

EUREKA TOWNSHIP PLANNING COMMISSION

DAKOTA COUNTY

STATE OF MINNESOTA

Eureka Planning Commission Special Meeting of January 20, 2015

Call to Order

Planning Commission Chair Hansen called the meeting to order at 7:00 p.m. Planning Commission members present: Chair Hansen, Commissioner Lu Barfknecht, Commissioner Allen Novacek and Commissioner Phil Cleminson. Commissioner Jennings was absent. Supervisor Mark Ceminsky attended as Town Board liaison. See attached sheet for additional persons in attendance. Deputy Clerk Cheryl Murphy recorded the minutes.

Approval of the Agenda

Commissioner Cleminson made a motion to approve the agenda. Commissioner Novacek seconded. Motion carried.

Vermillion River Watershed Permitting Process:

Chair Hansen stated that the first item before the Planning Commission is the Permit Application that he and the Deputy Clerk amended to include the Watershed Permitting Process for the Vermillion River and the Cannon River. Edited to the permit on pages 1 and 2 are boxes to check for the NCRW or VRW. Page 3 is the Storm Water Management Plan that the applicant needs to fill out and provide their silt fence design for storm water runoff erosion control. On the Permit Information Checklist, an addition made to line 9A-Storm water runoff control; Line 1B addition for the Watershed District. Commissioner Barfknecht distributed items from the Vermillion River Watershed Checklist and Questionnaire that she would like to see incorporated in our application, changing the headings and the correct verbiage. Chair Hansen distributed a packet that shows the correct way to install a silt fence. Chair Hansen stated that the rules would apply for both watersheds. There was much discussion on what to include in the application. Brian Watson has stated that we look at erosion control in all the watersheds.

Chair Hansen stated that part of the application from Vermillion was already added to the one the Deputy Clerk created for Eureka. Commissioner Barfknecht requested we add the owner's name and property ID to Page 3, just in case that page gets separated from the application. There was additional discussion on what else should be included in the application among the Planning Commission members.

Building Inspector Darrel Gilmer will be doing the Watershed inspections for Eureka Township. He is currently doing inspections for two other townships and is taking classes

and refresher classes specifically in regard to the Vermillion Watershed. Mr. Gilmer will do a plan review in the permit process and let the resident know where control measures are needed and to be placed. Everything will go to the building inspector to implement changes. Commissioner Barfknecht asked if we should have a copy of Mr. Gilmer's documented checklist that he will use. Chair Hansen stated that Mr. Gilmer would do a site inspection to determine where erosion control measures need to be enforced and to verify the setbacks. Before he will issue a permit, erosion control methods need to be in place.

Chair Hansen stated that no permits will be issued until the Building Inspector signs off on the permit. The Building Inspector will not issue a permit unless the silt fence is in place and is installed correctly. Commissioner Barfknecht would like to have some type of letter of approval like was previously issued by Vermillion River Watershed before we issue a permit. Chair Hansen stated that the letter from the Vermillion River Watershed is no longer needed. The Building Inspector will not issue the permit unless everything is in order.

Supervisor Ceminsky commented that the process that used to go to Travis Thiel or Mark Zabel from the VRWJPO will now be done in house. The Building Inspector will complete a plan review of the erosion control. If he feels that the erosion control is incomplete, he will contact the applicant to ensure that additional measures be implemented. A permit will not be issued until the site inspection has been completed and the proper erosion control methods are in place and installed correctly.

Nancy Sauber 9445 225th Street West stated that Brian Watson specified many times not to approve any permits contingent upon what the applicant may do because it gives the applicant legal standing. She questioned whether the Township would be better off to have the Board **not** approve the permit until the Building Inspector has done the site inspection for the runoff. Supervisor Ceminsky stated that unless the applicant knows he will be getting a permit, the erosion control measures most likely would not be put in place. Ms. Sauber stated that the Planning Commission could recommend for approval, the silt fence could be installed and then the Town Board could approve. Nancy would like to ask the attorney the question and Chair Hansen agreed that we could consult the attorney.

Chair Hansen stated he would like to include the items that Commissioner Barfknecht brought in and incorporate those items into the application, changing the headers and the verbiage. He would also like to see the pages describing the correct way to install a silt fence added as well.

Commissioner Cleminson would like to add the same NCRW and VRW checkboxes on page 2 of the new application under "*Permits Required/Inspections Required*" and under "*Approvals and Permits Required*". Cheryl to make all suggested changes to the application.

Changes suggested for the Watershed Building Application:

- Page 1 – *stays as edited.*
- Changes to Page 2--Adding checkboxes for *NCRW* or *VRW* to: *Permits Required/Inspections Required* and also to *Approvals and Permits Required* under the “do not write below this line” header.
- Page 3 –adding a *site address* and *property id number* under the owner’s name (as on page 1) in case the pages get separated.
- Pages 4 through 7 will be the *Erosion and Sediment Control Checklist and Questionnaire*, changing the headers and the verbiage to coincide with Eureka Township.
- Pages 8 and 9 will include *Permit Information Checklist*, adding #9A Storm Water runoff control and #1B –adding checkboxes for the Watershed district-either *NCRW* or *VRW*.
- Pages 10-17 would be the diagrams describing the correct way to install a silt fence.

The Deputy Clerk was directed to make suggested changes for Town Board review at their February meeting.

Chair Hansen made a motion to send the application with the suggested changes on to the Board for both the Vermillion Watershed and the Cannon River Watershed and to follow the same procedures for both watersheds. Commissioner Cleminson seconded the motion. Motion carried with Commissioner Barfknecht abstaining.

Agritourism Ordinance:

Commissioner Barfknecht stated she believes one of the things that came up at a previous meeting was thresholds-was it not the Attorney’s recommendation that any Agritourism permit require an IUP? She stated that an IUP would alleviate a lot of things the Planning Commission is struggling with. Chair Hansen said he believes that was his recommendation at the beginning. Commissioner Barfknecht stated that the Attorney suggested on more than one occasion that ***all*** Agritourism require an IUP. Chair Hansen reminded Commissioner Barfknecht that the experts we had come to the meetings did not recommend an IUP.

Chair Hansen made a motion to strike line Item 13 and 14, Page 3, Chapter 4-Permitted Uses, Section 1 Agritourism. The new Line Item 13 to be replaced with “*All Agritourism activities shall be required to follow the Outdoor Assembly Ordinance 5, Chapter 3, Section 1, 2, and 3*”. Also replace Line Item 10 on page 4, Section 2, Agricultural Direct-Market Business with the same verbiage. Commissioner Novacek seconded the motion for discussion. Chair Hansen expressed that his argument for replacing the verbiage is that he does not see how it can be enforced as written. The language does not work and the Attorney also expressed his views on the matter. The Outdoor Assembly Ordinance is already on the books and it will replace that and work fine.

Nancy Sauber, 9442 225th Street West wanted to remind the Planning Commission that both Sherry Buss and the Attorney had the suggestion to regulate or enforce it based on cars parked on the property during the day and using this as a way to limit the traffic. There was much discussion on this topic.

Commissioner Barfknecht expressed her view that the Outdoor Assembly Ordinance does not apply in this case. Commissioner Novacek feels the Outdoor Assembly Ordinance handles all of the questions and it is already on the books. Commissioner Cleminson feels that same as Commissioner Novacek, but would like to add a friendly amendment offering to add “Sections 1-9” of Chapter 3 of Ordinance 5 to the last sentence (to read: “*All Agritourism activities shall be required to follow the Outdoor Assembly Ordinance 5, Chapter 3, Sections 1-9*”). Chair Hansen accepted the friendly amendment to change the last sentence, *Sections 1-9*, as did Commissioner Novacek. Motion carries for the friendly amendment with Commissioner Barfknecht voting nay. Commissioner Barfknecht stated she has many concerns and strongly disagrees-it is not an assembly, it is marketing. Commissioner Novacek called the question.

Chair Hansen requested to vote on the motion on the floor. “*Strike line Item 13 and 14 Chapter 4-Permitted Uses, Section 1 Agritourism. The new Line Item 13 to be replaced with 'All Agritourism activities shall be required to follow the Outdoor Assembly Ordinance 5, Chapter 3, Sections 1-9'. Also replace Line Item 10 on page 4, Section 2, Agricultural Direct-Market Business with the same verbiage.” Motion carries with Commissioner Barfknecht voting nay.*

Commissioner Novacek would like to make an exception to Line Item 12 on page 3 to exclude seasonal lighting. Chair Hansen made a motion to add, “Seasonal lighting is exempt” to Line Item 12 on page 3. The new item 12 would read as follows: “*No external lighting is to be used for the Agritourism use, except as required by building code. Seasonal lighting is exempt*”. Commissioner Novacek seconded for discussion. Commissioner Barfknecht does not feel that it needs to be changed and should be left as written—it should not be a part of the Agritourism Ordinance. There was much discussion among the Planning Commission members on seasonal lighting.

Chair Hansen called a question on the motion. Commissioner Cleminson offered a friendly amendment to add, “*Decorative seasonal lighting is exempt*” in all sections of the Ordinance dealing with outdoor lighting. Commissioner Novacek accepted the friendly amendment. Motion carries with Commissioner Barfknecht voting nay.

It was noted there was a typo in the Agritourism Ordinance on **Page 4 Item 2** – 100 square feet of retail display floor space should read, “*200 square feet of retail display floor space.*” Change noted and will be corrected.

Chair Hansen stated he would like to set a public hearing for the Agritourism Ordinance after we get the document cleaned up and sent to the Attorney for him to put his “legal spin” on it. Chair Hansen suggested a public hearing be set for February 3, 2015.

Fritz Frana - 23655 Jersey Court, Lakeville, stated that the Board requested to see this Agritourism document *before* the public hearing.

Nancy Sauber - 9442 225th Street West stated that Mr. Frana is correct - the Board requested they review the document before a public hearing is set.

Chair Hansen said that statement is in direct conflict to what he was told. His conversation with the Board Chair was to wrap this up and have it to the Board at their February meeting. The Board Chair confirmed that it was totally up to the Planning Commission when to set the public hearing. Chair Hansen made a motion to set a public hearing for February 3, 2015, and to have the Deputy Clerk send the draft ordinance with our changes to the Attorney immediately, and to request the draft back to within one week before the public hearing. Once the Deputy Clerk receives the document back from the Attorney, she will forward to the Planning Commission members and to the Board members as well. Chair Hansen stated that if there are any problems, a special meeting could be set and/or cancel the public hearing. Commissioner Novacek seconded the motion. Motion carries with Commissioner Barfknecht voting nay, letting it be known she feels there is not sufficient time for the Attorney to get it back to us so that we can review it one week before the public hearing.

Commissioner Novacek made a motion to adjourn the meeting. Commissioner Cleminson seconded the motion. Motion carries. Meeting adjourned at 10:40 PM

Respectfully submitted,

Cheryl Murphy, Deputy Clerk
Eureka Township

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