

# MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

## RECORD OF PROCEEDINGS

March 27, 2008

Chairman David Mueller called the meeting to order at 7:30 p.m., and welcomed new member Vida Bartel. Mueller told members Willis Ensz sent a thank you card to thank members for his retirement dinner.

Roll Call was answered by Mueller, Bob Maxwell, Mary Avery, Ervin Ediger, Jeff Bina, Marquette Eilerts and Bartel. Glen Unrau and Kent Becker were absent. Zoning Administrator Bobbi Strait and Consultant David Yearout were also present. Mueller noted a quorum was present for the meeting.

Mueller explained the Record of Proceedings for the February 28, 2008, meeting of the Marion County Planning Commission/Board of Zoning Appeals was not mailed to members with their packets because Strait's secretary quit. Mueller explained approval of the Record of Proceedings will be postponed to the next meeting. Mueller said there are no applications on tonight's agenda, so members will discuss regulations and codes. Mueller turned the meeting over to Strait, and Strait referred to Yearout.

Strait read from the definitions of zoning regulations. Strait referred to the uniform standard code. Strait talked about fire protection, electrical wiring, windows, handicap access, and more. Strait talked about the 2005 national electric code. Yearout said in the 1970's people complained about mobile homes crossing state lines, and interstate commerce, so Uncle Sam established the national HUD (Housing and Urban Development) code. He said such homes are supposed to carry a seal on the home to show they are up to code. He said local standards could be put in place, and he gave the example of replacing outlets with ground fault receptacles. He said some communities passed an ordinance that no manufactured homes could be in town at all. He said this gave cities and counties the ability to be discriminatory as to what homes they would allow. He said if a manufactured home is up to HUD code it must be allowed in a community, but local jurisdictions may set standards. He said you cannot put limitations on the design of such homes. He said some communities take actions that make it impossible to place manufactured homes in their community. He said most people do not know the difference between manufactured and modular homes. He said if the chassis stays with the home it is a manufactured home and if the chassis leaves it is a modular home. They are now trying to keep the codes current and decide what to do with units that are older, he said. They are setting standards that raise the bar so older homes may be updated to compete with newer homes, he said. If there is no sticker, it has to be certified by an architect or engineer to be approved, Strait said. Building codes set standards for new

construction and give the ability to address all structures, Yearout said. What is really driving the concern?, Yearout asked. A little bit is driven by what is causing the problem, he said. Strait explained she has been working with the City of Ramona and attended a meeting there on March 10, 2008. Anything that is a single-wide has to have a CUP (Conditional Use Permit), but we have no manufactured home permits, she said. We have not actually zoned something a manufactured home park, she added. Ramona wants to bring in homes to replace homes, she said. I don't know how you want me to enforce this, Strait said. The oldest it can be is 2005, Strait said. You can't impose county regulations in the City of Ramona, Yearout said. I know, but I need to know what to recommend and I need to know how to handle it in the county, Strait said. I think we've had some of our most lively discussions on manufactured homes, Avery said. But it was usually about tie downs, or something, Mueller said. Manufactured homes are less expensive, Yearout said. A lot of smaller towns are incorporated, but they don't have many rules and regulations and it's basically a live and let live understanding, Yearout said. County Commissioner Dan Holub arrived at this point. They are looking for a legal basis to say we just want it to be the way it was, Yearout said. That's what was easy about having a date cut off because you could say it was the date and that's the way it was, Mueller said. Garden City says you must meet the new date and even older homes must get it certified to meet the new codes, Yearout said. It's just not economically viable, and people complain at first, but it has worked its way out and no one has challenged this in court, Yearout said. If the unit doesn't move it is grandfathered-in, Yearout said. Dealers don't have a problem with it, he said. April 1, 2001, is the date I have hung my hat on, Yearout said. They are now setting this up in communities and they are requesting to update this every two years, he said. Some communities are still using the old building codes and you don't have to adopt the most current version of building codes, but you can pick a date and it has to be compliant according to the codes on that date, Yearout said. If you adopt current codes you will probably have a greater chance of people challenging, he said. Some older homes are nicer than homes built five years ago because they have been take care of better, he said. Avery asked about the trailers at the county lake. None are allowed to be occupied more than a certain number of days a year, Strait said. On January 1, 2008, county commissioners decided they all must be insured or they have to go, Strait said. They can't have a washer and dryer and be a fulltime resident, she said. We either need to go one way or the other and either make it a fulltime residence or make it a camping facility, Strait said. If it is a RV (Recreation Vehicle) park, by law they can be there a maximum of 60 days in one spot, Strait said. At El Dorado Lake it is a maximum of 14 days and people just move to another spot, Yearout said. The insurance requirement might be a deciding factor, Holub said. We want to talk about it this year and try to figure something out by next year, Holub said. We have got to get a handle on it and every time you ask more people you get five or six answers, he said. Out of 15 spots, only one is a Marion County resident, Holub said. Yeah, we got a mess, he added. What are the issues?, Mueller asked. Do you want me to enforce the latest version for all new placements?,

Strait asked. Bina asked about the code at the time it was manufactured. The longer it has been resided in, the less likely someone has touched the box, Strait said. They may have added on and replaced some of the equipment or done things that no longer meet the code and no one knows, Yearout said. And, it still has the sticker, Strait added. Your suggested date seems a logical date to start with, Eilerts said. And if it is two weeks prior to the date, then that is too bad, Yearout said. 2005 then to me would be a hardship, Mueller said. As a zoning administrator I would have authority to issue a permit for a double-wide that is 2005, or newer, Strait said. They already have to come in here for a single-wide, but do they also have to come in for others?, Strait asked. How many such cases?, Yearout asked. A handful, Mueller said. There have been three applications for single-wides since I've been here, Strait said. Site built homes will retain, and even increase in value, Yearout said. You want to protect property values, he said. It hurts those who make more of an investment in the county, because it accommodates on one hand to provide affordable housing, but you need to take precautions, Yearout said. You give seven, almost eight year latitude and that should be plenty and even with that you might get some junk, Maxwell said. It would be a place to start, Mueller said. There is a 2003 from Lost Springs that is in really bad shape, Strait said. 2001, I would be glad to work with that and if someone wants something newer I would be glad to work with that, Maxwell said. What is the latest you would recommend?, Avery asked. 2001 is the oldest, Yearout said. We could go by HUD compliant, or I need to ask for direction, Strait said. A new unit would meet regulations, but what about new placement, what date do I go by?, Strait asked. It's important to meet the current HUD regulations, Strait said. The latest version is November 30, 2005, Yearout said. Because we don't have a date in there, I only have authority to okay anything 2005, or newer, Strait said. If we're going to set a date we need to do an amendment and get it done, because otherwise it is left open to interpretation, Strait said. There is a new double-wide at the reservoir that sold to a second man, and sold again, and they all made good money, Maxwell said. It is a better investment than any stick built home, Maxwell said. The general consensus is to have Bobbi use the 2001 date, Mueller said. Eilerts made a motion to draft an amendment to the regulations with the date of April 1, 2001, for new manufactured housing, and Maxwell seconded the motion. Ediger asked about adding on to such a home. They would need a building permit, Strait said. In the past I would not issue a building permit to a manufactured home because of the box factor, and I told them they could not touch the house, she said. It had to be free-standing, she said. It depends how far the commission lets me push it, she said. If they don't have a permit, they would be fined, she added. The only way you would even be able to manage it is to have building codes, Yearout said. If they add on a room, only the addition has to be up to code, Strait said. Yearout gave an example of a deck that was added to a mobile home that did not touch the home, just by inches. Members voted on the motion.

In favor: 7; Opposed: 0; Motion carried.

Strait said cities in the county are not interested in getting on board with contractor licenses. Yearout asked if the cities have building codes. Peabody has

had them since 1996, and Marion and Hillsboro since 2006, Strait said. Marion only adopted residential codes, and plumbing codes, Strait said. The cities now charge \$15 per year for licenses, Strait said. If you are licensed in Marion and work in Hillsboro, you have to get licensed in Hillsboro, she said. This is why contractors hope to get one county license, Mueller said. Yes, one stop here, Strait said. Johnson County does it county-wide, Strait said. It would also help the unincorporated cities, Avery said. The whole issue with licenses and codes again starts with what are you trying to achieve?, Yearout asked. You're dealing with jurisdiction issues with the cities and as codes and construction have gotten more sophisticated, you want the ability to have codes in place to protect the investment people have in their homes as it becomes more important, he said. Oklahoma has a statewide building code and everything down there is inspected, he said. This stuff is coming, and it makes sense, he said. If you don't have it you leave yourself open to whoever comes down the road, Maxwell said. The storms bring it up every time, Ediger said. Greensburg was diligent about codes and hired additional staff to deal with inspections, because they knew they were not going to get a dime of federal money if they did not have it in place, Yearout said. Storm chasing contractors left immediately when they realized they were going to put things in place, Yearout said about Greensburg. It does work, and I understand the pioneer spirit that we will take care of our own, but you have to swallow your pride and realize this is going to be more than we can do, he said about cities when disaster hits. There is no point going on when the cities didn't want to participate, Holub said. It's a mute point, Holub added. It was supposed to keep life simpler, he said. We did have people show up after the ice storm ready to do roofs in the dead of winter, Holub said. Sedgwick County inspectors are licensed and certified, and usually deal with the same contractors, Yearout said. Would the current city inspectors be depending on county inspectors?, Eilerts asked. They would do their own inspections and collect their own fees and I would only do it out in the county, Strait said. The cities didn't understand that, Strait said. Would it help to talk to them, individually?, Eilerts asked. Marion and Hillsboro's city building inspectors understand, but the city administrators did not understand, Strait said. This has to be a very amiable thing, Holub said. We're trying to make things safer and cheaper, Holub said. Why should people in the county be penalized because the cities don't want to participate?, Maxwell asked. We don't want to push it on the cities, Holub said. But, we aren't going to drop everything, either, he added. Maybe they will come on board down the line, he said. The contractors are in favor of it, Mueller said. Mennonites do their own building, and farmers do their own electric, Eilerts said. On their own property, Ediger added. They still have to build to code and they still have to get a permit, Strait said. Ediger asked how we would enforce it. Ediger gave an example of someone who needed a fence built, and the contractor wanted money down, and then they never saw him again. Avery suggested talking to the cities and not relying on the representative who did not understand. Let the open market place take care of it, Yearout said. Contractors can go to the city councils and ask why they have to get another permit for the city, Yearout said. Strait said she plans to work with Hillsboro's and Marion's building inspectors and see if she can go with

them to explain to the city administrators. Paine (city administrator in Hillsboro) is in favor of building codes and licenses, but is not in favor of it being county-wide, Strait said. Mueller asked members for their opinions. The only way this thing is going to work is if you have a county license, Maxwell said. The thing that concerns me about recognizing the other licenses is the City of Marion charges \$15, but do they know if the contractor has continuing education, etc.?, Strait asked. They should provide insurance documentation, Yearout said. Are you talking about there is a test required to get a license?, Yearout asked, and Strait said yes. Then, that is the issue, Yearout said. We will accept the block test they have taken for years, Strait said. The one thing about the reciprocal license is you've got the people who are grandfathered-in, but still need continuing education to continue to be grandfathered, Strait said. That is why I have a problem bringing the cities licenses into the county, she said. I want to know he has everything up to date and certified, she said. I'm not sure any city in the county but Hillsboro has a certified building inspector, she added. If I remember right, Hillsboro was concerned your guidelines and requirements be as strict as Hillsboro's, Eilerts said. That should be no problem, Strait said. Is there general support for pursuing county-wide licensing?, Mueller asked. Do we have to have public meetings?, Ediger asked. No, it is not mandatory to hold public meetings, Yearout said. It's not mandatory, but we would be out of our minds not to, Holub said. The planning commission doesn't have to hold public meetings, Yearout said. If the county commission wants to hold public meetings, that is their choice, Yearout said. If you don't, you're just going to have a fight and you'll be spinning your wheels, Holub said. We have the same goals for protection and safety, Strait said. Eilerts asked if all three county commissioners are in agreement about building codes, and Holub said no. People complain when they have to go hire someone to do what they think they can do on their own property, Yearout said. You've got to get out in the public, Holub said. They don't get accurate information at the coffee shop, Strait said. Holub said there is always a small group of protestors. Noisy, but small, he said. Yearout said you need to think it through as far as true ag buildings. Are you going to inspect chicken coops?, Yearout asked. Be prepared to answer that, he told members. Be in a position to answer questions about fees and costs and prove it will be paid for by the people doing it, he said. I'm more inclined to structure fees based on operating costs of my department and the cost of construction, Strait said. Strait gave an example of a fee of \$20 plus, \$1 per thousand, so the permit would cost \$50 for a \$30,000 building. What does that pay for?, Bartel asked. That won't cover the cost of gas to my house, if you're coming out three times, Bartel said. We are not trying to make a lot of money off fees, Holub said. You can offset costs with user fees, Yearout said. Based on the number of inspections, we could charge \$10 an inspection plus \$1 per thousand, Strait said. I plan to review fees, but it could be that \$20 would more than cover my mileage, my time and whatever, and then it would self support itself, Strait said. One rumor is that I'm pushing building codes for job security, Strait said. I think it's beneficial to the people who live here, she said. There will be higher insurance premiums if it is not adopted, Yearout said. And, the FEMA legislation scares me, Strait said. We were worried about hiring

more staff and we didn't want a huge investment, Holub said. The only way that is an issue is if we inspect the unincorporated cities, and we're not going to do that, Strait said. I'm dead set against the county subsidizing, Maxwell said. We can separate permit fees from inspection fees, but it is still going to cost us to drive out there for an inspection, Strait said. Time invested in this takes away from something else, Maxwell said. I know, salaries cost, too, Strait said. That's why we need to get the fee structure figured out so we don't subsidize, Strait said. It costs more to build commercial than residential, so we need a different fee schedule for commercial, than residential, Strait said. We can get information from the appraiser's office so it is based on what they value the building at, Strait said. Replacement cost is a lot higher than the value, Strait said. Strait gave an example of \$94 to \$121 per foot for replacement, but the valuation is \$49.02 per foot. So, what are you wanting to know about building codes?, Avery asked. Whether or not to pursue it, Strait said. Are there other concerns about building codes than the fee structure?, Mueller asked. It's hard to divide it out, Ediger said. I was thinking only residential, he said. If you are going to live in it, you need all the codes, but I built a hay barn a few years ago, so I'm going to think about dividing it out, he said. Do you need to spend your time out there inspecting hay barns and chicken coops?, Ediger asked. You need to insure the safety of employees, Strait said. If it falls down on you because you built it wrong, that's one thing. But if it falls down on Mary because you built it wrong, that's a whole other issue, Strait said. The person who comes out to look at it could see things you couldn't see, Maxwell said. I had what I considered to be our best builder, Ediger said. I was just getting at the fact that there is no need for her to chase all over the county for every little building, Ediger said. Every structure, even ag buildings, are not exempt from flood zones, Yearout said. Are there any other issues?, Mueller asked. I love this kind of stuff, Holub said about the discussion. This is the kind of stuff you don't think of, he added. Mueller asked members to entertain a motion. Ediger asked about out of county fence builders. You can't baby-sit everyone in the county, Maxwell said. Holub suggested they call the sheriff and have them chase them down. The lightening rod guys have been here several times and they have chased them down, Holub said. The newspaper will run articles so people know it is happening, Holub said. Avery made a motion to pursue county-wide contractor licenses and building codes, and Maxwell seconded the motion.

In favor: 7; Opposed: 0; Motion carried.

Off agenda items. County Commissioner Randy Dallke wants to build a 35x50 building on property leftover from a highway project on 1.43 acres that is in a pie shape, Strait said. Mueller asked if he just needs a building permit, or a CUP? It's not one parcel and he is concerned about everyone watching him because he is a county commissioner, Strait said. Is he compliant?, Maxwell asked. 1.43 acres is not compliant, Strait said. I told him he could not zone it commercial or industrial just to put a billboard up, Strait said. The car wash in Peabody is located next to the west border of this property, and it is in the city limits and it (the car wash) is currently zoned commercial, Strait said. No one keeps the property up, Strait said. He wants an all metal building with an overhead, and a

walk-in door, to be used for implements and personal storage, she said. So, he needs a variance?, Mueller asked. So, he needs to apply for a variance and go through the channels, Mueller said. It is zoned ag, now, Strait said. Was it farmed at one time?, Bina asked. There used to be a billboard there, Eilerts said. Then, one time he asked about putting up a building for a fireworks stand, Strait said. It doesn't qualify as an ag building, or a storage shed, Strait said. It's got to be rezoned, Yearout said. Mueller asked Maxwell if he had off agenda items. At the last meeting with Mrs. Barkman's application, I was for it because I could see it being good for the county, but then after the meeting the appraiser was sitting in the audience and she said they had collected sales tax and I wondered why it was not brought up during our meeting, Maxwell said. I found out there had been a Christmas party out there, and flowers had been sold, and I'm not sure whether that is true or hearsay, Maxwell said. Members discussed this issue off the record. Mueller asked if there was anything else. Mueller reminded members the next meeting is scheduled for April 24, 2008. Bina made a motion to adjourn and Ediger seconded the motion.

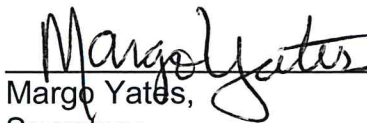
In favor: 7; Opposed: 0; Motion carried the meeting adjourned at 9:50 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



---

David Mueller,  
Chairman



---

Margo Yates,  
Secretary

