

**MINUTES  
CLAY COUNTY PLANNING COMMISSION  
7:00 TUESDAY, JANUARY 28, 2020  
MEETING ROOM B - THIRD FLOOR COURTHOUSE**

**Members Present:** Andrea Koczur, Mark Klevgaard, Randy Schellack, Steve Lindaas, Laura Johnson, Steve Mortensen, William Davis, Tim Brendemuhl

**Members Absent:** Amos Baer, Curt Stubstad, Jenny Mongeau

**Others Present:** Matt Jacobson, Emma Notermann, Brian Melton, Rita Rueckert, Justin Crable, David Kosturik, Ken Fuchs

**Roll Call:** Roll Call was taken by Andrea Koczur, in absence of Chair Amos Baer, and has been recorded. Meeting was called to order at 7:02 PM.

**APPROVAL OF AGENDA**

**On motion by Tim Brendemuhl, seconded by Randy Schellack, and unanimously carried, the Planning Commission approved the Agenda.**

**INTRODUCTION OF NEW MEMBER:**

Introductions were done for new member Steve Lindaas, representative from Moorhead City Council.

**APPROVAL OF MINUTES**

**On motion by Bill Davis, seconded by Steve Mortensen, and unanimously carried, the Planning Commission approved the November 19, 2019 Minutes as presented.**

**CITIZENS TO BE HEARD**

There were no citizens to be heard.

**PUBLIC HEARING(S)**

**NEXAMP SOLAR LLC – REQUEST FOR CONDITIONAL USE PERMIT:**

The applicant is seeking approval to construct and operate a community solar garden on parcel 27.004.0401, in the East ½ of Section 4, Township 140 North, Range 46 West, Spring Prairie Township.

**On motion by Randy Schellack, seconded by Steve Mortensen, and unanimously carried, the Planning Commission opened the public hearing.**

Matt Jacobson, Planning and Zoning Director, stated he will start and will then turn the floor over to the Applicant as they have a visual presentation. The zoning district is Ag General and there is a small amount of shoreland in the northeast corner from wetlands. This community solar garden request is for 1 megawatt. The area would include approximately 10.5 acres. Jacobson showed the area of access. Lifespan is approximately 25 to 30 years. If approved, it will be the 4<sup>th</sup> solar garden in Clay County, and the 3<sup>rd</sup> for Spring Prairie Township. Spring Prairie Township has approved this request. Applicant has been in discussion with the Highway Department regarding improving the site access off of 90th. They have also talked with the watershed district regarding the culverts and there will not need to be any modifications to the current culvert size. They will submit a construction stormwater permit to the MPCA approximately 30 days prior to construction.

Andrea Koczur confirmed that this is a low access location with generating minimal traffic. Matt Jacobson stated that there will not be much traffic at this parcel other than occasional maintenance. Applicant has met or exceeded all provisions of the renewable energy code, and it is recommended the request be approved with the following conditions:

- Construction meets all county, state and township building permit requirements;
- Decommissioning bond payable at \$1000 for years 6-25 of the project; and
- Surety bond at 125% of the cost of establishing native plant cover on the project site.

Clay County is the only county in the nation that requires solar sites to plant beneficial wildlife habitat so native vegetation has to be established at the site. A surety bond would be required to establish native vegetation and would likely be returned approximately 2 years after the construction and vegetation is completed. Steve Lindaas stated that it requires approximately 5 years for prairies to be established.

NexAmp representative David Kosturik introduced Justin Crable of Atwell Engineering. NexAmp was founded in 2007 and are based in Boston, MA; Kosturik is from the Chicago office. They own and operate their projects for their entire life cycle. They have over 200 projects built as of the end of 2019. There are developer incentives to build these projects and sell solar energy off. Their company builds these projects to put energy back into the grid for use by the community. David Kosturik explained the construction of their solar components and the collection system. This is a post and racking construction and the panels themselves are on a tracking system to tilt with the sun. Construction duration is expected to last 2 to 3 months. Approximately 20-30 construction jobs will be created during construction. Photos were shown of some previous installations they have done.

Mr. Kosturik discussed the particulars of this specific site regarding the location, size and the energy output. The location will be south of the creek that bifurcates this parcel. There is an existing access at this location. Once construction has been completed, the onsite storage area will be returned to original condition. The area will be fully gated. Lawn and snow removal will be hired. Setbacks were presented and are measured from the fence lines.

Mark Klevgaard asked about the decommissioning process. David Kosturik explained minimum life of the project is 25 years and they can work with the landowner to increase it up to 35 years. Their decommissioning consists of removing everything from the ground, including wiring, and recycle it for salvage value. Their financial capital is from their 51% owner Mitsubishi. NexAmp has to put in an inter-connection application with Xcel Energy to sell their solar energy to them.

**On motion by Steve Mortensen, seconded by Randy Schellack, and unanimously carried, the Planning Commission closed the public hearing.**

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions.

**On motion by Tim Brendemuhl, seconded by Steve Lindaas, and unanimously approved, the Planning Commission *GRANTED* the request for the Interim Use Permit for Applicant to construct a community solar garden with the following conditions:**

- **Construction meets all county, state and township building permit requirements;**
- **Decommissioning bond payable at \$1000 for years 6-25 of the project; and**
- **Surety bond at 125% of the cost of establishing native plant cover on the project site**

**UPDATE OF SUBCOMMITTEE FOR CLAY COUNTY LAND DEVELOPMENT ORDINANCE:**

Matt Jacobson advised that the Subcommittee has met twice and made it through Chapters 1-4. The majority of revisions are for updating antiquated language to more modern terminology. Some items are no longer relevant due to changes of business practices or technologies.

Most of the revisions of Chapter 2 deal with nonconformities. Examples of a conflict within this requirement is construction of decks and patios in shoreland when wood products are not used. There are also some issues regarding nonconforming sewage systems where current language states any time a Building Permit is requested for that parcel the sewer system must be inspected, even if the new construction has no use for a sewer system.

Matt Jacobson shared that the current Clay County fees are ranked 86 out of 87 within the State. Steve Lindaas presented the idea of the homeowners having the homes inspected on their own and they then present the inspection to Planning & Zoning for approval. There was discussion about the need and benefits of having a building inspector within the County.

Matt Jacobson has been in discussion with the MNDOT sign engineer pertaining to the sign and billboard allowances within the Development Code. MNDOT defines a billboard as any off-premise sign. There are restrictions based on if the roadway receives federal funding.

Bill Davis referred to Chapter 3-10. He feels there should be some kind of ordinance to protect the farmer from liability of anything planted too close to the property line, especially if there are trees planted too close to the line and they get sprayed by the farmer and are killed. He proposes there should be a setback for planting tree lines. Matt Jacobson feels that although enforcement would be difficult, it would be beneficial to add information within the Ordinance for specific

setbacks regarding trees and also fences. Tree setback information would also include canopy coverage.

Matt read part of Chapter 4, page 4-3 section A-4, regarding the Board of Adjustment. “Conveyance Agreements in Agricultural District: The Board of Adjustment shall hold public meetings to make decisions regarding the conveyance of rights for development of residential property when ownership within a quarter-quarter proposed for development lies with more than one property owner. Approval of such conveyance agreements must be made by the Board of Adjustment prior to the initiation of any other land division review procedure.” Jacobson states he is unable to find anything in the Statutes regarding this. He will be having Attorney Tony Weigel look at this. Jacobson proposed moving any conveyance information to Chapter 7 where he feels it would be better placed.

If granting an After-the-Fact Variance there are additional guidelines. Attorney Weigel recommended additional language based on a Minnesota State court case from 2009 where additional guideline criteria were created. There is another Subcommittee meeting scheduled the week of February 16, 2020. Subcommittee is hoping to complete their review within the next 1 or 2 meetings. All changes would be brought to the Planning Commission for review. Attorney Brian Melton feels the proposed changes should be Noticed to the public for the Planning Commission hearing. After that happens, the changes will be sent to the Board of Commissioners for approval.

### **UNFINISHED BUSINESS:**

SolSmart update given by Emma Notermann, Planning & Zoning Technician. She states that initial efforts were made to achieve the Bronze designation. Once that was completed, there were approximately only 30 more points required to achieve the next level of Silver designation. All steps have now been completed and Clay County has achieved the Silver designation. There will be a plaque presented to the County and it will be brought to the Planning Commission meeting once it is received. The criteria for Gold designation are being reviewed.

### **NEW BUSINESS:**

- **REVIEW OF PLANNING COMMISSION BY-LAWS/MEMBERSHIP REPRESENTATION:**

Matt Jacobson presented this previously requested information. The Planning Commission is required by statute to have a minimum of 5 and a maximum of 11 representatives, including a member from the Clay County Board of Commissioners. They are also required to have a minimum of 2 representatives from Rural Clay County (Clay County currently includes 3 representatives). Membership also includes 1 representative from each of the following: the City of Moorhead, Oakport Township (or at large), Moorhead Township (or at large), Clay County Soil and Water Conservation District. The Incorporated areas of the county (Barnesville, Comstock, Dilworth, Felton, Georgetown, Glyndon, Hawley, Hitterdal, Sabin, Ulen) shall have 3 representatives. Andrea Koczur gave history as to the addition of the “at large” criteria: This was added as Oakport and Moorhead townships had a large population and were beginning to have significant

annexation into the city. There were concerns that there would not be remaining population significant enough to recruit representation from. Therefore the “at large” was added for representation requirements.

There was discussion regarding securing constant representation of an agricultural background and how to modify the membership representation to ensure there is continued agricultural background representation. Consensus was that it would be difficult to define what constitutes “an agricultural background”. Brian Melton pointed out that the broader your requirements, the larger your candidate pool, which will create a greater ability to find well-qualified candidates. He feels there are many diverse issues within the County that need to be addressed and met, and the goal should be to find the best person for the position. Matt Jacobson offered to review the Planning Commission Member Application form to get more information on potential members.

- **ELECTION OF NEW PLANNING COMMISSION CHAIR IN FEBRUARY 2020:** All seats are up for re-election: Chair, Vice-Chair and Secretary. Bylaws Part III, Section 1 outlines the Election of Officers. Matt Jacobson reminded those present that the Chair of the Planning Commission also has the responsibility to Chair the Board of Adjustment. Planning Commission members will be provided a copy of this information to assist with the election process at the February 25, 2020 meeting.

**Adjourn:**

**On motion by Randy Schellack, seconded by Steve Mortensen, and unanimously approved, the meeting adjourned at 8:44 PM.**

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Mark Klevgaard, Planning Commission Secretary