

Planning and Zoning Commission Minutes

February 7, 2022

Meeting was held at the McKenzie County Courthouse Commissioner Room in Watford City, ND and called to order at approximately 5:00 pm.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Members Present: Butch Fleck, Cody Knetzger, Craig Hystad, Eva Hepper, John Irwin, Kathy Skarda, Tim Transtrom

Members Absent: Heidi Brenna, Matt Beard

Staff Present: Planning & Zoning Director Sandee Kimpel, Planning Attorney Ari Johnson, Planner Dana Roff, Planner Candy Lundgren, Code Enforcement Officer Logan Innes, Administrative Assistant Cindy Jensen

Others see sign in sheet at end of minutes.

Motion to Approve January Agenda As Amended; Motion by Craig Hystad; Second by Eva Hepper. Voice Votes: All Ayes

Motion to Approve January Agenda As Amended Passes

APPROVE AGENDA

Kathy Skarda stated I would like to add a couple Discussion items to the Agenda. The first one I would like to add is the discussion of a resolution to ensure that the county is free from any legal challenges if we haven't been having practiced code enforcement for a little while and that can be found on page 17 and 18 of the 2015 McKenzie County Planning & Zoning Workshop, and I would like to just discuss that I know we'll have to make sure that we get it reviewed and see how it all works and if we actually do need it by a County Attorney, but it is in the workshop. I'd like to put that on the agenda so we can research it and find out. I would also like to add a Discussion on the Requirement for Permit for the Lay Flat Water Lines in an Organized Township that does not allow the County to have Planning and Zoning or Building Authority.

Motion to Approve Amended Agenda with the Added Discussions Items of Code Enforcement that has not been practiced for an extended amount of time and Layflat Water Line Permits in Organized Townships. Motion by Eva Hepper. Second by Craig Hystad; Voice Votes: All Ayes;

Motion to Approve Agenda as Amended Passes.

Director Kimpel stated I'm not positive that the last agenda from January was approved so I don't know if that's an issue. If you look at the Approved Agenda from January, the motion to Approve Agenda was kind of circled around, so I don't know if this is something that had to be changed.

Motion to Approve January Agenda as Amended; Motion by Craig Hystad; Second by Eva Hepper; Voice Votes: All Ayes;

Motion to Approve January Agenda as Amended Passes.

Director Kimpel stated we were trying to make sure we didn't miss anything and absolutely could not find it. **Eva Hepper** asked if the additions to that Agenda are included as well. **Director Kimpel** stated I think it was just on the minutes. There was some confusion.

APPROVE PREVIOUS MEETING MINUTES

Motion to Approve Minutes as Presented; Motion by Kathy Skarda; Second by Cody Knetzter; Voice Votes: All Ayes;

Motion to Approve Minutes as Presented Passes.

CODE ENFORCEMENT

Logan Innes stated I have nothing for violations as it right now, but I had been working along with Director Kimpel on previous matters from before I started updating and keeping bonds current, doing Conditional Use Permit Final Inspections as well as yearly inspections that were overdue and I've been working alongside Dana and Candy with doing proper paperwork in a timely manner and they carrying out inspections of the Conditional Use Permits that are approved.

Kathy Skarda stated so looking and like the guys or in the grading I should say. Did we were at one time it said that Connor Bain was having a variance for his house that was supposed to be completed is that he would still be considered out of compliance, correct? he has not completed it I haven't seen anything come across. I don't know.

Director Kimpel stated so he is working on getting a survey so he can be prior to applying for his variance.

Kathy Skarda stated Code Enforcement Case #219, Arnegard Treatment Center. In the September 13th we gave Ortiz till October 11th to have his fencing done that he was supposed to have done. At the October 11th Planning & Zoning Board Meeting, he said that he was having fence supply delivery delays. Did that ever get approved?

Director Kimpel stated I have reached out to him within the last two weeks, requesting an update on the delivery of the materials and I got, "The materials have been ordered. He's supposed to be emailing me a copy of from, I think it was Home Depot that was his supplier.

Kathy Skarda stated that was supposed to have been done in December. **Director Kimpel** stated I understand 100%. If he's struggling with the supplier, he needs to show that to me. That's why I've asked him for confirmation that Home Depot did in fact order the correct materials.

Kathy Skarda stated after you receive the documentation, will you bring it before the board, so we can review his code enforcement, review it and see if he's actually Approved. **Director Kimpel** stated so that was the one that I brought for revocation and you guys had given him the extra time. So yes, this will be brought before you guys because to me he has had years.

Kathy Skarda stated I just was wondering because. It didn't say what date we were going to have him come back in.

Director Kimpel stated right it was left open-ended on this, because of the material supply and demand.

Kathy Skarda stated I just didn't see anything and it's been a couple months. **Cody Knetzger** stated it was my understanding that he was supposed to be checking in. **Director Kimpel** stated he is supposed to be. I have reached out to him in the last two weeks.

Butch Fleck stated if you're lost, this is what this was going over at Arnegard. The guy is supposed to put a chain link fence around by a certain date and the material come in too short, so he had to reorder. If he did that, that's what the whole thing is.

Director Kimpel stated the fabric came in at 4 feet instead of 6 feet. All his poles for the fencing have been installed. So, the question is when the fabric is coming and when it can be installed.

Craig Hystad asked how are you coming along on that Evanson deal? **Ari Johnson** stated I finally got some time to draft up the motion and get it filed last week. The receiver has, I think, 21 days to respond to the motion under the Federal Court Rules. Then the judge will make a decision on whether to release the bond. I filed it as a

motion to either release at least the escrowed money according to our plan or order the receiver to reclaim the land. Then the receiver can go ahead and say why he doesn't want to claim it and tell the judge. Hopefully by our next meeting we will have an idea of the receiver's response.

Craig Hystad asked how about our other? **Ari Johnson** stated that's at the County Commission and not a Zoning issue. **Hystad** stated no, really, it's a court thing. **Johnson** stated we've got a judgment in that for a while, and it's a matter of deciding how to enforce it, but that's not a zoning issue.

PUBLIC HEARING

#01-22ZC Greg Oberhofer - #01-22 ZONE CHANGE - Greg Oberhofer. T-150N, R-98W, Sec 32; PID #203500600; 2492 125th Ave NW, Watford City ND

Candy Lundgren stated we have a Zone Change request from Greg Oberhofer. The reason for the request is he's requested a Zone Change from Agriculture to Light Industrial in order to build a shop to accommodate his future business. The address of this is 2492 125th Ave Northwest. The owner applicant Greg Oberhofer is in the audience now. It is existing Agriculture and the proposed to is Light Industrial. It's 2.60 acres and he just would like to build a shop there to accommodate his business. The Finding of Facts are all requirements for public notification have been satisfied. The applicant is the property owner. Property is not in an organized Township. The business is in good standing with the North Dakota Secretary of State. The surrounding land uses a mix of agriculture and Light Industrial. Per ordinance 3.8.11 number 17 the allowed uses are commercial truck parking and truck garages and all associated structure structures to service the same reclamation bond required. Bonds are a mechanism used to protect the county from unnecessary financial problems caused by property abandonment, contract agreements, and/or correcting violations. The property is adjacent to the Watford City ETA. The current Comprehensive Plan is Light Industrial and there is other Light Industrial zoning in the surrounding area. It is just South of another property that is Light Industrial there as well. It's all Light Industrial around him except one little property that is still Agriculture.

Kathy Skarda asked are there any residential properties near here or not, or is that completely surrounded by the Industrial?

Candy Lundgren stated it is completely surrounded by industrial except for that one little property it's another 2.6 acres to the South of him.

Kathy Skarda stated immediately to his South and that is Residential. Are there people living on there? **Dana Roff** stated it's Agriculture.

Dana Roff stated there is a house on the property to the North and also on the property to the South.

Cody Knetzger asked is this where that trailer house burned down. **Director Kimpel** and **Dana Roff** stated correct.

Kathy Skarda stated I was wanting that clarified. **Dana Roff** stated the manufactured home burned, last year sometime.

Kathy Skarda asked the landowners have been contacted both North and South.? **Dana Roff** stated yes.

Butch Fleck asked is it Light Industrial Zone all the way around that those two parcels. **Director Kimpel** stated yes. **Fleck** asked so it's not spot zoning or anything? **Director Kimpel** stated no. The entire parcel or entire area we are talking about is Light Zoned is Light Industrial all the way around. **Eva Hepper** asked so the one right below that is Agriculture. **Director Kimpel** stated yes, this little bitty piece is Agriculture. **Kathy Skarda** asked and he'll be the only one there. **Director Kimpel** stated he'll be the only one there.

Butch Fleck asked and the house to the north is on Light Industrial? **Director Kimpel** stated yes, because they just applied for a Zone Change and that went through in the fall. We just approved that sometime in the last six months, to be honest because I can't remember exactly when.

Craig Hystad stated and change the 15 to 150 **Butch Fleck** stated it is 150 here. Change the T-15N to T150N.

Motion to Approve #01-22ZC Greg Oberhofer - #01-22 ZONE CHANGE - Greg Oberhofer with 'T15N' changed to 'T-150N' on Staff Report Location, R-98W, Sec 32; PID #203500600; 2492 125th Ave NW, Watford City ND; .Motion by Kathy Skarda; Second by John Irwin; Voice Votes All Ayes;

Motion to Approve As Amended Passes

DISCUSSION ITEMS

ADMINISTRATIVE APPROVALS

TEMPORARY WATERLINES

Kathy Skarda stated as I was looking at the three Temporary Waterline Permits that have been presented here. As I was looking at the documents that we have, we just have the actual signed Acknowledgement, and we have the active permit that is presented to the Planning and Zoning Department. I was confused because I don't see where anybody could see if this was an Organized Township or Unorganized Township. The Application just says Beginning Parcel Number and Ending Parcel Number. How would we verify that? Because that'll lead into my next question where we have Townships that are concerned that we may be charging for Temporary Lay Flat Lines on Townships that do not have any county authority to do anything in their Townships.

Director Kimpel stated when these applications come to me and we have the Beginning Parcel and Ending Parcel, we pull this up on the map, turn the townships on. If this line were to run say this line were to run, this one does not. but say this line were to run through an organized Township that did their own Zoning, our approval would be from the beginning until the edge of that Township. We do not approve anything in a Township that does their own zoning. Under the Beginning Parcel Number and Ending Parcel Number, where it says 'Estimated Date of Frac', in that area and then on the backside of the sheet, if I need more room to write it the Townships Approval, that is very specifically mentioned that this Approval starts here and ends here.

Kathy Skarda stated they asked and they were just concerned about being charged, because they already pay the land owners to go across their land, and so they didn't think that the county had the authority to do so in their Township, where the County does not have any authority.

Director Kimpel stated yes. If we do not have zoning authority in that Township, we do not approve a Temporary Layflat in that Township. They have to reach out to the Township to take care of that.

Butch Fleck asked do they pay us the fee on our part and the Township on their part.

Director Kimpel stated, say the next one went into the organized Township. Our approval and our payment only goes from point A to the part of where our approval stops, and so there is a fee. If it continues on beyond what we approved then they need to work with the Township on the rest of that. We don't have anything to do with that at all. **Butch Fleck** asked and we get our full permit fee for part of it. **Director Kimpel** stated yes, it's \$350.00. We're not charging these companies based on the length of the line, it's just a flat fee for the line. So if you have one that's super long, we're not charging you more than somebody else. It is just a flat fee for the permit.

REPUBLIC -BLUE BUTTES ODOR CONTROL MANAGEMENT PLAN

A Discussion was held regarding the Republic Services, Blue Buttes Landfill proposed Odor Control Management Plan and other concerns from the residents. Representatives with the DEQ and Republic Services were present for the discussion. Written comments will be accepted by the DEQ until February 15th, then will be reviewed for possible inclusion into the plan.

Enforcement Discussion

Kathy Skarda stated Director Kimpel has arranged the training of the Planning and Zoning Board Member, Commissioners and any staff. In the book from our 2015 training, 'What if Enforcement hasn't been practiced?' is highlighted. It states "If Zoning Violations have not been enforced in your jurisdiction and now there is a need to institute enforcement, you may wish to have your elected officials adopt a resolution. This resolution will function as to neutralize any claims by future violators who wish to point towards a pass violation that occurred elsewhere and was never enforced. The resolution would be a tool to insulate your jurisdiction from legal challenges of acting in an arbitrary and capricious manner. Again, you will need to have your local attorney completely on board with this before starting." But is this something that means we have our Code Enforcement for sure? That's going to be out working full time. Is this something that we need to maybe do, because some of our Code Enforcement and Annual Reviews were not completed for a little while?

Ari Johnson asked I'm sorry, what are you reading from? **Kathy Skarda** stated McKenzie County Planning and Zoning workshop. Updated June 21st, 2015, McKenzie County. It is from the SRF Consulting Group Incorporated. **Johnson** stated I was never at that. **Skarda** stated I was reading that and wondered if maybe it is something we need to look at.

Ari Johnson stated to my knowledge, our staff keeps files on everything they do and they work to be consistent even with employee turnover on both in what they present to the Board for recommended Approval and Denial. With the Board's past decisions as well as with Enforcement so that Enforcement is done consistently between different instances. **Kathy Skarda** stated I was reviewing the Meeting Minutes from a couple months ago and send them to you and ask my question then. **Johnson** stated, that's fine. **Skarda** stated I thought we weren't doing any reviews for a while, and we weren't doing Code Enforcement for a while.

Director Kimpel stated it was not that they were not getting done and it wasn't that Code Enforcement was not getting done, it the amount of Conditional Use Permits and

things like that. I don't have the staffing to get everyone done all the time. We have done what we can do. It's never that they were not getting completed, is that maybe not all of them have been completed, but it's never that it was not getting done. It's just not all of them just due to the number of them. **Tim Transtrom** asked does it say that they have to be done annually? Where? **Kathy Skarda** stated in the Ordinance. **Transtrom** asked do you happen to know where? Reading through it, I couldn't find where it said, except for marijuana. **Director Kimpel** stated medical marijuana does require a yearly inspection per the ordinance. **Butch Fleck** stated we spent a lot of time on that.

ADJOURNMENT

The meeting was adjourned at 6:25 PM.

The next meeting of the McKenzie County Planning and Zoning Board will be held on Monday, March 7, 2022, at the McKenzie County Courthouse 201 5th Street NW, County Commission Boardroom at 5:00 PM.

