

# EUREKA TOWNSHIP PLANNING COMMISSION

## DAKOTA COUNTY

### STATE OF MINNESOTA

#### Eureka Planning Commission Meeting of January 5, 2015

##### Call to Order

Planning Commission Chair Hansen called the meeting to order at 7:07 p.m. Planning Commission members present: Chair Hansen, Commissioner Lu Barfknecht, Commissioner Carrie Jennings, Commissioner Allen Novacek and Commissioner Phil Cleminson. Supervisor Mark Ceminsky attended as Town Board liaison and Attorney Chad Lemmons was present. See attached sheet for additional persons in attendance. Deputy Clerk Cheryl Murphy recorded the minutes.

##### Approval of the Agenda

Commissioner Barfknecht added Jody Arman-Jones and the newsletter to the agenda under Other Business. Commissioner Jennings made a motion to accept the agenda as amended. Commissioner Barfknecht seconded the motion. Motion carries.

##### A. Permits or Land Use Items

1. **Rick Aubuchon for Mike Blom 24174 Dodd Boulevard**-install new decking and railing to existing deck with an additional octagon deck. Commissioner Barfknecht made a motion to send forward to the Board for approval. Commissioner Jennings seconded the motion. Motion carries.
2. **Kelly Halvestad for Ken Betzold-1950 220<sup>th</sup> Street West**-Mr. Betzold had some questions for the Planning Commission regarding building sites on the NW corner of his property on 220<sup>th</sup> Street West and Essex Avenue. Mr. Betzold would like to put in a grain setup on his property. The Planning Commission determined where the building sites on the property were. Chair Hansen stated Mr. Betzold would need to contact the county to see if there are any grandfathered rights. Mr. Betzold will need an agricultural permit and will need to meet wetland setbacks. Chair Hansen suggested Mr. Betzold contact Brian Watson from the Soil and Water Conservation District in Farmington, MN.
3. **John Friedges – 9380 202<sup>nd</sup> Street West-Land Use and Zoning Request Application**-Mr. Friedges inquired as to whether an Interim Use Permit is required to crush concrete for two weeks a year. It was noted that the application was not complete and needed to be put on hold pending information regarding where the concrete is coming from and what is being mined currently by volume.

Commissioner Jennings made a motion to table the application pending further information. The applicant needs to be informed that the application is incomplete and Attorney Lemmons will send an email tomorrow outlining steps to be taken. We need to know the tonnage being extracted and where the concrete is coming from for recycling. The Deputy Clerk will respond to Mr. Friedges by letter. Chair Hansen seconded the motion. No further discussion. Motion carried.

Mr. Friedges will need to file an annual review with the Board turning in the tonnage or yards. Additional requirements may need to be completed before the review and the Planning Commission would like to see the annual review. The Deputy Clerk was directed to check Kelly Excavating and Eureka Sand and Gravel to see what was recorded in the past.

Chair Hansen asked to move *Other Business F* before *E*, so Jody Arman-Jones does not have to stay for the entire meeting.

## **B. Other Business**

1. **Newsletter**-Jody Arman-Jones discussed the upcoming newsletter.
2. **Town Board Update**-Supervisor Ceminsky
  - VRWJPO – The Township will be administering, managing and permitting the Vermillion Watershed. It was passed by Ordinance 2014-7 and Resolution 2014-10 and was sent to the VRWJPO letting them know the Township will do the implementation as of March 1, 2015.
  - Proposed Text Amendment for the mining request – there was much discussion on it, but it has not been voted on. It was discussed that if “*ready mix concrete plant*” was taken out of the verbiage, it could possibly be a stand-alone operation. The Board spoke to the applicant and there will be more discussion on this.
  - Ordinances and Code Update-tabled because of possible text amendment changes. Nothing has gone forward on recodification of the Township Code.
  - Coming up for the Town Board – the State has taken on new building codes, and we will need new codebooks for the Town Hall.
  - Joey Miller issue has been resolved and moved forward. Mr. Miller has paid all fees and will be issued permits.
  - Darrel Gilmer will conduct inspections for the Vermillion Watershed.
  - Building Inspector Gilmer and Deputy Clerk Murphy have been working together to get all permits up to date and recorded.

**Approval of Minutes-December 1, 2014** – The following changes were made to the minutes:

- Page 2, B2 Agritourism – line 4 – Add “*based on comments from the residents*”
- Page 2, B3 Board Report – Line 3 – Add “*permitting process for the Vermillion Watershed*”

- Page 3, B3 – Board Report
  1. Line 1 – Paragraph 1 – Add definitions “*section*” and “*Planning*” Commission
  2. Line 3 – Paragraph 1 – Add definition “*section*”
  3. Second Paragraph – “*Atina*” (spelling)
  4. Paragraph 4 – Reverse order of the vote
- Page 4, - Last Paragraph – add “*a*” number 16

Chair Hansen made a motion to approve the minutes as amended. Commissioner Jennings seconded the motion. Motion carries 4-0. Commissioner Barfknecht abstained, as she was not present at the December meeting.

**Agritourism**-Commissioner Novacek did some research on the numbers in the Ordinance and feels that the large gathering ordinance (which is already in place) seemed to be a way of answering the concerns he originally brought up.

Commissioner Jennings made a motion to review the Agritourism Ordinance line-by-line, starting with Chapter 2 and review the highlighted portions point-by-point and consider Attorney Lemmons responses. Commissioner Barfknecht seconded the motion. Motion carried.

## **Ordinance 10: Agritourism**

### **1. CHAPTER 2: PURPOSE**

- A. Eliminate Item A and change “B” to “A” – per input from Attorney Lemmons- Commissioner Cleminson made a motion on Ordinance 10, Chapter 2 to remove completely Item “A” based on the advice from our Attorney. “B” will become “A” and “C” will become “B”. Commissioner Jennings seconded the motion. No further discussion. Motion carries.
- B. Will become Item “A”
- C. Will become Item “B” – Commissioner Novacek made a motion to remove “preventing or” on Item B. Chair Hansen seconded. Commissioner Jennings said we should keep it as is, based on the advice of our Attorney. After much discussion with Attorney Lemmons input, motion fails. The new Item “B” will stay as originally written.

### **2. CHAPTER 3: DEFINITIONS**

- A. OK
- B. OK
- C. Page 2 Line 5 – Commissioner Jennings made a motion to change “*may*” to “*shall*” to read, “*Agritourism ‘shall’ not include activities*”. Commissioner Cleminson seconded the motion. Motion carries.

Chair Hansen made a motion to remove the following words: “*barn dances, weddings, other events, celebrations, arts and crafts fairs*”. Commissioner Jennings thinks we do not need to define any of them.

Chair Hansen withdrew the motion. Attorney Lemmons suggested the Commission may want to describe the uses to be excluded. Commissioner Barfknecht feels that “farm stays” definitely should not be included in the Ordinance as it could turn into a Bed and Breakfast. There was much discussion on “farm stays”.

Commissioner Jennings made a motion to remove the list completely and only state, “*Activities must be related to agriculture and accessory to the agricultural use*”, that the whole list should be removed completely and start at line 5 – “*Agritourism shall not include activities ...*” Commissioner Cleminson seconded the motion.

Commissioner Barfknecht made an amendment to the motion – after agricultural use Commissioner Barfknecht would like to add, “*on said property.*” Commissioner Cleminson accepted the amendment. Chair Hansen suggested that a vote be taken on the amendment first—adding, “*on said property*”. Motion carried with Commissioner Novacek voting nay.

Attorney Lemmons agreed with the language adopted as long as Agritourism is not a permitted use, but a conditional use or IUP and he stated he recommends an IUP, which would allow the Planning Commission and Board to approve each use. If it is a permitted use, there would be no controls whatsoever.

Commissioner Jennings withdrew her motion to delete the list of examples until she finds out what type of use this is going to be and does not want to leave the door wide open. The whole motion, including “*on said property*” was withdrawn.

Chair Hansen would like to remove some of the words in the list- -“*barn dances, weddings, and craft fairs*”. Attorney Lemmons suggested that if the Commission wants to keep certain permitted uses under Agritourism, then they have to define under Chapter 4 what uses would be permitted uses. What uses require a Conditional Use Permit needs to be reviewed. Modify C significantly- keep the ones to be excluded. Define what is a permitted agricultural use. End it on said property, keep the exclusion and change Chapter 4, and then you can define what Agritourism uses are permitted.

Commissioner Jennings made a motion to change Chapter 3, Item C-Agritourism- page 5, line 2 to add “*on said property*” after agricultural use and to strike the list of definitions. Then begin again at “*Agritourism shall not include activities that include the discharge of firearms, competitions among motorized vehicles, or other events that the Township determines to be incompatible with the community’s character or intent of this chapter*”. Commissioner Cleminson seconded the motion. Motion carries.

- D-J. OK

### 3. CHAPTER 4: PERMITTED USES

#### A. Section 1-Agritourism

1. Change to "*Agritourism 'is permitted' if the use and structures comply with all of the following standards listed below:*" Commissioner Jennings made a motion to add, "*is permitted*" to the first sentence. Commissioner Cleminson seconded the motion. Motion carries.
2. Commissioner Jennings made a motion to use the Attorney's recommended language to Paragraph 2, striking *obligations* and adding *operations* to read "*The primary use of any property shall be to conduct agricultural operations as defined in Ordinance 1, Chapter 4 of the Eureka Township Ordinances. Any use permitted or allowed under this Ordinance should be secondary to the agricultural operation and should not become the primary use of the property.*" Commissioner Cleminson seconded the motion. Motion carries.
3. We do not need to address the highlighted Resolution 59 –whatever the resolution says, it is incorporated in this Ordinance. (Resolution 59, 8-13-2007) It will not have an effect on what we are doing. Changes to be made throughout the document.
4. OK
5. OK
6. OK
7. OK
8. OK
9. OK
10. There was much discussion on retail space. Chair Hansen wants it in the minutes that he thinks the square footage should be larger. Commissioner Jennings made a motion to add, "*display floor*" after retail to read, "*Agritourism uses may use up to 100 square feet of retail 'display floor' space of the business to sell non-agricultural products*". Commissioner Barfknecht seconded the motion. Motion carries with Commissioner Novacek voting nay.
11. Will stay as originally worded-OK.
12. OK
13. Need to define what we will allow under permitted uses. Commissioner Jennings thinks the list of permitted uses should be very small-minimal thresholds. Commissioner Barfknecht made a motion to completely remove Item 13 "*Farm stays do not have more than two sleeping rooms*". Commissioner Jennings seconded the motion. We will address it later in the Ordinance. Motion carries.
14. Question for attorney on how to enforce #14 and #15. Attorney Lemmons asked how much money does the Township want to spend to have someone enforce it-are you going to rent a car counter set up at a certain point? If the resident is cited, someone has to prove it. The Ordinance needs to create standards by which the town operates. Enforcement is not easy to do. There was much discussion in regard to number of cars and enforcement with the Attorney. Nancy Sauber suggested, as proposed by Sherri Buss, that we

count the parking spaces and then after that you need an IUP. Commissioner Novacek made a motion to completely remove Item 14. Chair Hansen seconded for discussion. Commissioner Jennings stated it should not be removed without a replacement. Commissioner Barfknecht said enforcement is tough, but it should not be removed, as complaints generate enforcement. Chair Hansen stated that it is problematic and he cannot see how to enforce it. After much discussion, motion fails with Chair Hansen and Commissioner Novacek voting yes; Commissioners Cleminson, Jennings and Barfknecht voting nay. Commissioner Jennings wants it known that she is voting nay because there is no replacement language. Motion fails. Fritz Frana from the audience stated that he feels we need a low threshold before we require an IUP. Attorney Lemmons suggested the language being proposed is pretty standard-dealing with cars parked on the property would make it easier to prove.

15. Commissioner Novacek made a motion to eliminate Item # 14 and Item #15 and replace it with the language *“the additional traffic with parking will not become an unmanageable burden.”* Chair Hansen seconded for discussion. Commissioner Jennings stated an unmanageable burden would be even harder to enforce. Attorney Lemmons was asked what he would do and how would he enforce it. Attorney Lemmons stated that that it would be hard to enforce 30 cars parked on a dirt road or 75 cars parked on a paved road-you would have to prove they are going to the intended property. You could have it say no more than 30 cars parked on the property on a dirt road or no more than 75 cars parked on the property on a paved road. From that standpoint it would be easier to prove by taking a picture-that would be enforceable. Commissioner Jennings would like to see the Commission move in the direction of cars parked on the property.

Commissioner Novacek withdrew his motion. Keep 14 and 15 highlighted and revisit. Permitted uses without an IUP need to be defined.

Commissioner Jennings made a motion to adjourn the meeting. Commissioner Barfknecht seconded the motion. Chair Hansen opened for discussion and called a question on whether or not to adjourn. Motion fails-with Commissioners Jennings and Barfknecht voting yes, Chair Hansen, Commissioner Novacek voted nay.

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

1. OK
2. Commissioner Novacek made a motion to change Section 2-Agricultural Direct Market Business Item 2 to *“200”* square feet of retail space. Commissioner Cleminson seconded the motion. Chair Hansen wants to add an amendment to insert the words *“display floor”*. Commissioner Novacek accepted the amendment--amendment carries. There was much discussion of the square footage of Item 2. No further discussion. Chair Hansen called a question--Motion was voted on--motion carries.
3. OK

4. Keep the words Resolution 59, 8-13-2007
5. OK
6. OK
7. OK
8. Over 3,000 square feet kicks in to commercial. Commissioner Novacek made a motion to change "2,400" square feet in Item #8 to "2,999" square feet. Chair Hansen seconded. Motion carries.
9. OK
10. Revisit Numbers

## **CHAPTER 5: PERMIT REQUIRED**

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

**B. Section 2 – Criteria for Granting Permits –** Keep original language as it appears.

1. OK
2. Keep Resolution 59, 8-13-2007.
3. Keep original language per Attorney Lemmon's recommendation. Commissioner Jennings made a motion to keep the language as is. Chair Hansen seconded. Motion carries with Commissioner Novacek voting nay.
4. 4- 10 – All OK

**CHAPTER 6: PERMITTING PROCEDURE –** add "*for Interim Use Permit*" Chair Hansen made a motion to insert the words "*for Interim Use Permit*" into Chapter 6: Permitting Procedure Heading. Commissioner Barfknecht seconded the motion. Motion carries.

1. **Section 1 – Application-OK.**
2. **Section 2 – Supporting Documentation –OK**
3. **Section 3 – Application Procedure –** Commissioner Barfknecht made a motion to insert in Chapter 6, Section 3, Application Procedure-Item A, last sentence--the words at the end of the sentence "*including any outstanding fees due to the Township*". Commissioner Cleminson seconded the motion. No further discussion--motion carries.
4. **Section 4 – Conditions of Approval - OK**
  - A. through D – OK
  - E. Highlighting the whole section-Chair Hansen questioned the whole paragraph, as it was never talked about on the 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. Keep original language
  - C. Through I - OK
  - J. Commissioner Jennings made a motion to add after retail “*floor display*” space to keep everything consistent. Chair Hansen seconded and added an amendment to make the same change in the document where that same verbiage appears. Motion withdrawn as it was determined this change would be made throughout the document and did not need a motion.
  - 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. Keep Resolution 59, 8-13-2007
  - E. Through G – OK
  - H. Change to “*2,999 square feet*”
  - I. OK

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

### **1. Section 1 – Termination**

- A - OK
- B – Commissioner Novacek made a motion to remove the words “*given a reasonable opportunity to remedy the violation, but in no case longer than five (5) business days*”. No one seconded the motion.

Attorney Lemmons stated it is the same verbiage stated in the Mining Ordinance. Attorney Lemmons will provide some language in a day or two. Commissioner Jennings also asked Attorney Lemmons to help with the number of cars and visitors, as that has not been dealt with.

- 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** – Commissioner Novacek made a motion to remove Chapter 10, Section 1 – Liability Insurance. Commissioner Cleminson seconded the motion. Motion carries with Commissioners Jennings and Barfknecht voting nay.
2. **Section 2 - Indemnification – OK**

## **CHAPTER 11: VALIDITY – all OK**

**CHAPTER 12: EFFECTIVE DATE - all OK**

Commissioner Novacek made a motion to completely remove Chapter 4, Section 1, Item 14 and 15 (on page 4) and Section 2, Item 10 (on page 5). Chair Hansen seconded the motion and opened for discussion. Commissioner Jennings want to leave it in for further discussion-she would like an opinion on it and have it replaced with something that can be enforced. Motion fails with Chair Hansen and Commissioner Novacek voting yes; Commissioners Jennings, Barfknecht and Cleminson voting nay.

Commissioner Jennings made a motion to adjourn the meeting. Commissioner Novacek seconded the motion. Motion carried. Meeting adjourned at 10:36 PM

Respectfully submitted,

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Cheryl Murphy  
Deputy Clerk

Minutes approved by the Planning Commission on February 2, 2015.