

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES

February 16, 2010

A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Assembly Chambers, Borough Administration Offices, 809 Pioneer Road, Fairbanks, Alaska. The meeting was called to order at 7:00 p.m. by Tom Marsh, Chairman.

MEMBERS PRESENT: Tom Marsh Tom Temple
 Jennifer Peterson Brian Flemming
 Nello Cooper Michael Wenstrup
 Pamm Hubbard

MEMBERS ABSENT: David Pruhs Ian Hebert

OTHERS PRESENT: Bernardo Hernandez, Director of Community Planning
 Jim Lee, Deputy Director of Community Planning
 Mark Mussman
 Melissa Kellner, Planner II
 Jill Dolan, Asst. Borough Attorney
 Marnie Long-Boehl, Secretary

A. ROLL CALL

B. MESSAGES

1. Chairperson's Comments:
 - **Mr. Marsh** stated that there is a 2010 Financial Disclosure Statement that needs to be turned into the FNSB Clerk's office by March 15, 2010.
2. Communications to the Planning Commission
 - **Mr. Hernandez** stated that the Design Standards for Vision Fairbanks work session was cancelled tonight because we are working with the City of Fairbanks, Steve Shuttleworth on changes to the standards. The City Council will be looking at this at a later date; then we will have a work session.
 - **Mr. Hernandez** introduced **Mark Mussman** as our new Planner III.
3. Citizen's Comments – limited to three (3) minutes
 - a. Agenda items not scheduled for public hearing.
None
 - b. Items other than those appearing on the agenda.
None

C. *MINUTES

D. APPROVAL OF AGENDA AND CONSENT AGENDA

Approval of Consent Agenda passes all routine items indicated by asterisk (*) on agenda. Consent Agenda items are not considered separately unless any Planning Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

MOTION: To approve agenda and consent agenda, including minutes of previous meeting by **Mr. Temple**, seconded by **Mr. Cooper**.

Objections

None

MOTION APPROVED

E. CONSENT AGENDA ITEMS

F. PUBLIC HEARING

CU2010-003 A request by the State of Alaska for conditional use approval of a storage facility in support of the Department of Fish & Game's professional offices in the Rural & Agricultural-5 zone on TL 300, TL 429 and TL 3311, Section 33, Township 1 North, Range 1 West. (**located north of College Road and east of the fairgrounds**)

Melissa Kellner presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed ordinance.

Ms. Peterson asked if staff's understanding of sight-obscuring screen means that they are covered on three sides and they have to do something about the back.

Ms. Kellner replied that the screening on three sides is adequate – they would have to work to screen the side that faces the fairgrounds.

Mr. Marsh asked why staff would require the Department of Fish & Game to screen the side facing the parking lot.

Mr. Hernandez stated that staff talked with the Department of Fish & Game and suggested the screening and they agreed - it also facilitates the natural feel of the area with proper landscaping.

PUBLIC HEARING OPENED

Christine Vaughan, Administrative Officer for Department of Fish & Game, agrees with the screening between the fairgrounds. Security is the main reason for going forward with the project. Where our storage and equipment is currently, there has been thefts and break-in.

Alexis Runstadler, Development Director for Friends of Creamers Field, the non-profit group that provides programming and events on the Creamers refuge. This location for the storage facility is the first choice that will have the smallest impact on the refuge and field that the birds use. Friends of Creamers Field support this location.

Tony Pfister, Project Manager for DOT, is here to answer any questions.

Mr. Cooper asked what was being stored in the storage facility – were there any explosives.

Ms. Vaughan replied “no”; the type of storage is boats, motors, field equipment, tents, and nets.

Mr. Cooper asked if there were any hazardous materials.

Ms. Vaughan replied a fuel tank but they use a special tank for storing fuel.

Mr. Cooper asked if there were any biological material.

Ms. Vaughan replied that the biological material is put in a freezer room but no bio-logical material will be stored at this facility.

Mr. Marsh asked if there were any more questions for the applicant.

PUBLIC HEARING CLOSED

MOTION Move to approve **CU2010-003** with four (4) Findings of Fact by **Mr. Temple**, seconded by **Mr. Cooper**.

Discussion

Mr. Temple concurs with Staff recommendations.

Mr. Cooper concurs with Staff recommendations.

Mr. Marsh commends Department of Fish & Game for trying to keep the storage out of the public eye and securing your equipment in a reasonable manner.

ROLL CALL

Seven (7) in Favor: **Mr. Cooper, Ms. Hubbard, Ms. Peterson, Mr. Flemming, Mr. Temple, Mr. Wenstrup, Mr. Marsh.**

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

PUBLIC HEARING

Ordinance 2009-55 An Ordinance Amending Title 15 in order to comply with the National Flood Insurance Program and adding Title 15 Offenses to the fine schedule in FNSBC 1.04.050.

Doug Sims presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed ordinance.

Mr. Cooper needed clarification about the changes in the fine structure – is the \$500 a one-time fine when you discover that they are out of compliance or will they get fined until the problem is solved?

Ms. Dolan stated there is a process built into Title 1 – there is a penalty and remedy section in the Draft Floodplain Ordinance that will allow FNSB to pursue other civil remedies like an injunction.

Ms. Peterson wanted an example on the variance #3.

Mr. Sims replied that an example for variance #3 would be boat houses – dry land storage for a boat.

Ms. Peterson asked about variance #2 – does this mean if you are on a small lot and everyone around you is out of compliance – you could be out of compliance as well.

Mr. Sims replied that it allows for the variance consideration – they would have to apply for a variance and that property could be eligible.

Ms. Dolan stated that the terms of the Code of Regulations limit the lot size because if you have a larger lot you can find a way to build within compliance.

Mr. Temple asked why Fairbanks was exempted as far as the basement was concerned in 1973.

Mr. Sims replied that there was a housing shortage due to pipeline construction. In 1973 the flood areas were more extensive than they are now – Moose Creek Dam was not near completion.

Mr. Wenstrup wanted clarification on the addendum – letter from Charles Knight. Why can't we just refer to 44CFR 60.3.

Mr. Sims explained that having borough regulations in our own local ordinance is user friendly and better enables us to serve the public.

Ms. Dolan stated that the CFR is not user friendly.

Mr. Hernandez added that it provides accessibility for the average person to find out what the regulations are.

Mr. Cooper asked about the exception for crawl spaces – would this permit the structures with day light basements.

Mr. Sims described what FEMA would call a day light basement.

Ms. Hubbard questioned the fine schedule – has staff thought about escalating fine schedules for people that don't want to comply.

Mr. Sims said that FEMA could black list the property from being eligible for receiving flood insurance if the owner continues to ignore violations.

Ms. Peterson asked about Mr. Knight's letter concerning the subdivision definition.

Ms. Dolan stated that FEMA doesn't have a definition of subdivisions in the Code of Federal Regulations – they require the Borough to regulate development and review subdivision proposals if there are more than 50 lots or 5 acres – we have to review them but the BFE data doesn't have to be on them.

Ms. Peterson asked about the paragraph on an engineer to certify the development plan - is more stringent than FEMA.

Mr. Sims replied that now when a builder builds – they are told what the construction standards are by the current Title. They are required to show that they have met the construction standards i.e. proper elevations are achieved.

Ms. Dolan added that there is an application requirement for certain types of construction – they have to certify that they are going to be in compliance.

Ms. Peterson asked if anything has been added to Title 15 that is more stringent than FEMA requirements.

Mr. Sims said that he mentioned them in his written staff report – one is the Certificate of Compliance.

Ms. Dolan stated that it does require us to obtain and maintain certain information on file but the Certificate of Compliance is not an explicit requirement in CFR.

Mr. Sims added that the critical facility is added to the ordinance – a definition was added. This is not in the NFIP regulations. It is added because if the Borough is asked to join the community rating system – the community that has these provisions in their ordinance will receive the potential for larger discounts on flood insurance policies issued in that community. The last item added is the evacuation plan for manufactured homes in a mobile home park. It use to be in NFIP but was dropped. It is still in our Title now and remains in this revision.

Mr. Wenstrup asked about the fines – was this added because of FEMA telling us that we will be dropped from the program if we don't do a better job monitoring structures getting built in a flood zone.

Mr. Sims said the fine was added to show people that we are serious.

Mr. Wenstrup asked if **Mr. Sims** feels that this fine is enough to get people to come in for a flood permit.

Mr. Sims replied no.

Mr. Hernandez expressed that it will be a community effort to make this work and a citizen outreach.

Mr. Marsh asked if there were any other questions for staff.

PUBLIC HEARING OPENED

Mike Prax, resides at 1015 Meadow Rue, North Pole, has a few concerns on the Federal law changing and the Borough law not changing – does the Borough law take precedence over the Federal law. He stated that if we are referring to the Federal law for our code – when the Federal law changes our code should change also. If the Federal law becomes more lenient than we would have a more restrictive code if we don't change our code at the same time. We should tie the two codes together and stay on top of changes. He talked about Charles Knight's letter on the subdivision and larger lots. He thought the definition of manufactured homes needed looking into.

Mr. Wenstrup wanted **Mr. Prax** to clarify his statement on manufactured homes.

Mr. Prax stated that manufactured homes for fire insurance are a broader definition than a mobile home.

PUBLIC HEARING CLOSED

MOTION Move to approve **Ordinance 2009-55** by **Mr. Temple**, seconded by **Ms. Peterson**.

Discussion

Mr. Marsh wanted clarification on the evacuation plan of a mobile home park – to remove the people or the homes.

Mr. Sims replied that the evacuation plan is to remove the people. During a flood – mobile homes are not fully secured or anchored and they move with the force of the flood water causing obstruction to access routes, blocking people in, and causing damage to other buildings.

Ms. Peterson asked if the Borough defines manufactured homes.

Ms. Dolan replied yes. The definitions in Title 15 are out of the CFR. They also have a definition of a recreational trailer like a RV.

Mr. Cooper asked if this ordinance be applicable to new construction or existing and new construction.

Mr. Sims replied that for enforcement it would be new construction. The current Title has anchoring requirements existing already.

Mr. Hernandez added that any area that doesn't meet the floodplain regulations – if it gets flooded and over 50% is damaged – when the house is rebuilt, it has to meet the regulations.

Mr. Wenstrup agreed that having a user friendly, locally crafted ordinance will better serve the public to keep the flood insurance. He will be voting in favor.

Mr. Cooper would like to add one moderator and referred to 15.04.085 – Standards for Manufactured Homes.

Mr. Temple was concerned about the part of the ordinance that referred to the fines stated criminal remedies. His understanding is that violations are of a non-criminal nature. Why does it need to be referred to as a criminal remedy?

Ms. Dolan informed us that they are violations but are a part of the District Court criminal rules. You are entitled to a trial in front of a judge.

Mr. Temple asked if they could just be called remedies.

Ms. Dolan replied that it could be called minor offenses or citation process.

Mr. Temple stated that a crime and a violation are two different things.

Ms. Dolan said that it is a policy call – if you want to take it out – it can be taken out of the ordinance.

Mr. Marsh announced that we motioned the ordinance but did not include the recommended Clause #4 for agricultural structures.

Ms. Dolan stated that the revision has not had legal review – it was received late in the day. Under the NFIP program, the Borough is looked at for how many variances it gives out and the reasons it gives them. There are only three reasons listed for giving a variance. They are included in the draft ordinance. If the Commissioners are inclined to adopt this exception, she would like to distribute the language because it's slightly different than what she found on FEMA's website so you can consider what FEMA has required as acceptable.

Mr. Sims, after a short recess and legal review, showed on the overhead the changes for the draft ordinance as stated below:

Beginning on Line #1002

4. agricultural structures located in wide, expansive floodplains and used for temporary storage of equipment, crops or shelter for livestock provided that the criteria in subsection (C) are met and only upon demonstration that such structures are designed to result in minimal damage to the structure and its contents and will create no additional threats to public safety during periods of flooding.

Mr. Temple moves to amend the draft ordinance with the recommendations to add the proposed language.

Mr. Marsh asked if anyone was opposed to the amendment.
None

Mr. Temple moves to amend Line# 1054 and Line 1055-1056 as stated below:

Line # 1054 ~~Criminal~~ Other Remedies

Line 1055-1056.....~~and 30 days' imprisonment.~~

Mr. Wenstrup seconded the motion.

Mr. Marsh asked if anyone was opposed to adopting the amendment.

Ms. Hubbard was opposed to the amendment.

Mr. Marsh asked her to elaborate before we vote.

Ms. Hubbard stated that removing the word criminal and 30 days' imprisonment – it loses its emphasis. The fines are already low.

Ms. Peterson asked **Ms. Dolan** about the 30 days' imprisonment – is this a serious idea.

Ms. Dolan replied that it is existing code language. The Borough has never prosecuted a misdemeanor other than animal cruelty. We do have it in certain places in the code, the ability to prosecute.

Mr. Wenstrup is in support of this amendment – it is just cleaning up language.

Mr. Marsh asked if there were any other discussions. He would like to take a roll call on this language change for the amendment.

ROLL CALL

Six (6) in Favor: **Mr. Cooper, Ms. Peterson, Mr. Flemming, Mr. Temple, Mr. Wenstrup, Mr. Marsh.**

One (1) Opposed: **Ms. Hubbard**

MOTION TO APPROVE, PASSED.

Mr. Marsh asked if there were any other discussions.

Mr. Hernandez added that staff met with several bankers in Fairbanks. John Graves with FEMA attended the meeting with the bankers. Mr. Hernandez asked Mr. Graves if we lost this insurance program what would happen in a disaster situation in Fairbanks. He said that they would help – they would provide \$30,000 of relief to residents even not being in the program. If a second flood happened, the money would not be available.

Mr. Marsh said the importance of this ordinance is to help educate the public.

Ms. Peterson added that this will bring us in compliance with FEMA and the changes proposed are very moderate in nature. She is in support of this ordinance.

ROLL CALL

Seven (7) in Favor: **Mr. Cooper, Ms. Hubbard, Ms. Peterson, Mr. Flemming, Mr. Temple, Mr. Wenstrup, Mr. Marsh.**

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

I. COMMISSIONER'S COMMENTS

1. FMATS

- **Mr. Wenstrup** advised that the Policy Committee meets tomorrow – they will take up the FMATS Seasonal Task Force Resolution. They have received permission from DOT to use a similar plan that Anchorage has for using DOT right-of-ways – these will go into the design stages. They want to build 40 or 50 bus stops. The LED light bid has been accepted for 3.3 million less than expected for the City of Fairbanks.

2. Title 17 Rewrite Project

- **Mr. Hernandez** stated that Title 17 Rewrite is still in the process.

3. Vision Fairbanks Update

- **Mr. Hernandez** stated that the Mayor of the City of Fairbanks and the City Council are reviewing this and will make a decision on March 2, 2010.

4. Comprehensive Plan Advisory Board (CPAB)

- **Ms. Peterson** said they haven't had a meeting this month.

5. Other Commission Comments

- **Mr. Temple** asked legal is there is a remedy to ask a person to step down if their attendance as Commissioner has not been a good record.
- **Ms. Dolan** replied that there are attendance requirements in Title 2 and a member can be removed if they miss more than three consecutive meetings or if they fail to attend 80% of the scheduled meetings.
- **Mr. Temple** asked what the procedure is for removal.
- **Ms. Dolan** replied it would be the Assembly - so her recommendation would be to forward communication to the Assembly and they can decide if they want to act on it.

I. ADJOURNMENT

There being no further business the meeting was adjourned at 8:45 p.m.