

**EUREKA TOWNSHIP PLANNING COMMISSION**

***DAKOTA COUNTY***

**STATE OF MINNESOTA**

**Eureka Planning Commission Meeting of December 1, 2014**

**Call to Order**

Planning Commission Chair Hansen called the meeting to order at 7:00 p.m. Planning Commission members present: Chair Butch Hansen, Commissioner Allen Novacek and Commissioner Phil Cleminson. Commissioner Carrie Jennings arrived at 7:09 p.m. Commissioner Barfknecht was absent. Chair Kenny Miller filled in for Supervisor Steve Madden as Board liaison. See attached sheet for additional persons in attendance. Deputy Clerk Cheryl Murphy recorded the minutes.

**Approval of the Agenda**

Commissioner Novacek made a motion to approve the agenda. Commissioner Cleminson seconded the motion for discussion. Commissioner Novacek amended the motion to include the newsletter. A second amendment was made by Commissioner Cleminson to include the Board Report. Commissioner Novacek rescinded his motion. Chair Hansen made a motion to approve the agenda as amended. Commissioner Cleminson seconded. Motion carried.

Items added to the agenda:

- Jody Arman-Jones Newsletter – Other Business
- Board Report – Other Business

**A. Approval of the minutes**

**1. November 3, 2014 Planning Commission Meeting**

Chair Hansen made a motion to approve the November 3, 2014 Planning Commission Meeting minutes. Commissioner Novacek seconded the motion. Motion carried.

**2. November 24, 2014 Planning Commission Public Hearing Meeting minutes- Kenneth** Commissioner Novacek made a motion to approve the November 24, 2014 Planning Commission Public Hearing meeting minutes. Commissioner Cleminson seconded for discussion.

3.

The following corrections to the minutes were noted:

- Change spelling of Randy Wood
- Change spelling of Doug Hauser

Commissioner Novacek asked to retract the motion. Commissioner Jennings made a motion to approve the minutes as amended. Commissioner Novacek seconded the motion. Motion carried.

## **B. Other Business**

1. **Newsletter**-Jodi Arman-Jones stated that the next newsletter is due out after the Board Meeting in January. The majority of the information will be related to the annual meeting, candidates for the two open supervisor positions, and the election in general. She noted that she is still waiting for a response from the County Transportation Department on priority for plowing. Ms. Arman-Jones requested she be contacted for any other information to include in the newsletter. Commissioner Jennings stated a summary of the Public Hearings and the Agritourism Open House should be added and what the next steps will be in finalizing the ordinance. She stated the newsletter should also state the status of the proposed text amendment for the mining ordinance. Commissioner Jennings also would like to have an update from the Minnesota Health Department on the status of the cannabis-manufacturing growers included.
2. **Agritourism**-In regard to comments made by citizens, Chair Hansen stated the majority of the “yeses” were twice what the “no’s” were, but the largest concern was how the ordinance is to be regulated. Weddings and large gatherings were the biggest concerns. Commissioner Jennings stated that based on comments from the residents, they wanted the large gathering part of the ordinance separated out and would prefer an Interim Use Permit (IUP) be required. She discussed the need to narrow the definition, and specifically state when an IUP should be required. Chair Hansen stated there were serious concerns about the Attorney’s draft regarding bonding and insurance. Commissioner Novacek wanted his concerns noted that most people thought weddings were a “hot button” and there was concern about alcohol and music. Commissioner Jennings stated an IUP should be required initially with stated use and numbers (i.e. number of square feet, number of cars, number of people, etc.), that would serve as a baseline. Applicants would have to notify neighbors and have a public hearing.

A brief recess was called.

3. **Board Report**-Chair Kenny Miller stated that the Town Board has several issues that are unsettled. Chairman Ceminsky was tasked with the details of the Township permitting process for the Vermillion Watershed Ordinance. A decision has not been reached regarding Joey Miller, but hopefully the Board will resolve the issue at next weeks’ meeting. There will be a discussion of the end-of-year budget and contract agreements. The Board sees the Planning Commission’s biggest issues as the Policies and Procedures manual and the Agritourism Ordinance. It was decided that the Planning Commission should have direct access to the Township Attorney, but that access needs to be documented to the Attorney contact for accounting purposes.

Chair Hansen stated the Attorney left the Agritourism Ordinance definitions section up to the Planning Commission. Discussion was held and it was decided that the Attorney should be consulted regarding how extensive the definition section list should be.

Commissioner Novacek made a motion that the alternative draft submitted by Atina Diffley be used as a starting point. Chair Hansen seconded the motion for discussion.

Discussion was held with various opinions regarding which draft ordinance should be the baseline.

A vote was taken on the motion. Commissioner Novacek –yes; Commissioners Cleminson and Jennings and Chair Hansen voted nay. Motion failed on a 1-3 vote

Chair Hansen made a motion to use the Attorney’s draft Agritourism Ordinance as a baseline and incorporate Ms. Diffley’s draft into the ordinance. Commissioner Jennings seconded the motion.

A voice vote was taken on the question. Chair Hansen-yes; Commissioner Jennings, yes; Commissioner Cleminson, yes; Commissioner Novacek, nay. Motion carries.

The Commission proceeded to review the Agritourism Ordinance, highlighting concerns, to be forwarded to the Township Attorney. See attached document.

The Commission reviewed each chapter of the Ordinance line by line, highlighting suggested changes. Items listed as “ok” had no suggested changes.

**1. CHAPTER 2: PURPOSE**

- A. Highlight “identify”. Is this meant to be proactive? Are we going out to identify these farms?
- B. OK
- C. Should remove the words “preventing or”

**2. CHAPTER 3: DEFINITIONS**

- A. OK
- B. OK
- C. Remove the following words: “*barn dances, weddings, other events, celebrations, arts and crafts fairs*”. Change Agritourism “*may not*” to “*shall not*”. May need to add that rural events may not exceed 100. Would like to isolate the events that have the potential to be problematic.
- D-J. OK

### 3. CHAPTER 4: PERMITTED USES

#### A. Section 1-Agritourism

1. First sentence needs to be revised. Perhaps change to “*Agritourism would be a permitted use, if the use and structures comply with all of the following standards listed below.*” Section 1 Number 1 needs a typing correction.
2. Needs clarification-farming is a primary use, with agritourism a secondary use. Agritourism as a primary use is not permitted.
3. Highlight Resolution 59, 8-13-2007
4. OK
5. OK
6. OK
7. OK
8. OK
9. OK
10. Commissioner Novacek has an objection to the words, “*100 square feet*”—says it is an arbitrary number-he would like more rationale and feels the square footage needs to rise dramatically. The Planning Commission discussed this in length. Agreed to highlight the wording as one person’s objection.

Fritz Frana asked to address the Commission and called attention to the Township Attorney’s letter dated September 5, 2014 (attached to the minutes) where he discusses the need for interim use permits for agritourism activities. The Commission held a lengthy discussion on that subject.

Review of the Ordinance continued.

11. Objection to the words, “*500 Square feet*”—Commissioner Novacek felt it should be larger. Commissioner Novacek believes no one should need an interim use permit. There was much discussion regarding numbers and what is the correct number to allow or square footage or number of cars—Chair Hansen stated he is fine with Commissioner Novacek disagreeing with it, but he needs to provide numbers. Commissioner Jennings proposed that perhaps Commissioner Novacek should research this and come back with suggested numbers. Commissioner Novacek agreed.
12. OK
13. OK
14. Commissioner Novacek has objections to the words, “*30 cars*” and “*or 75 cars*”.
15. Commissioner Novacek has objections to “*more than 100 people daily*”. Commissioner Jennings pointed out that we may want to add a number 16 to Section 1 stating that “non-agricultural events do not commence more than three times per year”.

**B. Section 2 – Agricultural Direct-Market Business**

1. OK
2. Objection to the words “100 square feet”.
3. OK
4. Highlight Resolution 59, 8-13-2007
5. OK
6. OK
7. OK
8. Objection to the words “no greater than 2,400 square feet”.
9. OK
10. Objections to “more than 30 car trips per day” and “more than 75 car trips on a paved road”.

**CHAPTER 5: PERMIT REQUIRED**

**A. Section 1 – Permit Required – OK**

**B. Section 2 – Criteria for Granting Permits** – second line, add the word “morals” after health, safety to be consistent with the wording in Section 4 – Conditions of Approval, third line down. Commissioner Jennings was unclear why the Attorney dropped the words morals when it appears in language in other ordinances.

1. OK
2. Highlight Resolution 59, 8-13-2007. Resolution is still being questioned, as there is no copy filed with Dakota County.
3. Questioning first sentence, “will not have an adverse effect upon adjacent properties”. Commissioner Novacek questioned how this would be determined. Commissioner Jennings wants it to be known she felt this is a weak objection.
4. 4- 10 – All OK

**CHAPTER 6: PERMITTING PROCEDURE**

1. **Section 1 – Application**-Commissioner Jennings questioned if the property ID number in Section 1 should be required with the other requested information.
2. **Section 2 – Supporting Documentation** –OK
3. **Section 3 – Application Procedure** – OK
4. **Section 4 – Conditions of Approval**
  - Highlighting the word “morals” to be internally consistent with Chapter 5, Section 2, first paragraph.
  - A. through D – OK
  - E. Highlighting the whole section-Chair Hansen questioned the whole paragraph as it was never talked about on the Task Force Committee.
  - F. through M - OK
5. **Section 5 – Review of Permit** – OK
6. **Section 6 Amendment to Interim Use Permit** – OK

## **CHAPTER 7: PERFORMANCE STANDARDS**

### **1. Section 1 – Agritourism Performance Standards**

- A. OK
- B. Highlight the whole sentence. Doesn't deal with primary use shifting
- C. Through I - OK
- J. Objection to "100 square feet".
- K. OK
- L. Objection to "*two sleeping rooms*".

### **2. Section 2 – Performance Standards for Agricultural Direct-Market Business**

- A. OK
- B. Objection to "*100 square feet*".
- C. OK
- D. Highlight Resolution 59, 8-13-2007
- E. Through G – OK
- H. Objection to "2,400 square feet"
- I. OK

## **CHAPTER 8: TERMINATION, VIOLATIONS AND PENALTIES**

### **1. Section 1 – Termination**

- A - OK
- B – Highlighting line 4 "*given a reasonable opportunity to remedy the violation, but in no case longer than five (5) business days*". The sentence is unclear-is a reasonable amount of time only 5 business days?
- C – OK

### **2. Section 2 – Misdemeanor Penalty – OK**

### **3. Section 3 – Data Practices Act – OK**

### **4. Section 4 – Verification of Violations – OK**

## **CHAPTER 9 ENFORCEMENT – all OK**

## **CHAPTER 10: LIABILITY INSURANCE**

### **1. Section 1 – Liability Insurance – Highlighting all of Section 1**

### **2. Section 2 - Indemnification – OK**

## **CHAPTER 11: VALIDITY – all OK**

## **CHAPTER 12: EFFECTIVE DATE – all OK**

Commissioner Jennings made a motion clarifying that the Commission had made a comparison of the Township Attorney's draft Agritourism Ordinance and the Task Force Committee's draft and found them to be substantially compatible. Items of concern have been flagged for review and response by the Attorney. The Planning Commission minutes and the highlighted draft ordinance will be provided to the Attorney prior to the January meeting. Further, the Attorney will be asked to attend the January meeting. Commissioner Cleminson seconded the motion.

Chair Hansen questioned how issues are going to be addressed with the Attorney and how the Ordinance will be enforced. Chair Hansen wanted it in the record that he does not think the numbers need to be changed. Commissioner Jennings stated she thinks the road widening and insurance are the major concerns. Commissioner Novacek agreed to do some research and provide alternatives on the numbers, and to report back at the January meeting.

A vote was taken on the motion. Motion carried unanimously.

Chair Hansen recommended that everyone be prepared with questions for the Attorney and alternative verbiage.

Commissioner Jennings made a motion to adjourn the meeting. Commissioner Cleminson seconded.

Meeting adjourned at 10:37 PM.

Respectfully submitted,

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Cheryl Murphy  
Deputy Clerk

Minutes approved by the Planning Commission on January 5, 2015