Stutsman County Planning and Zoning Commission Minutes – May 1st, 2013

At 8:05 a.m. the meeting was called to order by Planning and Zoning Commission Chairman Harold Bensch. Present were Katie Andersen, Dan Buchanan, Brian Amundson, Harold Bensch, Ryan Odenbach, Dale Marks, Dave Schwartz, Duane Andersen, and Dustin Bakken, Zoning Administrator.

Chairman Bensch called the meeting to order and welcomed Mike Flynn, Kate Freimanis, Gary Pearson, Cindy Burkle, Geneva Kaiser, Melissa Gleason, Jamie Dallmann, Jodi Haugland, Becky Steinmetz, Wynn Rasmussen, Corey Bayer, Diane Carlson, Emergency Manager Jerry Bergquist, Stutsman County Auditor Casey Bradley, Sheriff Chad Kaiser, & State's Attorney Fritz Fremgen.

Schwartz made a motion, seconded by Amundson to approve the minutes from the March 13, 2013 meeting. Motion Carried.

Dustin Bakken, Zoning Administrator, explained that the ordinance was amended after the March 13th meeting to address many of the issues that were brought up at that meeting. The ordinance was re-drafted with a goal to draft an ordinance that works for both the residents & Stutsman County.

Bakken began to read through the ordinance & read the definitions in section 2.11.1 of "crew camp", "occupied structure", and "portable modular quarters (PMQ)" as it laid out in this ordinance. Dustin explained that anything that is residential, a residential lot, or anything that will be a future residential lot is included in the definition of an "occupied structure".

Bakken read through Section 2.11.2 on crew camp permits and explained that even though the conditional use permit may be granted by the county, the township can still authorize the building permits. A crew camp permit is issued for 24 months, a holder must apply for renewal 90 days prior to its permit expiration date, & that no crew camp may be permitted to construct and operate a total exceeding 72 months.

Bakken started to read section 2.11.3.1 about the application procedure. Dan Buchanan, zoning commissioner, addressed an issue on the language in subsection 1 where it states "if satisfied the major obligations imposed by this Ordinance seem to have been satisfied the Zoning Officer will disburse it" and suggested changing the word "seem" & "disburse" to something more definitive.

Bakken read section 2.11.3.2 about application contents. Casey Bradley, County Auditor, made a suggestion to add language in subsection #3 such as "and other agencies" or something similar in the event that other permits required by other agencies not listed are followed. Fritz Fremgen, State's Attorney, would like to work to identify any other permits that need to be done.

Bakken read subsection #4 under 2.11.3.2 which requires "plans drawn to scale showing, PMQ's, structures, setbacks, utilities, drainage, ingress and egress, parking, screens, buffers, fencing, emergency service roads, names of streets, the number assigned to each structure and each PMQ, and the occupancy capacity of each PMQ and each common room". Emergency Manager Jerry Bergquist commented that from a 911 perspective, the number of each structure be organized in a sufficient manner for addresses. Fremgen will work with Bergquist to spell out the language to resolve the issue of being an unorganized addressing structure.

Bakken continued reading through section 2.11.3.2, subsections 5, 6, 7, 8, 9, 10, 11, & 12. Dan Buchanan questioned why subsection 8 under 2.11.3.2 includes firearms and alcohol but not drugs. Katie Anderson, zoning commissioner, mentioned that firearms and alcohol are not illegal, & that controlled substance drugs are illegal. Because of the special situation of the things that aren't contraband, it was decided to add in the ordinance to prohibit firearms and alcohol even though they

are legal to have elsewhere. Harold Bensch, chairman, asked if there should be a provision in place for the crew camp residents to store their firearms somewhere if they have any. Dave Schwartz, zoning commissioner, mentioned that certain places in the western part of the state have their own area, through their company, that has an area for firearm storage. Fritz mentioned that there are places that do a good job of controlling firearm storage, and places that struggle to control it. Because of that, it's recommended to not allow firearms on the crew camp premises.

A suggestion for subsection #12 under 2.11.3.2, which addresses plans for site recovery, was brought up by a guest to have a timeline for site recovery. Fremgen explained that it is written in the language that the site recovery has to be done within the timeframe of their permit. The surety bond & insurance are kept in place throughout their permit so if they don't get it recovered by the end of the permit, then the county could go after the surety bond to cover costs of finishing the site recovery.

Bakken read section 2.11.5 about prohibited housing types. It says that "use of recreational vehicles or mobile homes as PMQ's in a crew camp is prohibited". Katie A. asked if there is a definition of recreational vehicles mentioned. Bakken read the definition of "recreational vehicles" from the regular zoning ordinance. Fremgen mentioned that that definition means recreational vehicles are not considered crew camps, rather campgrounds. Crew camps are assembled by an owner or operator & offered to others for purchase as opposed to a campground that has slips where people bring their own recreational vehicles in. Katie A. raised the question of how to regulate whether or not a place is classified as a campground or mobile home park compared to a crew camp. She questioned that a person could move in a bunch of a campers or mobile homes & call them a campground or mobile home park in order to avoid the regulations of the crew camp ordinance. Dan B. points out that this section 2.11.5 spells it out that use of recreational vehicles or mobile homes as PMQ's in a crew camp is prohibited. Katie A. suggested looking over the zoning ordinances of campgrounds and mobile home parks to make sure they're tightened up as well.

Bakken started to read subsections 1, 2, & 3 under section 2.11.6.1 regarding prohibited activities. Under subsection #3, Schwartz made a comment that the language is hard a bit unclear and suggests re-wording it where it says "all residents and employees are prohibited from being convicted of any criminal offense on the crew camp premises or a felony regardless of the location of the offense". A guest raised a concern about discriminating against someone for doing a background check on someone for housing and ways to regulate that to avoid any allegations of discrimination. Amundson clarified that the intention of the wording of the subsection #3 in section 2.11.6.1 and letter C under subsection #8, section 2.11.3.2 say that if a resident is convicted of a criminal offense while being a resident suggests the resident being removed from the crew camp. It does not address the issue of any criminal offense prior to entering the crew camp. Suggestions were made to amend #3 under section 2.11.6.1 to make the language more clear.

Questions were raised about the redundancy of subsection #8 under section 2.11.3.2 and subsection #3 under 2.11.6.1 regarding criminal offenses. Fremgen and Casey B. clarified that Section 2.11.3.2 addresses the application contents that have to be required to be approved for a permit, whereas Section 2.11.6.1 is a requirement of the operator to regulate the site requirements after the operation is in use and that if action is not taken by the operator, the county would take action against the operator. A question of the language on line 134 was brought up by a guest to change the wording of "the offense <u>may</u> be immediately and permanently ejected" to "<u>shall</u> be immediately and permanently ejected".

Casey B. brought up a concern about #4 under section 2.11.6.1 which states "parking vehicles between the PMQ's is prohibited". Casey B. suggested adding language to that to address not just vehicles, but storage of materials, dumpsters, & not having apparatuses extending into that area. Fremgen pointed out in Section 2.11.6.2, #5 states "All PMQ's and common areas will be within 200 feet of an emergency service street or parking area served by a road that is at least 15 feet wide". Discussion took place that

the 15 feet minimum is too low and that the committee should look at increasing that distance with the objective of avoiding limitations on emergency services if an issue would occur.

Bakken continued with section 2.11.6.1, #5 which addresses pets. Sheriff Kaiser requested to not allow pets. Dale had a concern of prohibiting pets. Schwartz mentioned that the ordinance says that leaving a pet unattended is prohibited which makes it very difficult for a residence to have one while working. Fremgen mentioned that some places may have a house dog that has somebody watching it at all times during a day. Bensch mentioned that our ordinance may say that pets are allowed, but that doesn't say the operator of the crew camp can't prohibit them in their own regulations. Sheriff Kaiser commented that if pets are allowed, it should then be the problem of the operator.

Bakken continued reading through section 2.11.6.1, subsection 9. Under subsection 9, Duane Anderson, zoning commissioner, incurred about the statement that says "Operating a crew camp at which several criminal acts take place in any 12 month period is prohibited". Duane A. questioned the word "several" in that it seems to be vague. Fremgen said it was meant to be vague and asked if something more specific should be used instead. Amundson asked if the statement is even needed and there was agreement by others that it isn't needed since the ordinance prohibits criminals in another section of the ordinance so that if a criminal act takes place, that resident should be removed anyway. Other committee members agreed that the statement could be scratched.

Bakken moved on with section 2.11.6.1, #10. Katie A. raised the question that if a permit was to be revoked in relation to subsection #10, would the operator still be responsible for site recovery. Casey B. responded that the surety bond is held in place for the duration of the permit, so if early termination were to occur & the county was left to clean up the site, the county could go after the surety bond to cover costs for the site recovery. Katie A. then brought up a point that she doesn't want to see the operator get their permit revoked if one of their officers were to have a criminal act that doesn't affect the operation of the camp. Fremgen agreed to clean up the language of subsection #10 where it states "Felony conviction of the holder, or when the holder is a business association, any of its officers or directors is prohibited. Misdemeanor conviction of the holder or any of its officers or directors for conduct taking place on the crew camp premises or directly related to the holder's capacity to conduct affairs of the nature of a crew camp is prohibited". Fremgen stated that the language could be written to state either a felony or misdemeanor criminal act would have to directly affect the holder's ability to conduct affairs of the crew camp for it to be prohibited.

Bakken read through the rest of section 2.11.6.1, subsections 11, 12, 13, 14, & 15. Discussion took place about the process of revocation of a permit.

Bakken started to read through 2.11.6.2, subsections 1 & 2 under mandated conditions. Discussion took place about the crew camp having a setback of 1320 feet (1/4 mile) from an occupied structure. The ordinance currently states "A crew camp's perimeter fence must be set back 1320 feet from every other property owner's occupied structure(s)". Melissa Gleason stated that she doesn't believe 1320 feet is enough. Amundson asked if a variance could be written in the language so that if an instance were to come up where a property owner gave written consent to a crew camp to be within range of the setback, it could be allowed. Another guest brought up a concern that the way the ordinance is currently written; the 1320 feet could be sharing property lines if the landowner has a parcel of land that is large, so she suggests that having the 1320 feet away from the property lines of residences would be better. Casey B. talked about the crew camp he toured in the western part of the state where there are multiple residences within 1320 feet and how it seems that noise wasn't an issue, stating one of the sounds heard are generators. Fremgen did state it is in the ordinance that if generators are used, they must be sound proof. Melissa Gleason reminded the board that not all crew camps are hospital clean & quiet like the one that was toured. It was commented that that is why the board is trying to put this ordinance in place to put requirements on the crew camp operator. More discussion took place about

having the setback from property lines or occupied structures. Duane A. mentioned that a property owner that may have bought or platted out some land, but has not made developments on yet, should be included so that the setback includes the platted land that may be developed on in the future. Suggestions were made to make it clear in the ordinance to have the setback be made from any platted land property lines, and if the land is not platted to have the setback from the occupied structure.

Bakken continued with section 2.11.6.2, subsections 3, 4, 5, 6, 7, 8, & 9. Katie A. asked about the redundancy of some of the statements in this section that are listed in another section. She questioned if they were needed or could the redundant statements either be taken out, or be written as the same in other sections to avoid any confusion.

Bakken continued presenting the ordinance with sections 2.11.6.3, 2.11.6.4, 2.11.6.5 and 2.11.7. A guest brought up questions about number of beds estimated for any crew camps, number of workers, & timeline of the projects. Casey B. answered that the number of beds depends on the contract. CHS is looking at a 2-3 year construction process and the ethanol plant is looking at an 18 month process. The ethanol plant is estimated to have around 700 construction workers through the duration of the project & the fertilizer plant is estimated to have around 2000 construction workers through the duration of the project.

Fremgen mentioned subsection #2 under 2.11.7 where it states "The $10,000 ceiling on administrative sanctions specified in Appendix II is hereby expressly increased to $50,000 for purposes of crew camp violations". Fremgen mentioned that there is a $10,000 ceiling on the administrative sanctions for the cabins on the reservoir, so he increased that to $50,000 because the dollar amount for the outlay of a crew camp is going to be a lot higher than that of a cabin on the reservoir. Katie A. asked if the sanction can go over $50,000 if there are multiple sanctions/violations where costs would surpass that amount. Fremgen explained the process and said that if there was an issue that cost the county more than $50,000, the county can fall back on the bond.

Katie A. had a question about the administration fee in Section 2.11.6.5. She asked if there was going to be any provisions that state how that fee will get distributed among the political subdivisions. Casey B. answered that it will have to be taken on a case-by-case basis with one of the factors being if the camp is located on township, county, or state road. The county will look at getting into a road maintenance agreement with a township to handle the maintenance of roads. Marks asked how the $300 per bed administration fee was decided. Bakken explained that the fee is to cover expenses of the services provided, such as fire protection, police, protection, road maintenance, etc. Comparisons to other crew camps administration fees were found to be anywhere from $100 per bed to $500 per bed.

Katie A. questioned again that if an operator's permit is revoked due to a violation, can the county use the operator's surety bond to cover costs of site recovery. Fremgen mentioned he doesn't think it's clearly identified in the ordinance. Casey B. mentioned that the county could still go back on the bond if there is proof that the ordinance was violated during the course of the bond while the bond was active. Amundson referenced back to section 2.11.6.3 about the surety bond where it states "The bond must assure the holder will conduct its construction and operation in conformity with this ordinance and that the holder of a crew camp permit will satisfactorily restore the site prior to the expiration of the temporary crew camp permit". Amundson stated that we should be covered by the provisions stated in section 2.11.6.3 if an issue relating to revocation of a permit were to occur.

Amundson incurred on how the $1,000,000 insurance policy was determined in section 2.11.6.4 and stated that a lot of private individuals have more of a policy than that. Fremgen mentioned raising that amount to at least $2,000,000.

The committee needs to address which zones the crew camps will be allowed in. Currently, the ordinance states they are only allowed in industrial zones. Fremgen mentioned that there is a provision for temporary work camps under Section 3.6, industrial zone, which needs to be taken out and there needs to be provisions made for crew camps, and then the committee has to figure out which zones to allow the crew camps in. Amundson verified that as it is stated right now, townships would have to change their zoning to industrial for a temporary period in order for the crew camps to come in. The county is looking at getting a conditional use implemented that would make the process easier than changing a township's zoning class. Discussion took place on the process of townships relinquishing their zoning authority & how that would work & they will further discuss the issue at the next meeting.

Harold called the meeting to rest and to continue discussion at the next zoning board meeting. He thanked everybody for coming and providing input.

Dale Marks made a motion, seconded by Brian Amundson to adjourn the meeting at 10:40 AM.

Dustin Bakken
Zoning Administrator