

**Planning Commission
September 12, 2017
Linn County Annex**

Members Present: Ed Andersen, Dave Berglund, John Ballou, Fred Kautt, Charlene Sims,

Staff Present: Melissa Fund, Jackie Messer, Meghan Swanson

Charlene Sims called the meeting to order at 7:04 pm

Dave Berglund motioned approve the minutes from the previous meeting, Ed Andersen seconded, 5-0

New Business

Replacement of non-attending members

Dave Berglund feels that after 4 absences a member should be replaced, Ed Andersen advised the Planning Commission By-Laws state a person should be replaced after 3 absences.

Dave Berglund feels that the Board should hold a training session to explain the responsibilities of the Planning Commission to new members, Charlene Sims agrees, discussion about training for new members.

Fred Kautt wondered how many current members of the Board participated in the development of the Comprehensive Plan besides himself, he thought that someone who participated in that project may be interested in joining the Planning Commission. Meghan Swanson advised that Larry Walrod, the Planning and Building Director for Franklin County is a Linn County resident, we could approach him about either joining the Board or providing training. Charlene Sims advised that Larry had provided training for the Board in previous years.

Jackie Messer wondered who appoints the Board members, advised that the County Commissioners do. Jackie Messer said he will notify the commissioners that new members need to be appointed at their next meeting. Melissa Fund advised that one member will need to be appointed from each commissioner district as Erica Kern and Corey Murrison have both resigned their positions on the Planning Commission.

John Ballou advised that he would like to be replaced as a member as well, he will continue on the Board as long as needed, but would like to resign as soon as possible.

Melissa Fund reported that the Planning Commission has held 5 meetings this year, Nona Knox has not attended any of them.

Dave Berglund motioned that the Planning Commission continue to do business according to the By-Laws, especially in regards to attendance at meetings. Ed Andersen seconded, 5-0 vote.

Melissa Fund will write recommendation to the Commissioners that replacements be appointed for Nona Knox, Corey Murrison, and Erica Kern, and will advise Vicki Leonard that she will also need to appoint a replacement for John Ballou as soon as possible.

Fred Kautt also recommended that we review attendance from the past Comprehensive Plan sessions and reach out to those members, Melissa Fund advised she would do so.

Building Permit and Sign Permit Fees

Meghan Swanson advised that we have two recommendations to go to the Commissioners regarding the building permit fees on accessory structures and sign permit fees. After a dispute from the public about the fees, it was determined that we do not specifically name a fee for accessory structures that are exactly 100 square feet. The regulations currently charge \$25 for accessory structures that are less than 100 square feet, and \$50 for structures that are over 100 square feet. After review with David Lamb and the Commissioners it was proposed to amend the fees to \$25 for buildings that are 100 square feet or less, and \$50 for buildings that are over 100 square feet.

Dave Berglund states that he doesn't think the current fees cover the time of the office staff to issue them and that fees are much higher in surrounding counties. Ed Andersen wondered how long the office staff spends researching permits- staff advised they typically spend about 30 minutes. The staff verifies the property isn't in the flood plain, that setbacks are correct, that there isn't an existing dwelling on the property, etc. Ed Andersen advises that we have to consider the cost of wages and benefits, and that he also doesn't feel the current permit fees cover those costs. Jackie Messer advises that if we do have to go out to inspect the site that increases the fees as well. Dave Berglund thinks the fees should be doubled.

Meghan Swanson also provided a recommendation that the Commissioners increase the sign permit fees to \$25. This issue was debated at the June 23, 2017 meeting, however we didn't have the recommendation signed to present to the commissioners at that time. No further discussion or action taken on the sign permits, Charlene Sims signed the recommendation to increase the sign permit fees to \$25.

Fred Kautt asked how much the building permit fee is for a new dwelling, Meghan Swanson advised it is \$100.

No action taken on building permit fees at this time, will table to review all fees at next meeting.

Storage Containers

Staff advised they have received a number of building permit applications for metal shipping containers. Dave Berglund thinks that if they're being used for storage only they should be covered under a temporary use permit. Charlene Sims thinks that if they're being used as a dwelling they should have to be permanently mounted, however she also doesn't like the thought of approving containers as a dwelling without knowing if there is a fire escape, etc.

Discussion about the lack of building codes in Linn County, the requirements for someone to become a certified building inspector, and basic safety requirements for dwellings.

Meghan Swanson advised that so far, the permit applications we've received for shipping containers have been from people intending to use them as storage. Dave Berglund again states that he thinks they should be covered under a Conditional Use Permit so that we have some control over the structures if they aren't maintained. John Ballou advised that he knows of some of these structures that they're trying to create as dwellings, but that are continuously being worked on.

Discussion of how containers have been used in surrounding counties and the options for them, and the problems that unregulated containers can create for neighbors.

Dave Berglund discussed restricting the containers to land that is zoned Agriculture. Melissa Fund advised she had considered that option as well, that we could restrict them to being used only for storage on Ag land. Ed Andersen stated that for Ag use the containers are typically tough enough to be dragged around the farm with tractors, etc. Dave Berglund advised that he had seen them used for grain storage, as they can be filled with grain and then shipped back.

Charlene Sims said the first question should be if we are allowing them for storage or for dwellings. Ed Andersen thinks that if we're going to approve them as a dwelling that we need to have some specifications for them, Dave Berglund agrees. Dave Berglund asked if they were being used as a dwelling if they would be required to have a sanitation permit, Meghan Swanson advised they would- that is really the only regulation the county requires on dwellings unless installing a manufactured home. Dave Berglund asks if the containers are taxed, Melissa Fund advised that she is not sure, but that if a building permit is issued for one then the Appraiser's office is notified.

Charlene Sims asked if the Board has a consensus that we don't want to see shipping containers used as dwellings. Dave Berglund advised that he doesn't, that if they're used as a dwelling they need to have more than one exit, need to have a sanitation system, etc. Discussion about the requirements for a dwelling, and how camping trailers, mobile homes, etc., have to meet certain types of standards for construction.

Discussion again about the difficulty of creating/enforcing building codes without an inspector.

Melissa Fund advised that the Appraiser's office had discussed initiating some basic building codes, Jackie Messer advised he thought about tagging onto the inspection that is typically required at the time a home is sold. Dave Berglund advised that only works if a bank is involved in the sale, but that we could require electrical inspection like we do with sanitation inspections at the time of sale. Jackie Messer advised that he doesn't think the political climate is favorable to getting building codes passed at this time.

Charlene Sims advised that the staff currently has a problem of whether to issue permits for shipping containers or not. Meghan Swanson advised she doesn't mind approving them for storage or agriculture use, but does not feel comfortable issuing them as home without building codes in place. Ed Andersen states that he feels the same way. Melissa Fund advised that at this time we could require a CUP if someone is wanting to use them as a home, Jackie Messer states that he doesn't think that would hold up in court. Discussion about tiny homes, and other types of structures being modified for dwellings.

Jackie Messer feels that we can't require buildings to meet requirements if we're not inspecting for compliance. Dave Berglund asks if we have a minimum square footage requirement for sanitation systems and dwellings, Meghan Swanson advised there are minimum requirements for sanitation systems, but not for dwellings.

Meghan Swanson advised that most of the lake communities in Linn County require that a dwelling have a minimum of 600 square feet to issue a building permit. Dave Berglund stated that if the lake communities have similar regulations then the county shouldn't want to go with anything different for the ease of the staff. Meghan Swanson passed out a handout with examples of the different types of structures that are being installed as homes in some of the lake communities. Meghan Swanson discussed the minimum size requirements, requirements for ingress/egress, and regulations for homes that come in on skids or wheels. Fred Kautt wants to know what kind of regulations the state requires for similar structures in state parks. Ed Andersen stated that we have rental cabins at the Linn County Park that probably don't meet the 600 square foot requirement. Jackie Messer advised that the cabins are 600 square feet.

Dave Berglund again mentioned that we need to make sure new members of the Planning Commission know we're not making regulations solely based on the opinions of people in the audience and that we need to make sure that we're doing things that are good for the county as a whole and future generations.

Discussion about what is considered a manufactured home, and the standards they need to meet. Jackie Messer advises that he's not seeing a problem with manufactured homes, but rather people going to Lowe's and buying a storage shed, and then turning that into a home. Dave Berglund states that he thinks dwellings are either built under the standards of a manufactured home, or else it's a shed. Melissa Fund asked if the cabins on the handout are built to any standards, Meghan Swanson advised they are built to state regulations. Dave Berglund advised

that he thinks we need legal advice on this, Jackie Messer advised that we can ask Gary Thompson to attend the next meeting.

Meghan Swanson suggested that we start a list of approved manufacturers/retailers who meet certain state building regulations to purchase pre-made cabins from, similar to what we do with the sanitation installers. Dave Berglund advised that those manufacturers should be meeting certain regulations to put their stamp on a home, and that they would then have the liability and not the county. John Ballou advised that if someone is living out in the middle of nowhere and not causing a problem we shouldn't be worrying about what they build.

Discussion about the potential liability of approving permits for unsafe dwellings.

Dave Berglund wonders how many permit applications we're getting from the lake communities. Meghan Swanson advised they have increased since she's started reaching out to the 4 lake communities. Tanglewood and Lake Chaparral have both indicated they would like to see more regulations/enforcement on dwellings.

Charlene Sims again stated we need to have Gary Thompson present, to determine if the county can truly issue a permit for a dwelling that doesn't meet basic standards. Ed Andersen stated that without building codes we really can't do much. Fred Kautt wondered if the codes court judge shouldn't be involved in this discussion as well. Dave Berglund agrees that it would be beneficial to have Gary Thompson and the judge come in and meet with the Board and staff to make sure everyone is on the same page.

Dave Berglund wanted to know how many sessions of codes court have been held, Meghan Swanson advises 3 so far, 2 sessions were cancelled or rescheduled. Charlene Sims wondered who the judge is, Jackie Messer states that he thinks we're better going through Gary Thompson first as it may be difficult to schedule the judge. Meghan Swanson advises that judge is also a judge in Bourbon and Miami counties and that she's on a rotating schedule.

Agreed that we will table for now and will resume next month when Gary Thompson is here.

Definitions

Meghan Swanson advised that she is having difficulty enforcing the nuisance codes with the current Definitions in the Zoning Regulations, especially determining what qualifies as a trailer, camping trailer, or RV. Meghan presented the Board with a handout of definitions from other counties, and pictures of the different types of structures she's encountering (see attached documents). Meghan advised that at the lake communities, especially Lake Chaparral, she has encountered campers that are being used as a permanent residence, and that have decks, etc., built onto them. According to the current definitions those should only be a temporary dwelling.

Dave Berglund asks if we have foundation requirements for mobile homes, Meghan Swanson advises that we do. Dave Berglund states that he doesn't think an RV or camper should qualify as a mobile home, that if it's been parked at the same location for 11 months but then leaves for a week, it's not a camper and should be on a permanent foundation. Meghan states that in Tanglewood and Lake Chaparral she's seeing campers that are pulled in by a truck. Some of these are still on wheels and some have had the wheels removed and are now sitting on blocks. By our current definitions a trailer/camper can't be used as a permanent residence, however, some of these trailers/campers could meet the definition of a Mobile Home based on their size.

Dave Berglund asks if there is an age limit on mobile homes. Meghan Swanson advises per the definition they have to be built prior to June 15, 1976 to be considered a mobile home, and that these are no longer allowed to be brought into the county. Existing mobile homes are grandfathered in, but cannot be moved from their current location.

Review and discussion of other counties definitions.

Jackie Messer wonders where we would go with these definitions, if we're talking about enforcement, etc. Meghan Swanson advises yes, the definitions need to be changed to aid with nuisance enforcement. Meghan explained that in one recent case she had someone who was living in a boat on a trailer, and that the resident argued that the boat would be considered a trailer home since it was on a trailer. Meghan advised that this individual appealed the notice of violation, Jackie Messer wants to know who they appealed to. Meghan Swanson advised they submitted a formal appeal to the County Commissioners per the Nuisance codes.

Jackie Messer asks if we have adequate definitions of RV. Meghan Swanson advised it is currently covered under the definition of trailer, that the last line of the definition states "this is to include a recreational vehicle". Meghan Swanson reads out our definition of trailer, discussion about the definition.

Jackie Messer states that that if we clean the definitions up and want to start enforcing them, it's going to create a huge workload for someone, and will it allow the lake communities to transfer their problems onto us, and won't be popular. Meghan Swanson and Melissa Fund advised this is already happening, with the exception of Lake Chaparral, as they allow certain types of trailers to be permanent residences as long as there is a permanent sanitation system. Discussion about the lake communities, temporary vs. permanent residence, types of trailers, etc.

Melissa Fund advised the Board may need to consider having separate definitions of temporary and permanent depending on if we're talking about the county or the lake communities. Meghan Swanson advises this especially true for Linn County Park, that we have people living there permanently; the school bus picks up kids at the park, residents have built sheds, fences, etc., on their campsites. This may be a good time to make changes due to new change in leadership at the park.

Jackie Messer advises this is a 2 edged sword, that those permanent residences are providing income for upkeep of park. Meghan Swanson questions if the rent charged for the sites covers the cost of electricity, maintaining the sanitation lagoon, etc.

John Ballou states we can't be too picky about the regulations.

Charlene Sims states that we either have a rule, and we have everyone follow it, or we don't. Jackie Messer states that he's being working the park issue and that he would like to create a park commission, but wants to wait to start looking at that until November. He's trying to determine who the customer at the Park is- if it's the residents living at the park, county residents, or people wanting to camp at the park on an occasional basis. Jackie Messer would like to bring a group of people together to define the use of the park and that he feels the issues there have been ongoing.

Ed Andersen states that there are a lot of part time construction workers at the park, some stay 30 days, and some stay 2 years. Jackie Messer advises some residents have been there for 20 years. He states that one campsite has a shed with 3 air conditioners installed, but that double-rent is being charged for that site. Another site has a hot tub. Continued discussion about the park and its current uses.

Dave Berglund states he thought the county had a residence for the park manager. Jackie Messer advises that he doesn't want to live there, and that the county has been renting out the residence for \$750/month, which has brought in \$43,000 over 5 years. Jackie Messer states the mindset at the park for years has been "how can we bring in more money". Jackie advises he has selected Bobby Flowers to be the new Park Manager, but that he doesn't plan to move into the house either, he will continue to live in his trailer. Charlene Sims thinks it might be okay for the Park Manager to live in a trailer on the property. Jackie Messer states the permanent

residents pay \$400/month to live there year round, otherwise the fees are \$14/day for a short term stay. Charlene Sims asks if that includes utilities, Jackie Messer advises it does, but it would be a huge expense to go in and put an electric meter on each site. Charlene Sims states the permanent residents probably wouldn't stay if they had to pay utilities, etc.

Charlene Sims feels that in all of these situations it's people that don't have the money to live somewhere else. Jackie Messer states that isn't necessarily true, that for some it's a lifestyle choice. Fred Kautt states one of the goals when creating the Comprehensive Plan was to make Linn County a place where people can come and live affordably, and that we don't want to increase rules and regulations to the point that people will look at moving out of the county.

Meghan Swanson states that we can continue with the current trailer definitions, and that possibly some of the structures in the worst condition could be treated as dangerous buildings.

Agreed to table discussion until the next meeting.

Sanitation Code- Holding Tank Specifications

Meghan Swanson advised the board that the Sanitation Code does not specify that holding tanks have to be made of concrete, but that we've traditionally required that they be. The code does specify that septic tanks must be concrete. We've had several requests lately to install holding tanks made of materials other than concrete.

Dave Berglund states there are national electric and plumbing codes, and that if holding tanks meet those codes, it would be okay if they're made out of other materials. Discussion about the different types of tank materials. Meghan states the issue has been that in the lake communities especially, they can't get the concrete tanks properly installed without the additional expense of breaking through bedrock. Due to their different shapes, tanks made of fiberglass, plastic, ABS, etc., are much easier to install, and as long as those tanks are meeting KDHE regulations, Meghan doesn't have a concern with them.

Dave Berglund agrees with this. Ed Andersen doesn't believe we should allow steel tanks due to rust issues, Jackie Messer believes stainless steel tanks would be cost prohibitive. Dave Berglund states that as long as the tanks meet standards they should be okay. Meghan advises they will still need to meet the minimum gallon requirements listed in the Sanitation Code- for a holding tank it is 1500 gallons, septic is 1000 gallons. Charlene Sims asks if fiberglass tanks would still need to meet a standard, Meghan Swanson advises yes, they would still need to meet KDHE requirements.

Meghan Swanson doesn't see any concerns with holding tanks being damaged by cars driving over them as they are typically not located near driveways, but she would recommend that all tanks should be required to have a basic manhole cover to enable inspections. Dave Berglund thinks that should be part of the regulation for the manufacture of the tank. Meghan Swanson doesn't believe that's listed in the KDHE requirements, but that would be one of her requirements as the sanitation inspector.

Fred Kautt asks what the dimensions of tank are, Meghan Swanson advises it varies on the plastic tanks as they come in a variety of shapes, but that they're typically rectangular. Charlene Sims asks what the lifespan of the fiberglass tanks are. Dave Berglund advises that as long as they're covered with earth they can last indefinitely, however concrete tanks can crack as well. Meghan advises that she has failed several tanks due to tree roots cracking the concrete tank. John Ballou thinks we should go ahead and make a motion tonight in order not to prevent delays for homeowners. Dave Berglund states that his only concern is that the tanks might float away if they are not properly anchored.

Dave Berglund moves to approve holding tanks constructed from materials other than concrete as long as they meet KDHE sanitation requirements. John Ballou seconds, 5-0 vote. Meghan Swanson advises she will include her recommendation about the manhole cover when this is presented to the County Commissioners. No objections to this.

Snowhill Quarry CUP

Meghan Swanson advised that Snowhill Quarry has declared bankruptcy. The bank that holds the mortgage on the property is trying to determine if they can market the property as a quarry or not, and wants to know if the CUP will transfer to the new owners. In addition, the state has notified us that they have no record of signing off on some of the state permits that were submitted to the Board when the CUP was applied for.

Dave Berglund states that the CUP was issued to the land and not the owner.

Charlene Sims advises that the CUP could be revoked for not meeting conditions if the paperwork was forged and the proper permits were not obtained. Dave Berglund feels that the Board can't ignore that. Meghan Swanson advised the state has been very involved in this, and that if any new quarry comes in we will need to modify the CUP. Dave Berglund states that we based our CUP recommendation on information that we believed to be true, and that he thinks we need to make a recommendation to the commissioners on this as well.

Dave Berglund motions that CUP be revoked effective immediately. Ed Andersen seconds, 5-0 vote.

Discussion about the original issuing of the CUP, and process for issuing new CUP if needed. Meghan Swanson will follow up with the bank.

General Topics

Meghan Swanson advised she has been approached by someone who is wanting to sell firearms through gun shows and online. He will be licensed through the ATF, but is not sure if he would need a CUP. Board agrees that they would want him to apply for a CUP. Dave Berglund likes a CUP because it gives a time limit, and that if a person isn't a good steward of a CUP, it then gives his neighbors a chance to come and speak against it when due for renewal.

Fred Kautt advises that we want to be sure that we don't overregulate, and end up increasing taxes, etc. Discussion about growth in the county, taxes, etc.

Meghan Swanson also asked about fences, someone had approached the staff about wanting to put up 10 foot soundproofing fence along their property. Dave Berglund said as long as it is not on the county right of way there is no need to regulate. No disagreement with this.

Dave Berglund motions for adjournment, Fred Kautt seconds, 5-0 vote.

Meeting adjourned 9:25pm.

Attest:

Secretary

mef