

**STORY COUNTY  
PLANNING AND DEVELOPMENT  
STORY COUNTY ADMINISTRATION  
900 6<sup>TH</sup> STREET  
NEVADA, IOWA 50201-2087**



*"Commitment, Vision, Balance"*

**515-382-7245**

**MINUTES  
STORY COUNTY  
BOARD OF ADJUSTMENT**

**AN AUDIO RECORDING OF THE FULL MEETING MAY BE FOUND IN THE PLANNING AND DEVELOPMENT DEPARTMENT, OR BY VISITING [WWW.STORYCOUNTYIOWA.GOV](http://WWW.STORYCOUNTYIOWA.GOV)**

<b>DATE:</b> February 16, 2022	*Steve McGill, Chair	2022
	Matthew Neubauer, Vice Chair	2026
	Kelli Excell	2023
	Nathan Hovick	2024
	Elara Jondle	2024
	*Absent	

**CALL TO ORDER:** 4:00 PM

**PLACE:** Story County Administration Building

**PUBLIC PRESENT:** Jordan Cook, Mark Jones, Mike Roth, Jeremy Rydl, Mark See

**STAFF PRESENT:** Amelia Schoeneman, Planning and Development Director; Andrea Wagner, Planner; Stephanie Jones, Recording Secretary

**ROLL CALL:** Neubauer, Excell, Hovick, Jondle, McGill

**ABSENT:** McGill

Neubauer stated that a notice was sent and staff had updated the board at the last meeting that consideration of Findings of Fact for CUP08-17 Raspberry Hill Commercial Campground and Travel Trailer Park would be on the agenda. Due to the ongoing legal proceeding related to this case, the findings of fact may be on a later agenda. Staff will again notify property owners within a quarter mile.

**APPROVAL OF AGENDA (MCU)**

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**APPROVAL OF MINUTES (MCU)**

January 19, 2022

**APPROVAL OF FINDINGS OF FACT (MCU)**

**PUBLIC COMMENTS:**

None

**HEARINGS:**

**CUP22-000001 City of Nevada Trunk Sewer**

Andrea Wagner stated that she would be providing a summary of the presentation that was given at the January 19, 2022 meeting, and stated that questions could be answered at the end of the presentation.

**Background**

- This request is for a modification to the original conditional use permit that was approved for Nevada's Waste Water Treatment Facility by the Board of Adjustment at their October, 2020 meeting. The modification is for the sewer line that will connect the existing City of Nevada Wastewater Treatment Facility. The facility that is currently under construction at 62512 270<sup>th</sup> Street.
- HR Green is the applicant, on behalf of the City of Nevada.
- Multiple private property owners are affected by the project, and all are in the A-1 Agricultural District.
- The original route approved in October, 2020 was for the sewer to be located along the S-14/620<sup>th</sup> Avenue road right-of-way, provided that the appropriate permits were granted by County Engineering.
- Due to safety concerns by the County Engineer, the sewer is now proposed to go through private, agricultural land.
- The proposed route is approximately 2.8 miles through private ground.
- The width of the temporary construction easement will be 80 feet. The permanent easement would shrink down to a total of 40-feet for maintenance purposes.
- The route map was shown and Wagner stated that there would be two road crossings (250<sup>th</sup> and 270<sup>th</sup>) would be closed at some point in time for the project.

**Standards for Approval**

Wagner again stated that she was providing only a summary of the standards that the Board requested more information on at their January meeting.

- Compatibility - Staff is recommending several conditions to protect the agricultural land and ensure the construction is compatible with the A-1 Zoning District, which includes separating the topsoil and subsoil stockpiles, stripping topsoil, and subsoil tillage.
- Transition, Traffic, Parking & Loading, Signs & Lighting, and Environmental Protection are met. There is not going to be any new, permanent traffic created by the use, no permanent parking, and no signs or lighting proposed.
- Environmental Protection - The DNR is the permitting authority for the operation of the sewer line construction, so that standard for environmental protection is met, but staff is recommending a condition for mechanical weed control.

**Analysis on C2C Plan**

- ❖ This is in an agricultural conservation area and generally uses are discouraged that would be incompatible with agriculture. Staff is recommending conditions so that after construction, the land is returned to agricultural use, and not be permanently disrupted.

- ❖ Specifically, Principle 3 of the C2C plan for Agricultural Conservation Areas is to “encourage high-value agricultural lands to remain as agricultural and discourage non-agricultural development.”
- ❖ Chapter 199.9 of the Iowa Utilities Board was looked at for restoration methods for open trench construction, and several conditions were recommended on how to protect and restore the agricultural land after the fact so that it better fits with the C2C Plan.

Wagner summarized the January, 2022 Board of Adjustment meeting.

- The board asked for the request to be tabled so that staff could look into the possibility of Nevada having an independent inspector involved to make sure that the conditions proposed are met, and that they actually happen. There was concern from public testimony whether or not the conditions would be applied, and not just remain on paper.
- The Board Chair, McGill, also was concerned about how the sewer would impair property values and if it fit with the C2C Plan.
- The applicant stated during the last meeting that they had not yet contracted with the City for observation or inspection services.
- Staff spoke with the County Engineer and other engineering firms who have completed public infrastructure projects. It was found that it would be unusual to hire an independent inspector.
- Staff re-confirmed with the County Assessor that they did not anticipate any impairment of assessed property values. Precedent with CUPs is to look at assessed property values, and not market value.
- Affected property owners are getting compensation for the use of the land, and yield loss for a set period through a purchase agreement.
- It was again found that it would be unusual to ask the city to hire an independent inspector. However, a full-time inspector through the engineering firm would not be that unusual, as opposed to a part-time observer, so that condition has been revised for a full-time inspector be on-site at all times throughout the duration of the project.
- Staff does not feel able, however, to dictate who the City hires to be the full-time inspector. The language is set so that it is an engineering firm, and up to the City of Nevada who is hired.
- The conditions do have to clearly relate back to the Standards for Approval. Having a full-time inspector can be related back to compatibility issues with the C2C Plan, but as far as dictating who that is is not clear to staff how that relates back to the standards for approval and so it is not recommended. The conditions recommended are:
  - The City of Nevada will contract with an engineering firm to provide full-time inspection services for the duration of the construction of the sewer, and the subsequent restoration of agricultural lands, including inspection and observation of the conditions placed on the permit by the Board of Adjustment.
  - The City of Nevada shall appoint a staff member as the first point-of-contact for landowner complaints, should issues arise during or after construction. This staff member’s contact information shall be provided to landowners. (If something is not resolved by the city, individuals could reach out to the county.)

Wagner showed the list of proposed conditions and stated that she would read through them again if the Board would like her to. If not, the conditions are in the Staff Memo. Wagner stated that before the Board votes on whether or not to approve, they would need to make a motion on the Findings of Fact. Amelia Schoeneman clarified that staff did go through each of the Standards of Approval and Staff Findings at the last meeting, but are happy to go through them again.

**Public Comments were reopened by Neubauer**

Mark See stated that he has several properties that intersect with the proposed line and asked to clarify if it would be acceptable when the board makes a recommendation if they can say that HR Green be contracted for the inspections. Wagner stated that there is no recommendation who is hired, so it could be HR Green or another engineering firm that the city chooses. See stated that he feels if it is HR Green that he feels no progress has been made. He feels that it doesn't have to be an engineering firm, but someone familiar with agricultural land, drainage, and soil conservation to ensure that construction guidelines are followed. See hopes that the board would agree that it be someone independent of the people currently involved and contracted with the project. See stated that the reason why the discussion of the width of the easement being a total of 80' and that he had talked with staff and asked that Mike Roth clarify the total of the easement which he believes is 120' and not 80'. 40' permanent and 80' temporary. See stated that his huge concern is that his understanding is that the line is engineered with a service life of 20 years, and that invites them back. He would like an explanation as to why the line size is not being increased and constructing for a longer service life to reduce the likelihood of the project having to come back and reconstruct, replace, and install a new line. See feels it creates additional hardship on landowners if that happens, and it's difficult to understand why they wouldn't engineer it with a longer service life.

Hovick stated that he believes both of those concerns were addressed by Mike Roth at the last meeting.

Mike Roth stated that the easement width total is 120'. The permanent easement is 40' and temporary easement is 80'. Roth stated that there must have been a misunderstanding during the last meeting, but again clarified the overall width of the easement is 120'. Schoeneman stated that reinforces the conditions for protecting the soils.

Neubauer stated he appreciates that it is up to the city to determine whatever they want to pay for and whatever they are asking, contracting the firm to design, which is outside the purview of the board.

Hovick stated that the materials themselves are designed to last longer than that and based on 20 years which is standard practice. Roth stated that the requirement by DNR requires a trunk sewer have a designed life span of 50 years, and the design capacity of the trunk sewer is based on a 20-year population/use projection.

Neubauer asked if the 20 years is based on the population growth projection. Roth stated that it is based on the anticipated capacity needs are for a 20-year period. The standard by the DNR for any waste water project is that 20 years be forecasted from the estimated date of completed construction so that the facilities or infrastructure will have a capacity for that time period. Beyond 20 years the DNR has realized that it is difficult to accurately forecast much farther from completion of construction. An engineering firm is required to submit with the application for the construction permit is what is the projected capacity for 20 years from the end of construction.

#### **Public Comments were closed by Neubauer**

**Motion by Hovick, Second by Jondle, to adopt staff's findings as the Findings of Fact, with the two amended conditions based on public testimony provided at the January 19, 2022, meeting to ensure compatibility with the C2C Plan and conformance with the Standards for Approval for Conditional Uses, specifically the compatibility standard.**

**Voting Aye: Hovick, Jondle, Excell, Neubauer**

**Voting Nay: None**

**Not Voting: None**

**Absent: McGill**

**Vote: (4-0)**

Excell stated that she understands that the board cannot say who can be hired to do the inspections, but wondered if they could be told who not to hire. Wagner stated that staff does not feel like that can be asked based on facts.

Hovick stated that HR Green is still overseeing a separate contractor even though they are still working on behalf of the city and not necessarily the private land owners, but for the engineering firm to stay in good standings he doesn't feel they would do anything to risk that.

Excell asked for clarification about what the difference is between an observer and an inspector.

Jondle stated an observer is someone that is there during the day, with no recommendations. An inspector should be onsite all day and should have the authority to make decisions and make recommendations. Excell asked if this is standard and Jondle agreed. Jondle stated some cities require inspections and some don't.

**MOTION: The Story County Board of Adjustment approves the Conditional Use Permit for the City of Nevada Wastewater Sewer as put forth in case CUP22-000001, with the following conditions:**

- 1. The City of Nevada shall appoint a designee who will be responsible for marking the easement area with lath prior to beginning construction. Property owners shall be notified once the easement area is marked. Construction shall not begin until seven days after the notification, unless waived by the property owner.**
- 2. The City of Nevada shall appoint a staff member as the first point-of-contact for landowner complaints, should issues arise during or after construction. This staff member's contact information shall be provided to landowners.**
- 3. The City of Nevada will contract with an engineering firm to provide full-time inspection services for the duration of the construction of the sewer, and the subsequent restoration of agricultural lands, including inspection and observation of the conditions placed on the permit by the Board of Adjustment.**
- 4. Results of the soil borings shall be provided to property owners prior to beginning construction. They shall be provided via mail or made available elsewhere with written communication to property owners indicating how they may be accessed.**
- 5. Topsoil shall be stripped from all work areas; otherwise work shall not occur in wet conditions where work could cause rutting to the extent that topsoil and subsoil may mix or damage to underground drainage structures may occur.**
- 6. Topsoil and subsoils shall be stockpiled on opposite sides of the trench. Where it is impractical or impossible to place stockpiles on opposite sides of the trench due to the trench location in the right-of-way/easement, then topsoil and subsoil stockpiles shall be separated by at least 5 feet to prevent mixing. The separation distance shall be lessened if it presents safety concerns, but not to the degree that stockpiles become mixed. Stockpiles shall be stabilized within 14 days of stockpiling through seeding and mulching or other methods if weather does not allow for seeding. Stockpiles shall be protected from construction traffic.**
- 7. Dewatering of the trench shall not damage agricultural land through inundation or damage agricultural land and surface drains through sedimentation. If water is pumped outside of the easement area, permission shall first be granted by the landowner.**
- 8. In areas previously in row crop production or on land that may be cultivated, after backfill and compaction of subsoils in the trench or after work has been completed in other areas of the right-of-way/easement, subsoils shall be deep tilled or ripped to at least 18 inches, with at least three passes of the deep tillage equipment. Work shall be performed under soil moisture conditions that result in a maximum standard penetration**

test (SPT) reading of 300 psi pursuant to ASTM D1586-11 performed by a qualified person.

9. Topsoil shall be replaced at a minimum of eight inches or the depth of topsoil that was removed from the area, whichever is greater. SUDAS standards for topsoil tilling and removal of rocks and other unsuitable materials shall be followed. These areas may be seeded with cover crops at the request of the landowner.
10. Weed management shall be provided in the temporary construction easement through mechanical means (e.g. disking or mowing) for two years or until the project is accepted as completed.
11. Rutted land shall be graded and tilled until restored as near as practical to its preconstruction condition. Rutting shall be remedied before any topsoil that was removed is replaced.
12. Surface drainage ways shall be restored to the elevation and grade existing prior to the time of sewer line construction.
13. The applicant shall communicate in writing with property owners along the proposed sewer route to request information on private drain tile lines prior to construction.
14. Any drain tiles impacted by sewer line construction shall be repaired to their original or better condition, including at the same gradient/alignment, unless otherwise agreed upon with a landowner. Any underground drain tile damaged, cut, or removed shall be marked. This marker shall not be removed until the tile has been permanently repaired. Temporary tile repair to maintain function or to prevent entry of sediment, other material, or small animals shall be required until permanent repairs are made.
15. All property owners whose drainage tile is damaged from construction activities, and subsequently repaired, shall be notified, in writing, of the damage and when the repair is completed.
16. A copy of all relevant Iowa DNR permits, including the NPDES permit and SWPPP, shall be submitted to Story County. On steep or lengthy slopes or for areas that show signs of concentrated flows or sedimentation, additional erosion and sediment control BMPs may be required. These practices may include silt fence, filter berms, filter socks, or other flow diversion and flow control BMPs to reduce the amount or velocity of flow a disturbed area receives.
17. The City of Nevada or their contractors shall be responsible for ensuring these conditions are met.
18. These conditions do not preclude alternative provisions to protect and restore property in excess of these conditions that the landowner and City of Nevada have agreed to.
19. Both road crossings (South S Avenue and 270th Street) are limited to a 48-hour maximum closure time. Both roads cannot be closed at the same time.

**Motion:** Hovick

**Second:** Excell

**Voting Aye:** Hovick, Excell, Jondle, Neubauer

**Voting Nay:** None

**Absent:** McGill

**Vote:** (4-0)

#### **BOARD/STAFF COMMENTS:**

**Staff:** Schoeneman stated the Raspberry Hill findings of fact might be on the agenda next month and announced that this is Stephanie's last meeting as she has accepted a new position and will be transferring to another department within the county.

**Board:** None

**ADJOURNMENT: 4:27 PM**

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**Approval of Minutes**

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**Title and Date**