

Stutsman County Planning and Zoning Commission Minutes – March 13th, 2013

At 8:02 a.m. the meeting was called to order by Planning and Zoning Commission Chairman Harold Bensch. Present were Katie Andersen, Harold Bensch, Duane Andersen, Dan Buchanan, Dale Marks, Dave Schwartz, and Dustin Bakken, Zoning Administrator, Brian Amundson arrived at 8:10 a.m. Absent was Ryan Odenbach.

Chairman Bensch called the meeting to order and welcomed Randy Williams, John Corell, Dennis Haugland, Wynne M. Rasmussen, Mark Scott, Kurtis Andersen, Keith Larson, Ken Mickelson, Jon Perkins, Marvin Zinke, Elden Englund, Rodd Orr, Richard Ovin, Randall Henke, Nellie Degen, Rosalie Wibstad, Cindy Burkle, Larry Burkle, Doug Panchot, Jeremy Braun, Tim Exner, Nan Exner, Melissa Gleason, Theresa Comer, Dana Krumwiede, Sarah Gleason, Steve Huebner, Joseph M. Schmitt, Brad Reister, 9-1-1 Emergency Manager/Coordinator Jerry Bergquist, Louvicia Mayer, Gary Mayer, Diane Carlson, Corey Bayer, Connie Ova, Lisa Briss, Rick Briss, Sharon Exner, Tonya Perkins, Gary Pearson, Jodi Haugland, Becky Steinmetz, Toni Wegenast, Colin Wegenast, Bob Seitz, Deb Orr, Sheriff Chad Kaiser, State's Attorney Fritz Fremgen.

Marks made a motion, seconded by Schwartz to approve the minutes from the December 17th, 2012 meeting. Motion Carried.

Dustin Bakken, Zoning Administrator, presented an update to the Stutsman County zoning ordinance in relation to crew housing. Bakken informed the commissioners currently the City of Jamestown has 16 houses for sale and 26 houses for sale in a 20 mile radius of Jamestown. Given the shortage of housing in the area and the projected economic growth, crew housing is one of the options the county is going to consider. The Zoning Commission is looking at an ordinance in order to regulate crew housing.

Dustin went over the definitions of crew camp housing that are used in the ordinance such as Crew Housing Facilities, Crew Housing Permit, and Skid Unit.

Bakken read the section 2.11.2, Crew Housing Conditional Use Permit. It states: "A Temporary Crew Housing Permit authorizes a conditional use only, the issuance of which is subject to the procedures contained in this zoning ordinance. It is allowable as a conditional use in zoning districts according to local zoning jurisdictions and their respective ordinances. The application shall be submitted to the Stutsman County Planning and Zoning Board.

Dustin read section 2.11.3 the Application Procedure. It was stated that the ordinance needs to meet certain standards and follow certain procedures such as: legal description and location of the property, a numbering system for all structures for emergency responses, a description of how the proposed units are set and/or anchored, a statement that roads to be constructed within the facility meet county specifications, contact information of the applicant and onsite manager, plot and site plans, a list of house rules and regulations, copy of lease for real estate or personal property involved, copies of required permits, spacing between structures to accommodate emergency services, on site security plans, fire and emergency evacuation plans, annual fee, copies of plans closing and cleaning the crew facility, reclamation of the real property, surety bonds, copies of certificate of insurance, screens, buffering, fencing, drainage, and off-street parking minimums. This will need to be updated on an annual basis. An annual planning and zoning fee of .50 per square foot of the area of the legal description provided will be charged to the applicant.

Questions were raised what the funding would be used for and if it would go back to the township to aid in maintaining the roads. Bakken stated by definition the crew housing permit fees are to cover the cost of expenses for services provided by the county and city. There is a provision in the Century Code that

allows the fees to be shared with political entities. The value of the services would need to be determined.

A question was raised on the maintaining of the township roads and how do we know what shape the road is in. Stutsman County may look at a road maintenance clause similar to what was adopted with the wind farm ordinance.

Duane Anderson, zoning commissioner, questioned the legal description where it refers to 5(a) in 2.11.3 Application Procedure, subsection (15). This was an error and meant to refer back to subsection (1).

Duane Andersen raised a concern if there is a restriction on the building intensity on the property so they cannot build on the whole property. The county may want to address this.

Buchanan questioned Subdivision 16 of section 2.11.3; it references to a copy of plans for closing and cleaning a temporary crew housing and to reclaim the real property. Dan questioned if we need to have a clearer definition of what the condition of the property existed prior to the crew camp going in; possibly using a site inspection prior to the crew camp.

A question was raised about when the crew camp is gone and what it means to return the property back to the original state or if the property owner wanted to develop that piece of property, could they. Dustin thought the property owner would need to follow the proper procedure to have the property rezoned according to the ordinance; otherwise they would have to return the property to its original state.

A question was raised if the county has received any information on people wanting to put crew camps in. Dustin stated that the county has received some inquiries as to the requirements of crew housing, but nothing for sure or concrete. The county has not received any names of people or companies. Dustin did speak with a gentleman, Rex Tottingham, who inquired about putting crew housing in Homer Township. He was concerned about what regulations he would need to follow. Rex does not own any land in Homer Township, but would be partnering up with a landowner in section eleven. Larry Loose is the property owner of section eleven in Homer Township.

Townships will have the option of letting the county handle the zoning ordinance or the township could adopt their own zoning ordinance to handle the crew housing ordinance. The 15 townships that have their own zoning ordinance have the say over their townships. Once the county has an ordinance in regards to crew housing, a letter will be drafted and sent out to the 15 townships requesting them to relinquish their authority over the crew housing ordinance to the county so the county can regulate the crew camps with the approval of the township zoning.

A concerned citizen suggested it would be more economical or beneficial to not have a specific crew camp housing ordinance, but to have limitations on the ordinance. The gentleman further stated the county has ample amount of land located near the Spiritwood Energy Park where the crew camp could be placed on county owned near the facility it is going to serve.

Brian Amundson, zoning commissioner, informed the guests that if we do not have an ordinance in place then we do not have any restrictions on crew camps. There are 15 townships that have their own zoning ordinance. If those townships choose to adopt this zoning ordinance in relation to crew housing then it would become their ordinance. If you choose to make it more restrictive or different ordinance for your township, then that is your ordinance. If the township makes the ordinance more restrictive, then it becomes the responsibility of the township to enforce or police it. The township would also have to pay if there are any lawsuits, especially, if a property owner deems the zoning ordinance

unreasonable. If you choose to adopt the county's ordinance, the county is assuming all of the liability and enforcing the ordinance for the township.

A question was raised about honoring the township zoning districts. Dustin informed the constituents if the townships adopted the county's crew housing ordinance then it would follow that ordinance. If the townships adopted their own crew housing ordinance then it would follow their rules and conditions that are set forth in their policy. Amundson reiterated that the 15 townships have three choices: they may choose to adopt the county's crew camp ordinance, they can choose to create their own crew camp ordinance, or they can do nothing.

Fritz Fremgen, State's Attorney, reminded everyone about some cases that happened in the past in North Dakota and what happened with them. Once the county approves a crew housing ordinance, letters will be sent out to the townships requesting them to relinquish their authority to the county. The township has the choice to follow the county's ordinance or create their own. Fritz thought once the township relinquishes their authority on the crew housing ordinance and the county approves an application the township does not have the choice to veto the application once the county approves it. Fremgen informed the people that you cannot stop companies or people from putting in crew housing. There is a limit on zoning authority and you cannot stop a person from reasonable use of their property. You can channel items through your zoning ordinance; however, if a company complies with the provisions of your ordinance it may be tougher to deny the request. Fremgen stated the county needs to look at what changes need to be made in regards to enforceability issues, issues on attaining proof, how to determine the number of occupants, how to revoke or suspend an operation, setbacks or buffering zones, how and what type of detailed information need to be displayed on the number plates.

A zoning ordinance would deal with location as well as restrictions and/or protection of the neighborhood. Zoning is strictly locating commercial, industrial, and residential property. An ordinance needs to make sure it does not infringe upon the rights of other people's property rights and not infringing upon the property owner's ability to advance him or herself.

A guest questioned if background checks are going to be performed on the company requesting to come in. Fritz informed the attendees that background checks will not be done on individuals or on the company, but would require a bond. The company will put up a bond and there are restrictions in section 2.11.4. It states that "The Stutsman County Board of Commissioners or the Stutsman County Planning and Zoning Board may at its discretion deny an application for a Temporary Crew Housing Permit if the applicant is of questionable character or for any other cause which would, in the opinion of the Board of County Commissioners or the Planning and Zoning Board, render the applicant or the premises to be licensed, improper or unfit for a temporary crew housing facility, or which would, in the judgment of the Board of County Commissioners or the Planning and Zoning Commission, make the granting of the permit contrary to the best interests of the county or its citizens."

Dustin went over 2.11.3 Application Procedure, subsection 17 on surety bond to ensure proper cleanup based on the number of beds. Questions arose regarding subsection 17, the surety bond/reclamation and subsection (a) and (b) are very easily challenged in the court of law. Concerns arose about the money amount on the surety bonds may be insufficient. Some guests thought the dollar amount could be much higher and also to have a cash bond for services in addition to the surety bond. Discussion was also had as far as requirements to replenish a bond once it is forfeited. It was stated we need to protect the community against the negative impact. Dustin stated the conditional use permit fees would cover the negative impact.

Bakken, Zoning Administrator, moved forward going over the rest of section 2.11.3, Application Procedure; section 2.11.4, Restrictions on Grant of Permit; section 2.11.5, Prohibited Housing Types;

section 2.11.6, Prohibited Activities; and section 2.11.7, Revocation of Permit. Subsection 2 Notice – Public Hearing would need written notification.

A question was asked if certain property owners within a radius of the location of crew camp housing would be notified of the public hearing. Dustin clarified the notice for public hearing on a suspension or revocation of a permit would not have written notices sent out. The original public notice in the initial permitting process may have written notices sent out within a certain buffer zone. The zoning board will look into this.

Bakken finished the sections 2.11.8, Expansion of Temporary Crew Housing; section 2.11.9, Renewal of Conditional Use Permit; and section 2.11.10, Conditions, Reporting Requirements.

A question was asked how property taxes would be calculated on crew housing. Dustin referred to section 2.11.1, subsection 1 states “...which are not real property as defined in NDCC 57-02-04 and are not mobile homes as defined in NDCC 57-55-01.” Everything would be based off of the fee depending on the structure and could be considered personal property which would not be taxed.

A concern was raised on the setback requirement and what would be an acceptable requirement.

Chad Kaiser, Stutsman County Sheriff, spoke to the group of people. Chad spoke to the Sheriff out west and he stated they were behind the ball. They had people sleeping on the streets, underneath mobile homes, and in their cars. From his aspect, Kaiser wants to know where the people are. Out west they have some really good man camps and some bad man camps. Kaiser stated all it is normal work force. Some of the really good man camps knew who was coming and going in the facility. He suggested that we look at the ways the man camps can really help the county. A man camp ordinance really helped the sheriffs out west. Stutsman County is looking at a shorter period of time utilizing man camps compared to the west. The county also will not be dealing with the magnitude of people like the western part of the state has seen.

A concern was brought up on the .50 per square foot might be too cheap. A suggestion was made to make sure everything was considered on what it would cost for services such as schools, 9-1-1 emergency services, and repairs to the road when setting the price. A concern was how much the township would receive.

Several people expressed the man camp should be placed on the county and city owned land near the area where the building will be taken place in the industrial park.

Homer Township has been approached by an individual requesting to have a special use permit to put up a 30 x 80 structure that is would house eight bedrooms and one kitchen and then get another special use permit to put up a 30 x 80 structure that would house an additional eight bedrooms and one kitchen.

A concern was raised on section 2.11.3 section 17 regarding the clean-up process. A timeline has not been established on how long an organization has to clean up the crew housing, who is responsible and who would pay if an organization doesn’t complete this portion.

A suggestion was made for section 2.11.5 as to other mobile/travel trailers such as “FEMA” trailers coming in that maybe the term “axle” might be a better determinant.

In section 2.11.8, a question was raised as to the maximum capacity of additions can an organization do and is there a limit on the number of additions of crew housing.

Harold Bensch, zoning chairman, requested from the attendees of the meeting to put their requests in writing and submit the written requests to Dustin Bakken or Fritz Fremgen.

Questions were raised if townships would be notified by certified mail when a permit for crew housing is submitted. Fremgen stated he has a concern with this request. Throughout the state, there is a process for notice. The notice is published in the paper. If a person is seeking a variance on a setback requirement as stated in the feedlot zoning ordinance, it is the requirement of the operator to notify other property owners in the surrounding area by certified mail.

Buchanan made a motion, seconded by Amundson to adjourn the meeting at 9:49 a.m.

Dustin Bakken
Zoning Administrator