

Minutes of the Joint Jurisdiction Committee
07/18/18

Chairperson Mary Kidwiler called the meeting to order. Committee members Kidwiler, Mike Struck, Robert Hill, Lee Ann Pierce, Duane Knutson, Mike Bartley, Ope Niemeyer, Darrell Nelson, Al Heuton and Steve Meyer were present. Brookings County Commission Department Director Stacy Steffensen was also in attendance.

A quorum was determined to be present.

Bartley moved/Niemeyer seconded that the agenda for the July 18, 2018 Joint Jurisdiction Committee meeting be approved as presented. Motion carried.

Pierce moved/Hill seconded that the minutes from the June 27, 2018 Joint Jurisdiction Committee meeting be approved as presented. Motion carried.

Hill said the mining subcommittee continues to work on the rough draft of the mining portion of the joint jurisdictional ordinance. Struck said they have scheduled a meeting with those in the industry and others who have shown interest in this topic for July 31st at 1:30 PM to get their information and opinions. Pierce suggested they contact all mining permit holders in the joint jurisdictional area to that meeting.

The committee discussed the organization of the proposed Board of Adjustment for the joint jurisdictional area. Pierce said she would like to explore establishing a separate board that can focus specifically on this area. Heuton suggested having representatives from both the city and county planning commissions.

The group reviewed the current process for the city, the county and for the joint jurisdictional area. Pierce noted the county commission does not make final decisions on conditional use permits; that is done by the county's planning commission. However, the city council does make the final decision on conditional use permits in the city. Struck said everything except final plats go before the city council.

Heuton asked if, statutorily, there can be a separate Board of Adjustment for joint jurisdictional areas.

Bartley asked if a joint jurisdictional Board of Adjustment would have the final say or if decisions would have to come back to the governing bodies. Both Knutson and Kidwiler thought maybe they should. Pierce said that if there is a lawsuit and the final decision was made by a board of adjustment, the appeal would go through the 'writ of certiorari' process – meaning a judge would look at the information and determine if the board acted accordingly. She said if a governing board makes the final decision, the appeal would go through the 'de novo' review – meaning it would have to be retried. Meyer said his guess is the community would want the decision to come back to the governing boards. Struck said he doesn't want to create a board that doesn't have any authority, though.

Bartley said the board could be made up of one planning commission member and one elected official from both the city and county, with one at-large position, as well. He said that gives both the city and county representation and believes that board should have the final say. Bartley said if the public knows that this board has the final say, they will show up to voice their opinions at those meetings. Struck said that rezoning requests should still go before both governing bodies.

Heuton suggested adding two at-large alternates to the board, as well. He said the board should have the authority to handle conditional use permits and variance requests. Struck said there aren't many variance requests in the joint jurisdictional area now. He said the rules are pretty lax, but that could change with the ordinance revision. Pierce said the county's planning commission sees many variance requests, so this new Board of Adjustment may, as well. Struck said they will need to review the setbacks in the joint jurisdictional area.

The committee set the next meeting for Wednesday, August 15th at 9:00 AM.

Pierce asked if the next agenda could include a discussion item on the timeline for the draft ordinance. Meyer said he submitted notes to Luke Muller at First District regarding improvements to the well-head area. He asked for that to be on the next agenda for discussion, as well. The group also wanted to discuss the organization of the Board of Adjustment again.

Hill moved/Knutson seconded a motion to adjourn. Motion carried.

Submitted by Stacy Steffensen
Brookings County
Commission Department Director