Stutsman County Planning and Zoning Commission Minutes – July 3, 2013

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

Not present were: Chairman Harold Bensch & Duane Andersen

Marks made a motion, seconded by Schwartz to approve the minutes from the May 1, 2013 meeting. Motion Carried.

It was agreed upon by the board to go over the amended changes rather than the entire document.

Bakken explained a wording change on line 79, section 2.11.3.1, changing the word "disburse" to "forward".

Bakken talked about the changes under section 2.11.3.2. The first change added "including but not limited to those" on line 101 referring to a copy of all required permits required in the application. The second change adds sub-subsection A to #4 that says "Plans must describe a facility numbering system for all structures that clearly identifies each structure and all roads in the facility for purposes of emergency responses. PMQs shall be numbered from low to high in proximity to the main entrance that is clearly and easily identified on the side of each structure using reflective lettering and/or numbering."

Bakken read over the amendment to subsection #8 under section 2.11.3.2 regarding weapons on the premises. Sub-subsection A was amended to say "Storage or possession of a firearm or a dangerous weapon as defined at NDCC 62.1-01-01 or its successor, in a PMQ or other part of the residential area is prohibited. Storage or possession of a firearm on the crew camp property is prohibited except when the firearm is lawfully possessed, locked inside or locked to a private motor vehicle in a parking lot, and the person possessing the firearm is lawfully in the area. See NDCC 62.1-02-13. Possession of secured firearm—Prohibition by employer prohibited." Questions were brought up about the language of "locked to a private motor vehicle", asking if it should read "locked in a private motor vehicle". State's Attorney Fritz Fremgen explained that this is the language that was taken right out of the ND Century Code. Buchanan questioned how you can lock a firearm to a vehicle. Fremgen explained a cable & lock type of system that is used to disable the use of a firearm.

Dustin continued to line 146 under subsection 8-C of section 2.11.3.2 regarding any resident or employee committing a felony. Wording was change to state that any conviction of a criminal offense or felony regardless of the location of the offense must be immediately and permanently ejected.

Bakken read the amendment to line 149 under subsection 9 of section 2.11.3.2 that now reads "A statement describing adequate methods of providing these utilities and services." The word "adequate" was added.

Bakken moved on to section 2.11.6.1 under Prohibited Activities explaining that subsection #1 repeats the language about firearms into this section.

Under subsection #5 of section 2.11.6.1, an amendment was made that states "Pets are prohibited."
Under subsection #6 of section 2.11.6.1, an amendment was made that adds the sentence "Storage of equipment or materials that are not directly related to the crew camp's purpose of housing workers is prohibited."

In subsection #9 of section 2.11.6.1, the statement "operating a crew camp at which several criminal acts take place in any 12 month period is prohibited" was struck out of the ordinance because of the word "several".

Under Subsection #10 of section 2.11.6.1, language was struck out that stated "Felony conviction of the holder or when the holder is a business association, any of its officers or directors is prohibited."

Under subsection #15 of section 2.11.6.1, the sentence was amended to state "Failure to pay on time taxes, fees, Workforce Safety and Insurance premiums, or employees is prohibited." Amundson questioned if the crew camp owner is required to pay WSI on all the residents. It was clarified that it is just on the employees of the crew camp, not residents that are not working for the crew camp.

Bakken continued to section 2.11.6.2 about Mandated Conditions. Under subsection #2, Bakken read the amended statement, "A crew camp perimeter fence may be set back less than 1,320 feet when the applicant/holder has obtained waivers from any landowner directly affected and the applicant/holder provides them to the County Board who then duly approves the exception. In the case of a platted subdivision and/or auditor's lot that does not have any structures built, the 1,320 foot setback must be from the exterior property line of the platted subdivision and/or auditor's lot to the nearest point on the perimeter fence." Melissa Gleason commented that she thought the discussion that took place in the last meeting stated that the setback should have been from the property lines of any platted land, whether it had a structure or not. Discussion took place on setbacks, whether to make it from property lines, platted lines, or keep it how it's written. Brian mentioned that he thinks the setback should be equal across the board, so that it should be a setback of 1,320 feet from any occupied structure. Schwartz thinks that the setback should be from the property line of any occupied structure & leave it up to the property owner if they want to have a waiver to allow variance for crew camps to be closer if they choose. Katie mentioned that she thinks it should state the setback should be from the property lines of any platted land, and from the structure of any unplatted land. Dan brought up the issue that some of the zoning areas the board decides to allow the camps in might take care of some of the issues later on in the meeting. It was agreed upon to table the discussion of setbacks until later in the meeting when the board discusses which zones crew camps will be allowed in.

Bakken continued with line 255-256 under subsection #5 of section 2.11.6.2. An amendment was made to change the road width inside the premises from 15 feet to 25 feet. Also, the statement "The 25 foot road must be kept passable and clear of debris and obstructions" was added to the subsection.

An amendment was made to subsection #6 of section 2.11.6.2 that adds the statement "The numbering scheme must comply with the requirements specified in section, "2.11.3.2 Application Contents" and the number plates must be kept clean and free of obstructions."

Bakken read the changes in section 2.11.6.3 concerning the Surety Bond. On line 284, "Final issuance and" was changed to "Initial issue, retention, and/or". Also, starting on line 287, the statement "The bond must be structured to require payment from the surety to Stutsman County for any failure of the applicant/holder to uphold an obligation whether mandated or prohibited, set out in this ordinance or other law" was added.

In section 2.11.6.4 regarding Liability Insurance, the policy amount was changed from $1,000,000 to $2,000,000.

Under section 2.11.6.5 about the Administration Fee, a statement was added that says "The administrative fee does not relieve the holder/applicant or owner of the land from the obligation to pay property tax on the earth but does relieve the holder/applicant or owner from paying tax on the

improvements on the land made for the purposes of the crew camp operation and only so long as there is a crew camp permit".

Bakken read the addition to section 2.11.7 regarding Revocation, Suspension, and Administrative Sanctions. Subsection #4 was added to say "The surety bond must remain in place until the site is recovered, even if the permit is revoked, suspended, expires, or is not renewed".

Dustin began reading through the definitions under the Integration Concerns section beginning on page 10. Katie raised the question if there is a definition of a mobile home park. Dustin read through the definition of Mobile Home Court. Katie commented that she still has concern that somebody will come in and say that they are putting in a Mobile home court rather than a crew camp, in order to avoid the regulations that go along with this crew camp ordinance. Fritz explained that the ordinance doesn't address campgrounds or mobile home parks & that there are state guidelines on campgrounds & mobile home parks already in place, but they are written rather poorly. Brian suggested that these issues of campgrounds & mobile home parks be addressed in another zoning meeting, rather than the zoning meeting for crew camps. Guest Gary Pearson brought up that he doesn't think the definition for crew camps clearly separates it from mobile home parks. Fremgen explained that the PMQ is the operative definition & further explained that it is very tricky to address it correctly. He explained that the primary issues with crew camps that are to be addressed are how they are assembled. He continues to say to think of these as being high density, quick pop-up, & temporary structures & Fremgen believes he has addressed all of these issues in the definition of "portable modular quarters" (PMQ). Stutsman County Auditor Casey Bradley added that we already have an ordinance on mobile home parks, & that other structures that require a cement slab & footings below the frost line require a building permit. He stated that the primary concern of the crew camp ordinance is to make sure it is safe and sanitary. Casey mentioned that campgrounds are a separate use; it is a recreational use & wondered if the ordinance should include the regulation of campgrounds but he felt the overall consensus of the board was not to include them in this ordinance.

The board moved on to the conditional use of each of the zoning areas. Amundson started with the agricultural district. Gary Pearson stated that he believes there is a problem that this amendment is under accessory uses & that crew camps are not accessory uses in any of the zones, except for industrial. Bakken explained that accessory uses are in a separate section in the regular zoning ordinance so this crew camp ordinance does not fall under accessory uses. Crew camps have their own section of the overall zoning ordinance. Bakken mentioned that in the letter he received from Pearson, the definition of accessory use is something that is subordinate or incidental. Bakken doesn't believe it's a subordinate or incidental use in any of the districts, but it would be allowed as a conditional use. Pearson further explained that he doesn't believe crew camps are acceptable as a conditional use. Dan commented that he doesn't have a problem limiting the crew camps to specific zoned districts, specifically commercial & industrial zones. Katie commented that she thinks that with all the restrictions that are being brought up & limiting the zones to locate, the county is opening itself up to a lawsuit if it is trying to zone crew camps out of existence, which is why the board is getting together in order to get the crew camp ordinance set up in certain zoning districts. Melissa Gleason commented to the board to keep in mind that wildlife will also get affected by crew camps if they come in & to keep that in mind for when the board decides what districts they will allow crew camps in.

Amundson moved on to decide which districts the ordinance will allow conditional uses in. He started with the agricultural district, section 3.2. Katie made a motion, Ryan Odenbach seconded, to allow a conditional use in an agricultural district. Schwartz & Marks voted in favor. Buchanan opposed. Motion carried.

Amundson moved to Rural Residential Zone, section 3.3. Katie made a motion, Schwartz seconded, not to allow conditional uses in a rural residential zone. Odenbach & Marks voted in favor of not allowing conditional use in a Rural Residential Zone. Buchanan opposed. Motion Carried.

Amundson moved to Residential Community Zone, section 3.4. Katie asked what this zone is. Bakken & Amundson explained that it would be your non-incorporated towns within the county. Katie made a motion, Schwartz seconded, to not allow a conditional use in a Residential Community Zone. Motion carried unanimously.

Amundson moved on to Commercial Zones, section 3.5. Schwartz made a motion, Odenbach seconded, to allow conditional uses in Commercial Zones. Buchanan commented that not all commercial districts look like a factory site, specifically mentioning the Midway township location on the corner of I-94 & Highway 281 By-pass that is now being identified as commercial. Katie added the question of if you would want crew camps located in your retail area. Bradley replied that he believes that all of the commercial zoning in Midway township fall within the one mile of Jamestown's city limits which falls in their zoning authority. Amundson added that the camps would still have to abide by the 1,320 foot setback of the territorial boundaries. Amundson asked if there is further discussion, Marks called the question. Vote was taken & motion carried unanimously to allow a conditional use in Commercial Zones.

Marks left the meeting at 9:11 am.

Amundson moved to section 3.6, that being Industrial Zones. Bakken explained the highlighted area, subsection #2, lined 372-376, under Conditional uses of Industrial Zone. He explained this is the current language under industrial zone right now, so he suggests its best if the board strike that out and leave it as a conditional use for crew camps with all of the regulations the ordinance now has. Buchanan moved to approve, Schwartz seconded, to eliminate lines 372-376 under subsection 2 of the current draft of the zoning ordinance. Vote was taken & motion carries unanimously.

Buchanan moved to allow crew camps as a conditional use in Industrial Zones under section 3.6. Odenbach seconded. Motion carried unanimously.

Amundson got to the last of the zoning districts, which is Recreation/Open Space Zones, section 3.7. Odenbach motioned, Schwartz seconded, to not allow the crew camps in Recreation/Open Space Zones. Motion carried unanimously.

Amundson continued the earlier discussion of the setback under section 2.11.6.2, subsection #2. Odenbach asked to re-state the earlier suggestions. One of the options brought up was to have the setback from the property lines of all properties. Another option was to have the setback from the property lines of all platted areas & 1,320 feet from any occupied structures on unplatted areas. The last option brought up was to leave it as it is written which states the setback must be from the property line of platted areas that do not have a structure, & from the occupied structure of every other parcel. Schwartz & Andersen suggested putting the setback of 1,320 feet from the property line of all platted land, whether vacant or having an occupied structure, along with having the 1,320 foot setback from all other occupied structures. Amundson said the only problem with that is that it seems that a property owner that has an occupied structure on unplatted land is being penalized for not having his property platted. Katie made a motion, Schwartz seconded, to have the 1,320 foot setback from all platted property lines, & 1,320 feet from all other occupied structures. Dustin clarified that the only language that needs to be changed as it is written is taking out the statement "that does not have any structures built" out of the subsection so that it will now state "In the case of a platted subdivision and/or auditor's lot, the 1,320 foot setback must be from the exterior property line of the platted subdivision and/or

auditor's lot to the nearest point on the perimeter fence." No further discussion on the matter. Vote was taken and motion passed unanimously.

Amundson asked if the zoning committee will have one more reading before sending it off to the county board. Fremgen explained that the zoning board can choose to pass the ordinance on, with today's changes, to the county board to take into consideration & if the county board doesn't feel the ordinance is ready, they can send it back to the zoning board. Bakken clarified that the only changes needed to be made are the setback, the districts that allow conditional uses, & the definitions will be added to the definitions of the regular zoning ordinance. Schwartz made a motion to forward the ordinance on to the county board, Odenbach seconded, motion passed unanimously.

Schwartz moved to adjourn the meeting, Katie seconded. All were in favor. Meeting adjourned at 9:30 AM.

Dustin Bakken
Zoning Administrator