ALSO PRESENT: Sandra Willougby, Deborah Skeem, Robert Wake, Mike Roper, Steele Weston, Loree Perry, Marci Ashby, Wayne Spencer, John Niles, Matt Ward, Amanda Harding, Jeanette Skeem, Nathan Skeem, Jaclyn Bryan, Holly Remkes, Elaine Brown, Tom Brown, Tashelle Mendoza, Scott Bassett, Jared Buhler, Bob Allen, Pat Manis, Chris Blake, Brett Blake, Garrick Hall, Linda Sorenson, Elaine Miller, Erika Nickle, Deborah Davis, Kortnie Anderson, Molly Stevens, Chance Lyman, Scott Nickle, Sherry Nickle, Casey Davis, Lynne Davis, Jim Withers, Tracie Warnick, Chad Warnick, Kevin Gardner, Myrt Gardner, Steve Styler, Jason May, Terice Roper, Mandi Kirkland, Dent Kirkland, Mike Nielson, Tina Nielson, Dena Nielson, Jim Warnick, David Remkes, Jennifer Christensen, Neal Gardner, Justin Taylor, Becky Prestwich, and Carolyn Taylor.

PURSUANT TO THE NOTICE WHICH HERETOFORE HAD BEEN PROVIDED TO each member of the governing body, posted at the principal office of the Millard County Commission, posted on the Utah Public Notice Website, and provided to the Millard County Chronicle Progress, a newspaper of general circulation within Millard County, Utah, as required by law, the following proceedings were had:

Commissioner Draper called the meeting to order at 2:00 p.m.. He welcomed the public and gave the dates, times, and locations of the additional public hearings regarding confined animal feeding operations (CAFO).

Commissioner Draper said that the Commission has had several people contact them and has received a few comments that will be read into the record. He said that the proposed ordinance regarding CAFOs is a different kind of agriculture than what has historically been done in the County. He said that it is an industrial agriculture and a moratorium was put in place about five months ago in order to take a closer look at this and see if the current laws were going to work with what is being proposed. Commissioner Draper said that the Planning and Zoning Commission has

given a favorable recommendation for the ordinance. He said that the Commission will take action on the Ordinance on July 16, 2019 during the regular Commission Meeting which starts at 10:00 a.m. at the courthouse in Fillmore.

Commissioner Draper said that the proposed ordinance differs from the existing one due to this only impacting confined feeding operations which all takes place inside a building. He said that the proposed ordinance will not have an effect on existing operations such as dairies and cattle feed lots.

Jared Buhler said that when the Planning and Zoning Commission held previous meetings, over 100 people showed up and expressed their opinions. He said that in those meetings all comments expressed were against it and those comments seemed to not matter, so he is hoping that the Commission will listen this time.

He said that he has checked with the National and State Farm Bureau Offices and no other ordinance in the United States puts in place a 10 mile set back. He said that if this ordinance passes, the County will be deciding what he can and cannot do at his own facilities.

Kevin Gardner said that he owns a dairy next to town and he is in the process of adding a building to house his animals, and this ordinance would put a stop to that. He explained the benefits that the building would have on his operations. He asked that the Commission not wipe out the opportunities for others to come into the community and help it grow.

Jim Withers said that if you reach out to the Utah Division of Water Quality, large dairy operations are designated as CAFOs so he would like the terminology looked into more. He said that anyone with over 1000 cows in Millard County would be considered a CAFO because the classification is based on size. Mr. Withers said that he would like to see some language in the Ordinance that specifies that the existing dairies will be able to continue to operate and have opportunities to grow.

Commissioner Draper asked Mr. Gardner if his intent is to house his animals 100% of the time. Mr. Gardner said that he will have his animals under some covering, if they are not in the building. Mr. Gardner explained that his building will be a compost barn with most of the ground being compost except the mangers. He explained the process of composting manure in this manner and said that they will be confined approximately 90% of the time. He said that his animals will have the option to go outside during good weather if they choose.

Steve Styler said that he represents Smithfield Foods and wants to dispel a couple of myths. He said that contrary to what Smithfield Foods did in Milford, the barns being built are now owned by locals who choose to invest and grow their own businesses. He said that this business model has been very successful. He said that there have not been any discussions by Smithfield Foods to build a large amount of barns in Millard County which will bring hundreds of thousands of animals. Mr. Styler said that currently there is only one project being looked at in the County.

Mr. Styler said that there also is no interest for these barns to be built on the edge of municipalities. He said that according to the division of air quality, the largest set back, specifically

for odor, in the Country is .5 miles. He said that they have looked into acceptable boundaries and submitted a proposal to the Planning and Zoning Commission which suggested extending the current set back of 1.5 miles to 3 miles away from any incorporated city or towns.

Mr. Styler said that there are new barns coming in to the southern part of Millard County. He said that they have been approved for fourteen but will be starting with six. He said that the property tax from these barns alone represent approximately .25% of the taxable income that the County will be losing from the loss of IPP revenue. He said he has been told it is approximately \$14,000.00 per facility.

Commissioner Draper said that the tax from those barns is not anywhere close to .25% of the loss in tax revenue. He explained that IPP is a centrally assessed entity and said that if the current assessment holds, it will result in a loss of approximately \$1,000,000.00 to the County. He said that the establishments of these CAFOs may make a dent in property taxes, but a significant amount in the reduction of taxable revenue is due the jobs that will be lost. He said that there are over 300 jobs with an average salary of \$90,000.00 that are not going to be replaced. Commissioner Draper said that there are projects being developed by IPP that will begin to replace the loss of property tax revenue starting in 2025 and briefly explained a few of the developments.

Commissioner Draper said that it has been roughly estimated that 400 hog farms would need to be brought into the County to replace the loss of IPP's taxable revenue.

Mr. Styler said that the 6 barns being built will bring approximately \$15,000,000.00 to the County which is a significant amount. He said that Millard County has traditionally had a 1.5 mile setback which has worked well. He said that Smithfield Foods perspective is that there is an opportunity for co-existence with large agriculture.

Steele Weston said that he works for a company associated with the hog farms and they currently employ five people in Millard County with salaries above the average household.

.....BREAK IN RECORDING.....

Mr. Weston went over the other revenue that their company generates in Millard County through their business operations. He said that his job is adversely impacted by ordinances that limit growth in this nature.

Sandra Willoughby said that you can't stop the pig farms from coming into Millard County, however, you can keep a nice buffer. She cited an example of people who live by these farms and the issues that they have had with odor. Ms. Willoughby said that she is for growth, but would like there to be a good buffer between the farms and existing homes so that the value of the homes aren't reduced.

Scott Nickle asked that the proposed setbacks be explained. Commissioner Draper said that there are different levels of animal production listed on the handout. He used the example of a Smithfield barn that holds approximately 4,400 animals. He said that a setback for one of those buildings would be 6.4 miles from the nearest church or residential zone. He said that under State Law, a certain number of animals are allowed in each CAFO. Commissioner Draper said that the largest setback on the chart is 10 miles and the shortest is 660 feet.

Mr. Nickle asked if residential units outside of city limits will be protected by the buffer. Commissioner Draper said that areas zoned residential will have the setbacks. Mr. Nickel said that odor and ground water is a concern. He asked if the ordinance has some protections for ground water problems.

Commissioner Draper gave an example of how things were put in place recently with a farm in Flowell and went over the meetings held with the State Division of Water Quality. He explained the precautions that are put in place at these CAFOs.

Mr. Nickle said that he isn't against these farms, but he also doesn't want this to diminish the quality of life and property values of those residents who live around these CAFOs.

Jim Withers explained cross ventilated dairy barns which are starting to be used because the dairy business is moving to robotic milking. He said that these are designed to be ventilated buildings that keep the climate steady throughout the seasons. He said that many in the dairy business are looking for ways to use automation to help with the labor shortage. These barns are very expensive to build.

Commissioner Draper said that the Commission will look into the definition of the CAFO. He said that under this proposed ordinance, only farms with animals confined 100% of the time will be impacted.

Commissioner Draper said that the proposed ordinance excludes chicken operations which are also considered CAFOs.

Wayne Spencer said that these are large industrial operations and Smithfield doesn't have a sterling record. He cited other areas that have had large problems due to these type of operations. He said that he would like to see even larger setbacks than what are listed.

Terice Roper said that setbacks are necessary, however, 10 miles is too large. She said that this will cost too much money for businesses to build and the County will lose the business. She said that 5 miles from the nearest residential area is enough.

Jennifer Christensen asked if an equivalent animal print out unit was available. Commissioner Draper said that they didn't have one at this meeting.

....BREAK IN RECORDING....

Jennifer Christensen referred to the chart and said that in a lot of places in Millard County a permit will be required for 10 cows and went over the equivalents of other animals. She said that it cost her \$136,000.00 to run overhead power for less than 1.5 miles in the Flowell area. She said that due to the costs and available land in the County, this setback doesn't make sense. Ms. Christensen said it comes back to the bad perception of these hog farms. She said that she understands those perceptions, however, these farms need to be somewhere in order to feed people.

Jared Buhler said that he would like to see a map to see where anyone with a 10 mile setback

could actually build.

Chad Warnick referred to section A4 of the ordinance and asked if it is considered a CAFO if they are held for more than 30 days as it states in the language or if it is the 365 days a year that has been mentioned.

Commissioner Draper said that is what is written but it has not been passed.

Mr. Warnick asked why chickens are excluded from the ordinance. Commissioner Draper said that it is excluded because the egg farm already exists and provides a lot of jobs.

Mr. Warnick said that it doesn't make sense to exclude chickens and not allow turkeys who are comparable. He said that if this ordinance was written 30 years ago and included chickens it would have been a missed opportunity for growth.

Mr. Warnick said that there is essentially no where in Millard County where a CAFO could be built with a 10 mile setback. He said that this seems to be an unintentional ban on CAFOs. He asked what changes the Commission are willing to consider because he would like to know before the decision on July 16, 2019. He said that it is his recommendation to go through different sections of the zoning map and designate areas that are appropriate for large agricultural operations rather than state setbacks from certain areas.

David Remkes said that the Milford pig farms are mostly 10 miles away from Milford and that odor is still a problem. He thinks that a 10 mile buffer is not necessary for all animal operations because the odor of some is stronger than others. He said that a neighbor's property rights end where his begins and the odor travels a lot farther in our climate compared to areas in North Carolina.

Lynn Davis referred to lawsuits that Smithfield has had in other areas and hopes that they have remedied these issues before coming to Millard County. She said that she also read that the arid climate allows odor to travel farther. Ms. David said that some studies also suggest that exposure to these farms increase infant and adult mortality rates. She said that she is also concerned about the amount of water that will be required to run these farms.

Tashelle Mendoza said that her main concern is the odor. She said that she lives approximately 1 mile away from a neighbor who has pigs. She said that she lives around dairies as well and the odor from pigs is a lot worse. She said that when the cow manure is spread on the fields, the smell lasts for months. She asked that the Commission try to keep these CAFOs as far away from residents as possible.

Sandra Willoughby said that one reason that she didn't show up to Planning and Zoning meetings is because the language used in the paper doesn't describe the issue being discussed very well and it is hard for the average citizen to understand it when it uses acronyms like "CAFO".

Brent Blake gave an example of one of the original pig farms in Snowflake, Arizona. He said that the people of Snowflake were originally in favor of the farms until the odor became a problem. He said that the town stinks whenever the wind blows and it really diminished the population of the area. He said that in areas like North Carolina, the climate and forests create a buffer for odors and Millard County doesn't have that.

Kortnie Anderson said that the suggested setbacks need changes.

.....BREAK IN RECORDING.....

Ms. Anderson said that the language currently states that animals confined for over 30 days is what is written in the language and that needs to be changed to reflect the 365 days stated by Commissioner Draper. She said that agriculture offers a lot of benefits to her children and she doesn't want to see the Commission reduce those benefits or opportunities.

Neil Gardner asked the Commission to exclude his dairy farm because his dairy farm was here before the ordinance just like the egg farm.

Commissioner Draper read a letter from Rex Stanworth. SEE EXHIBIT A.

Commissioner Warnick read a letter from Trent W. Anderson. SEE EXHIBIT B

Commissioner Draper read a letter from Delta City. SEE EXHIBIT C.

Other comments were submitted but were not read. SEE CORRESPONDENCE FOLDER.

There were no other comments made.

WHERE UPON THE MEETING ADJOURNED

The meeting adjourned at 4:01 p.m..

FW: Statement on the Pig Farm Issue

Exhibit A

Dean Draper <DDraper@co.millard.ut.us>

Mon 7/15/2019 10:20 PM

To: Jamie Hair <JHair@co.millard.ut.us>;

Rex Stanworth letter for Zoning record
Dean

From: JOYCE C. Barney <barney_joyce@hotmail.com>
Sent: Monday, July 1, 2019 7:02 PM
To: Dean Draper; Evelyn Warnick; Wayne Jackson; Adam Richins
Subject: Fwd: Statement on the Pig Farm Issue

This is a statement that Rex Stanworth would like read at the Town Hall meetings tomorrow. He is unable to attend and has strong feelings about Millard County's issue of letting the pigs into our communities.
Thank you, Joyce

Sent from my iPhone

Begin forwarded message:

From: Rex Stanworth <r.stanworth@hotmail.com>
Date: July 1, 2019 at 6:21:35 PM MDT
To: Joyce Barney <Barney_joyce@hotmail.com>
Subject: Statement on the Pig Farm Issue

Millard County Commissioners and Citizens

I wish I could be at the meeting personally and address the commission regarding the ideas of Pig Farms in our County. But due to Doctor and family issues, I can only hope you can add my thoughts to the records.

I was raised on the Sevier River near Oasis. My dad had about 300-400 head of fat steers, 75 mother cows with calves and for a period of time, we ran about 250-300 pigs in the same corrals with the cattle. It was a great combination. Our closest neighbor was about 3/4 of a mile from the farm. My dad was careful to make sure that the pens were clean and in the winter, straw was put out for the cattle and the pigs. To my knowledge we never had a complaint that was given by a neighbor to my dad or to myself. My reason for telling you my background is so that you know I am not against farming or pens of cattle. Grateful they are around our community with the dairies.

Pigs however, in large quantities could be very concerning to me. While I do not live in the Delta or Fillmore areas, I still own properties around both. Thus my statements on the pig issues.

I had an antelope permit two years ago for the Southwest Desert. So we hunted from Delta on the north to below Minersville on the South. We travelled through the pig farms to access the lower part of the permit. Anyone who tells you that a pig farm does not stink is just not being truthful. They STINK! But combine the smell of a large farm with dead animals and it is more than most people could stomach. I felt like I was going to hurl before we could get past the farms. This was around September 15th, so not even in the heat of July or August. It has horrific. Yes, there were dead pigs in the large canisters that you could see from the road. Not just one, but many!

Is there a place for the farms. Yes! Just like a place for IPP or other large manufacturing plants. And that is what we are talking about is a large manufacturing plant of producing pigs. We can find the place, but not next door to our communities.

Wisdom has to prevail in placement of these facilities. God is not creating anymore real estate, and while we may be trying to increase jobs for our area, we cannot afford to run off a potential plant with the smell of the pig farms. We are blessed with large areas of real estate and we have had wisdom to this point of our planning. If we must have these farms, let place them 10-15 miles from the community as they did in Beaver County, but place them away from the winds that blow towards Delta and Fillmore and surrounding communities. We have to think of the county as a whole and not just a few individuals. We have found that with Lime Plant, Beryllium, chicken farm and Cement plants, that building them away from the community did not keep them from hiring individuals. I believe the same will be said of the pig farms. Find a place, but not near the communities or towns.

We have a great chance to plan for large development in the near future. We have reasonable land prices, power, we have rail and we have the Interstate. All things that a large plant is looking for. We also have our cities and schools set up to handle an influx of people because of the planning that the County did during the late 70's and early 80's with IPP. We have a chance to invite companies here that are looking for a place to go into business. I worry that executives may not be as excited if they have to smell the stench of dead pigs and manure.

Questions, please feel free to call me at 435-979-2003.

Sent from my iPad

Proposed Amendment to Animal Feeding Operations Zoning Ordinance

Exhibit B

Trent W. Anderson <trentandkortnie@msn.com>

Tue 7/2/2019 8:01 AM

To: Evelyn Warnick <EWarnick@co.millard.ut.us>; Wayne Jackson <WJackson@co.millard.ut.us>; Dean Draper <DDraper@co.millard.ut.us>; Adam Richins <ARichins@co.millard.ut.us>;

I would like to comment on the proposed amendment to the zoning ordinance because I will not be in town to attend either town hall meeting in Delta, Utah on July 2nd. I feel that this proposed amendment is not the right move for the county. I have attend the last 2 Planning & Zoning Commission meetings and I get the feeling the point of the amendment is to make the decision black and white. If it meets this definition then it follows these rules or that definition it follows those rules. But reading the proposed amendment it does not do that. It creates a gray world in which many people can interpret to meet their own desires. I know they are volunteers and spend a lot of their own time in helping do what they feel is right, but this in my opinion is going to complicate their job not make it easier. There needs to be more work done on the proposed amendment to better define a Confined Concentrated Animal Feeding Operation and the steps in which certain requirements are met. In attending these meetings the primary focus of the Planning and Zoning Commission if to prevent larger hog farms from coming into the county. The issue I have is as the amendment is written it will have far reaching impacts on all areas of agriculture not hog farms. The impression I received in attending these meetings is that Agriculture is not a priority of the Planning Commission or the County Commission. A proposed setback of up to 10 miles from an incorporated town, church, park, or platted subdivision will essentially close the county to any type of growth in the agriculture sector. With the power plant reducing it's workforce in about 5 years I feel we need to look at all the options to provide opportunities for jobs in our community. The world is changing and unfortunately families can not be supported on a small farm like in the past. Most large animals operations are moving to operations where animals stay in a building as the environment can be controlled and help keep animals comfortable, dairies are moving this way and it will greatly impact them. These operations provide jobs in agriculture while not taking away from the agriculture we already have. Millard County was started as a strong Agricultural County and it still is the major driving force in our economy today. Agricultural is what provides my employment and provides me the opportunity to live and raise my family in Millard County. This proposed amendment will directly impact my life as it effects my current employment and limits the potential for my children to be involved in agriculture is they so choose to do so in Millard County

I agree there needs to be some course of action so that there is minimal impact on the citizens of Millard County but implementing the furthestmost setback in the Country is not the answer. As I mentioned before I do not believe this is a black and white decision, different areas of the county should have different setbacks as they are better suited for this type of operation due to location or people and wind patterns. We do not need this type of operation right by the towns, but there are areas in the county that would better suited for these types of operations. In the meetings I have attend there has been a lot of hearsay about these operations and their impacts and I feel a lot of this has influenced the proposed amendment. I have not seen any data to support the proposed amendment

other than that distance is where people can't smell the animals any more. I have visited many hog farms in Beaver County and the town of Milford many times. Right on the farms there is a smell, but it is a farm with animals which has flies and smells. But you travel very far from the operations or visit the town of Milford and I don't smell anything. These operations are setup with the latest in technology to control waste and smell as they know the effects and impacts can have on those around them. These operations can exist in the County and provide great opportunities for job for our citizens. I have 4 friends who are currently employed on hog farms in Beaver County and really enjoy the opportunity it provides them to live there. They each manage a farm and put in 4 or 5 hours each day to check on the animals, feed, and buildings. They then have the rest of the day help their family on their farm operation and earn what I feel is a great salary of between \$60,000-\$80,000/year and is comparable to the other jobs we already have here in the County.

There is a lot of fear being pushed around the County of items that are just hearsay and not true. I feel the County needs to not hurry up the process to make this detrimental decision, more should have been done in the process to involve the citizens as the meetings were poorly advertised. Also why have we not involved those in the State that specialize in this issues such as Utah State University. They have individuals that work with this and have formulas and data for operations of this size. We need to take the time to make sure this is done right as it will have far reaching impacts on the economy of our County for many years to come. The Planning and Zoning Commission and County Commission I feel are rushing the decision. Let's make the right decision for all involved and not just those making the most noise.

If you would like to discuss this further please reach out to me either by email or phone 801-367-0674.

Thanks,

Trent Anderson



Delta City
76 N 200 W
Delta, UT 84624
435-864-2759
www.delta.utah.gov

June 26, 2019

Millard County Commission
c/o Marki Rowley, Recorder
71 South 200 West
PO Box 854
Delta, Utah 84624

Millard County Planning and Zoning Commission
c/o Angi Meinhardt, Secretary
71 South 200 West
PO Box 854
Delta, Utah 84624

***RE: Comments to Proposed Ordinance relating to Concentrated
Animal Feeding Operations***

To Whom It May Concern,

We, the Mayor and City Council of Delta City, desire this letter to serve as a public comment of the governing body of Delta City regarding the proposed Animal Feeding Operations ordinance being considered by Millard County.

Agriculture is a very important part of our county and we certainly do not want to deter people from wanting to come here and run a successful animal operation. As elected officials of the biggest city within that County, we respect, honor, and appreciate our agricultural roots, and the importance agriculture plays in the economy of the County and Delta City. While we hold deep respect and appreciation for agriculture, we believe it is important to carefully balance the competing interests of all contributors to our collective economy. This is often easier said than done, and we acknowledge the difficulty of balancing multiple competing interests. Know that your efforts and service are appreciated.

We have significant concerns regarding the draft Concentrated Animal Feeding Operations Ordinance (the "Ordinance"). Some of these concerns include:

I. Providing no Distinction Regarding Type of Animal

The draft contains no distinction regarding the type of animal that will be housed in a feeding operation. We believe that the ordinance can and should treat different types of animals differently. As just one example, noxious odors and other unappealing byproducts of a cattle operation could potentially be vastly different than a swine operation. Thus, a separation area or "buffer zone" for one species could and should be different than another.

We believe the draft may attempt to address this issue by including the definition of "Confined Concentrated Animal Feeding Operation" assuming the probability that a swine operation would, by necessity, fit the definition of confined. Our concerns with this regulatory tactic are multiple. First, if the County has concerns that a pig operation would have greater adverse effects upon surrounding areas, the County should squarely regulate that use, *i.e.* call a pig a pig, and address the issue directly and not leave open the possibility that a creative applicant could utilize the definition of "confined" to create a use and result that the County wants to avoid.

Second, for animal feeding operations of any magnitude, it is impossible to keep all components of the operation contained behind confined doors. Smells emanate. Manure must be removed, and so on. Relying on operations being confined is not enough to alleviate the negative effects of such operations on surrounding areas.

II. Buffer Areas Generally

The elephant in the room on this issue is the distance such operations be from more densely populated areas of the County. We understand that the answer to this question is not as simple as just stating a distance, and that being the end of discussion. The further away the Ordinance requires these operations be placed, the greater the cost of development, and the less likelihood they will ever be built. On the other hand, the closer they are, the greater the adverse effects will be felt by residential populous and the greater possibility others may be deterred from relocating or investing into Delta City. For example, the adverse effects of an animal feeding operation placed too close to Delta City could deter business from considering Delta as a cite for relocation and utilizing, for example, utilizing two large retail buildings recently vacated in the City. This is a complex balancing act.

We believe that the Ordinance as currently drafted allows for feeding operations to be located close enough to Delta City that it would negatively affect our City and deter our continued growth.

As we understand the Ordinance, there is ZERO buffer area for Level 1 AFOs and under. Depending on the size of the Level 2 and Level 3 AFO, such operations could be a mere one-half mile from Delta City Limits. Then, for a Level 3, the maximum buffer zone would only be 1.5 miles. Respectfully, we feel these distances currently contained in the Ordinance are insufficient to protect the citizens from the possible adverse effects of these feeding operations, particularly swine/pig operations.

a. Animal Type

As discussed above, we believe that any requirement of “buffer zone” for the location of an animal feeding operation should consider and apply as a relevant factor the type of animal to be housed and produced.

b. Prevailing Wind

We also believe that prevailing wind should be a factored consideration as to any buffer zone. For example, an operation on the South side of Delta should be further than on the North end. The possible buffer zone could be more oblong, as opposed to a circle, drawing into consideration the prevailing winds of a proposed location.

c. Annexation Plans

As currently written, buffer zones are a distance from “the property or boundary line of the nearest incorporated town, school, church, public park, or platted residential subdivision.” First, we suggest that “town” be changed to “municipality” to resolve any ambiguities that both towns and cities under Utah Code Ann. § 10-2-301, *et seq.* are included.

Next, we suggest that included to this list of any buffer zone limits include not just the boundary of existing municipalities, but also the any and all possible *expansion areas* of a municipality contained in an Annexation Policy Plan adopted pursuant to Utah Code Ann. § 10-2-401.5.

d. Water quality considerations

Available water is always a concern for all development in Millard County, and, Delta City has an increased concern regarding water quality. Accompanying this letter is a Hydrogeologic/Well Impact Study that Delta City commissioned in 2016. To summarize that study, the ground water aquifers in and near Delta City contain levels of arsenic that exceed levels allowed by the Utah Division of Drinking

Water for a public drinking water system such as the one operated by Delta City. To combat this issue, the City's Ridge Top Well Project (the well and storage tank near the Delta City Airport) allows for the importation of water to allow Delta City to deliver drinking water that complies with contaminant regulations.

The concern is that the cumulative effect of wells drawing in arsenic-ridden water will cause the contamination of Delta City wells (including the Ridge Top Well). If this happens, Delta City's only option to deliver drinking water will be treatment of high arsenic-concentration water. This would cost Delta City water users millions of dollars.

While we acknowledge that the Ordinance provides that an applicant must show adequate water supply, we humbly ask that the County give due consideration to not just the available quantity of water, but also the effects that possible draw of water and the adverse effects that draw may have on the quality of water Delta City relies on, particularly given Delta City's establish protest zone, and the flow of ground water per the attached Hydrologic Study.

e. No-Modification of Separation Areas

As we understand the Ordinance, the County Planning and Zoning Commission may modify the minimum separation distances (the "buffer zone") if the applicant can present adequate mitigating circumstance. Respectfully, we firmly believe that any buffer zone established by the ordinance should NOT be modified, under any circumstances. First, the proposed language of the Ordinance leaves itself open to subjective interpretation, and therefore, political pressure from special interest, public clamor, and other forces that should not be allowed to be factors once an application is before the County for consideration.

We believe that issues of this importance should not be subject to such political pressures, the force of which cannot be fully known and felt until a specific application is before the County. Determinations regarding the placement of such operations should be decided in a way that it can never be said that an applicant is enjoying unequal enforcement of the laws. Simply drawing clear lines at this juncture (absent considerations of a specific application) should ensure fair treatment of all interests involved. Accordingly, the Ordinance should be drafted to remove, as much as possible, discretionary judgment calls placed upon County officials, specifically including any possible reduction of separation distances.

Along these same lines, we believe that reduction of separation zones presents untenable enforcement issues. For example, in the case of an applicant that presents satisfactory mitigation practices and procedures that justify the

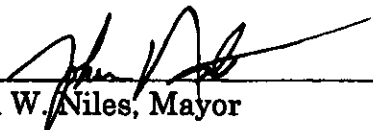
reduction of the separation issues. As time goes on, what happens when those mitigating practices and procedures are not properly followed or invested in? The County is then placed in the difficult position of attempting to shut down a multi-million-dollar operation, with a property owner that is financially invested in opposing such County efforts by whatever means reasonably possible, including political pressure, litigation, and so on. We suggest the County avoid this situation entirely, and instead establish an appropriate separation zone that accounts for the worst-case scenarios and enforce that buffer zone. By having clear, defined rules and regulations that do not leave areas open for misinterpretation or misunderstanding, we feel as though we can find a balance between CAFO's and our communities.

f. Compound Effects of Multiple Operations

We believe it is reasonable for the County to consider the cumulative effects of multiple Animal Feeding Operations. For example, are the effects of two large Level 1 AFO near one another not equal to the same effects as one Level 2 operation? We believe that, in the right place within the County, it would be beneficial to the County and the operations to be near one another. The adverse effects of those operations would have minimal impact, and yet the County would get to enjoy the benefits of those operations. Thus, we believe the County should consider, instead of simple separation areas, designating areas that allow for increased density of these operations. In other words, the County should consider the mapping (zoning) of area within the County where animal feeding operations are not only allowed, but encouraged. We believe this would have a natural effect of increasing the density (cumulative effects) of these types of operations to these zones, and reduce the competing uses of land within those zones.

III. Conclusion

Again, we fully acknowledge the difficulty of this issue, and it is apparent that any decision made is going to be perceived as hurting one segment of our County and helping another. We do not envy your position. Our only intent with this letter is to provide considerations of Delta City, and from us, its governing body, elected to further the interests of the City as a whole, and not any specific individual. We hope our comments will be considered as County elected and appointed representatives grapple with this difficult and important issue.



John W. Niles, Mayor

Robert W. Banks, Council Member

Brett C. Bunker, Council Member



Kiley J./Chase, Council Member



Nicholas W. Killpack, Council Member

Betty Jo Western, Council Member