

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

SPECIAL MEETING

May 26, 2011

Chairman David Mueller called the special meeting to order at 7 p.m., with a quorum present.

Roll Call was answered by Mueller, Dan Mount, Mary Avery, Marquetta Eilerts, Bob Maxwell, Brad Vannocker, Jim Schmidt, and Lloyd Funk. Nick Kraus was expected to arrive soon. Zoning Administrator Tonya Richards and Consultant David Yearout were both present. Mueller welcomed County Commissioner Randy Dallke.

Dallke thanked members for allowing him a few minutes. He said the April meeting concerning the application for cabins at the county lake seemed to be a boisterous meeting, from what he gathered by reading the minutes. Dallke said commissioners had only heard of plans for cabins by the boat dock until reading the minutes concerning a different plan. Kraus arrived at this point. Dallke talked some about the history of the trailers at the county lake. Dallke said he did not hear any ideas why they should be against developing the boat dock area except private gain on public land. He said they have to protect the county, and there will be a lot of discussion before anything else is put out there. Dallke said the heated dock was put there with private money, but it did not work out, so the county took it over. There are cabins all over the state right now, so this is nothing new, he said. We want to know the concerns, he said. I'd like to hear from you, he told members. Maxwell said it was a tough vote all the way around. Maxwell said he was in favor of the heated dock area, but the other area he had some reservations about. I was also concerned about the number of cabins, Maxwell said. Whether you have six, or eight, or nine that is up to you commissioners to decide Maxwell said. You are going to have to have a certain number of units in order to get the money back, he said. There are three different types of people in there, residents, renters, and lease trailers, he said. I don't look at it as a county lake, I look at it as the lake, he said. Dallke talked about some people who moved here and tried to do some things at the county lake to start a business. The hatred that came out of the community out there when they tried to start a restaurant, paddle boats, and cabins, they said people would wave before, but stopped when they tried to start that, and that is sad, Dallke said. We are going to have to make a decision about the roads, he said. One person said to leave everything inside the road for people to enjoy, Dallke said. I want to thank you for your work and I just wanted to tell you why I made the decision, Dallke said. Avery said she took some things away from the meeting. This is an extraordinary board with unique talents and everyone brings something special to the table, Avery said. I think we represent the county in a very unique way, she said. I do not believe the board was opposed to economic development, she said. There were a couple of

motions, and we tried to find a consensus for what is best for the lake and the county, but there was not a consensus as to where it should be, she said. I hope you saw we were open to it, and I would have liked to have seen you send it back to the planning commission to see if there could be a different plan, Avery said. I have heard lots of applications, and I do not want to hurt Mr. Holub's feelings, but that was not a good presentation, Avery said. He was there to deal with land issues, and I would have liked to have seen more documentation and facts and figures and examples of other similar facilities, Avery said. He kept jumping around as to how many cabins, she said. We had exceptional documentation laid before us for wind farms, but here there were changes we did not know about until that night, so I think the presentation was a factor, also, she said. I know he didn't plan to do this, because it is his children, but I question why not a better presentation and that is just my opinion, Avery said. I think it would be good to send it back if you still can, she said. We want people to have ownership in the county, and we also have to respect the history, but you need a good development plan to work with, Avery said. I guess since I have been a commissioner we have never sent anything back, Dallke said. I would like to see us work together a little more, and that is just my opinion, Avery said. Mount said he is not opposed to cabins but feels as a board we really let the public down. We did not have a signed lease, we did not have a development plan, and just like with the wind farm we continued it to make sure Rex could speak for the landowners and the lease was okay, Mount said. We should have said no way until there was a definite site plan, Mount said. We require everyone else to have these things, Mount said. This has been awkward from the get go, because of all the storms we had to put off the meetings, Maxwell said. They had nine cabins in the heated dock area, eight cabins and one office, and then during the meeting somewhere it came down to six units in there, Maxwell said. I felt bad for Dan because he was trying to relay some information, and it really wasn't his call to do so, and it would have helped if the applicants were there, Maxwell said. One (of the applicants) was able to be at the county commission meeting, so that helped clear up the communication, Mueller said. Mount questioned if members should even listen to applicants without a signed lease. Yearout said it has a specific legal description, but Richards added that 144 acres have to be dropped down to a specific area. Yearout said there are five conditions including a survey and plan, and it probably should have been in front of the board. But should it have been detailed?, Yearout asked. We have looked at things without all the details, and the county acts as the ultimate zoning authority, Yearout said. The landowner and the leaser will try to determine where to put it all in, Yearout said. So, you get some of the chicken and the egg thing, Yearout said. The community out there does feel it is an area of their own, and they are concerned about the roads, but the county has abandoned them about the roads, Yearout said. You are probably going to have a misconception that you are going to fight for some time, he said. They wonder where the money is going to come from, and they are opposed to introducing a change, he said. The rest of the county looks at it entirely different than folks who live out there, Yearout said. Holub is going to stay out of this, and we have some decisions to make, Dallke said. Eilerts asked if any members got any feedback from the public when they reversed the decision. Eilerts said she heard folks say it was going to happen anyway and they let you waste your time. People said whether you like it or not it is a county commissioner, Mount said. That is not how I looked at it, Mount said. I am just

concerned about a site plan and a lease, Mount said. At the meeting they took very seriously what was discussed, and what the planning commission had done, Mueller said, concerning the county commission meeting. Issues were raised, and they considered those issues, and they took them into consideration, and I appreciated that, Mueller said. The public would say if the board voted for it, the county commission put pressure on them, Maxwell said. I am not opposed to economic development, but obviously there are some issues and concerns, Avery said. It is too late to come back, Avery said. It is just a suggestion for the future, she added. When obviously we are divided, it would be a good way to handle things in the future, Avery said. The only negative feedback was about the zoning board voting it down, Kraus said. I didn't go to throw the board under the bus, but I am still entitled to my own opinion, and I wanted to hear what was said, Kraus said, about attending the county commission meeting. I was impressed with how they talked it through, Kraus said. It wasn't quick, or easy, he added. After hearing from as many people as I did, no one was going to go to the meeting, no one came to our meeting, Kraus said. One thing I do think, everyone did look at the issues and facts, Yearout said. If a political decision is to be made, it rests with the governing body, Yearout said. The board has gone against the audience in the past, Yearout said. Worst case scenario is someone will bring a lawsuit, Yearout said. Courts historically will not overturn decisions of the governing body, Yearout said. Yearout said he received a call yesterday asking about the rules regarding trailers at the lake. The lot sizes at the lake are only so big and a 1994, and newer, are too big to fit, Yearout said. Most are built as permanent homes, but the lots are designed for what would be considered today as a travel trailer, Yearout said. The trailer park was there before zoning regs, but moving new ones in is the issue, Yearout said. It was not our responsibility to change the lake rules, Avery said. Mueller asked about the size of the trailer rental lots. The maximum allowed length-wise is 50 to 55, Dallke said. In the northwest corner they get really short, Dallke said. Most have a set length lot, he added. Singlewides today, you are lucky to find less than 80 feet long, Yearout said. To get down to the right size is prior to '94, Yearout said. Who's responsibility is it to look at the county lake rules?, Avery asked. As issues come up, but not sure how often issues come up, Yearout said. The county commission and Steve (Hudson) need to decide what they want to do, and depending on their decision we may need to amend the regs, Yearout said. You could say as long as it is a HUD (Department of Housing and Urban Development) home, which goes back to 1976, we don't care, but that opens up a whole other thing, Yearout said. Mueller asked if the trailers are owned by the county. No, just the land, Richards said. An old one just sold for \$10,000, and it is very nice inside, Dallke said. Not sure what the wiring in the walls is like, but it has to be older than 1970, Dallke said. They called me because Hudson is on vacation, Richards said. Normally, Hudson handles it, she added. Maxwell asked if the county commission could pass a resolution stating they were going to abide by the present zoning regs. The problem is, that would condemn everything that is there, Yearout said. There is no other trailer park in the county, he added. That would change the whole atmosphere out there, and they would need two lots, Mount said. You would need to reinvest in the infrastructure to support the changes, Yearout said. In a 60 to 70 year old park, you can't put new units in, because it won't fit, Yearout said. Someone suggested removing some of the trailers and putting the cabins there, Dallke said. If it is in the rules, we have

to abide by the rules, Dallke said. Or you are treating the lake residents different than the rest of the county, Richards said. We need to make the decision one time, and conform zoning to it, Maxwell said. You need to figure out what needs to be done and what the options are out there, Yearout said. It is the same problem as with the rest of the lots, people want bigger homes than the lot allows, Avery said. The county commission should make a decision what direction they want to go, Yearout said.

Mueller asked for corrections or additions to the April 28, 2011, Record of Proceedings of the Marion County Planning Commission/Board of Zoning Appeals. Avery had a correction on page nine where instead of you can't see the cabins from the lake, it should read "you can't see the lake because of the cabins." Schmidt had a correction on page three where the word "not" should be removed. Avery moved to approve the Record of Proceedings with two corrections and Vannocker seconded.

In favor: 9; Opposed: 0; Motion carried.

Avery had to leave the meeting at this point.

Mueller asked for correction or additions to the April 20, 2011, Record of Proceedings for a Work Session of the Marion County Planning Commission/Board of Zoning Appeals. Mueller had a correction on page 40 where Mary should have read "May" and Kraus had a correction on page 40 where e-mail was not hyphenated. Vannocker moved to approve the Work Session minutes with two corrections and Mount seconded. In favor: 8; Opposed: 0; Motion carried.

Members began reviewing amendments to the regulations. Yearout explained Article 18 is a complete redraft of the sign regs, and he needs to incorporate new LED sign language. Maxwell asked about two different drafts from Yearout, one dated January, and the other dated February. Members debated how to review and compare the old and new language. Mueller suggested working with the new language, and asked Maxwell to refer to issues that compare with the old language. Under 18-101 members are okay with objectives and intentions. Under 18-102 Yearout told members he highlighted the new substance issues, but he did not highlight every change. Maxwell asked about sign height, and members discussed this. Yearout said it is less of an issue with free-standing signs. Yearout asked members how they want to measure height limit. Where do you want to measure from?, Yearout asked members. Yearout will reword the sign height language. Yearout noted that First Amendment signs are new (page 18-5). He said the most common are abortion signs. On page 18-6 Maxwell asked about electric message signs, wondering why they are listed under structure type signs and not under function type signs. Yearout said listing them either way is okay with him. Yearout will move it to function type signs, and will also move video display sign under function type signs. On page 18-8 Yearout said he used language that many communities are adopting for new electric signs, and he referred to wording listed under "G." He said signs have the ability to dim at night. Yearout also explained wording under "D" referring to the eight seconds limit for word changes. Richards asked about real estate signs in public right of ways. Every one is illegal in every county of the state, Yearout said. Hillsboro makes an exception to that, Eilerts said. On page 18-10 Maxwell questioned repeating "Classification of Signs" and Yearout said it should be deleted on page 18-4. Richards noted to add electronic message signs and video display signs to

the "Functional Types" list on page 18-10. Richards questioned on page 18-14 that directional signs are listed under "Exemption from Fees" and Yearout explained. Mueller said the Ramona sign is different. On page 18-15 under "Agricultural and Single-Family Residential Districts" need to delete "AG 80" and "AG 40." Richards also noted the need to add "ES" in same sentence. Yearout noted at the bottom of page 18-18, and the top of page 18-10, he categorized state highways in two categories. The state said they are not going to be so picky on these highways, Yearout explained. A huge mistake many jurisdictions have made is by not addressing that signs can go along county roads, Yearout said. You probably have a better chance of getting it approved now, he added.

Under Article 19, Yearout explained he is adding language to the chart to include ag lot splits.

Under Article 21, Yearout said he reformatted "Purpose and Intent." On page 21-1 Maxwell and Richards questioned if reference to Article 26 should be Article 28, instead, and it was agreed it should read Article 28. Richards said 21-103 is a good paragraph. On page 21-4 Richards questioned #6, noting it used to say at the end of the sentence, "except cemeteries in the "A" Agriculture District. Yearout said if someone wants a personal family cemetery they need to apply for a CUP (Conditional Use Permit). What about a pet cemetery?, Kraus asked. Still need a CUP, Yearout said. Also on page 21-4 under #13, Mueller asked about adding "refer to Article 31" and removing the requirements listed, and all agreed. Finally on page 21-4 Richards noted under #14 to change "small" to "non-commercial." Yearout said that change is fine but it means you cannot sell excess electricity back to the power company. On page 21-5 Richards asked about #24 and why farm machinery is not exempt. Not when it is a business, Yearout said. Yearout noted on page 21-5 under #28, he will remove "Family Day Care Home." On page 21-6 under #40, Richards questioned adding ES and LL districts. Members discussed this at length. It was decided #40 will read, "Manufactured home as a single-family dwelling on any individual lot." Mueller asked members to make a note to come back to #41 on page 21-6 to discuss Manufactured Home Code at some point. On page 21-7 Maxwell noted that some text that is highlighted as changed but there are no changes. Mueller noted on page 21-8 that #51 replaces Article 32. Mueller asked Richards if she is comfortable with this change, and Richards said yes. Richards asked if it would help to require a third party to confirm what a cell tower company is saying. Yearout said 51-C says that. Richards said that is still not a third party. Yearout said that computer models reviewed by someone else just show the gaps in coverage. Richards said she just hates having to trust them at their word, but maybe with more experience, in time it will be become more comfortable for her. Mueller asked members if they wish to discuss this separately with Article 32, or handle it now. Members decided to come back to it. One page 21-8 Maxwell questioned the height change from 30 to 100 feet. Members are okay with 100 feet. Mueller noted it creates a greater buffer zone. Richards added that if someone wants it closer they can apply for a CUP. On page 21-9, Yearout said he will remove #58 as it is already covered. On page 21-12 under 21-106, Maxwell pointed out a change to one year and members agreed to change it back to six months. On page 21-13 Maxwell pointed out that servant quarters and swimming pools were deleted from the list under "I." Yearout explained these items are listed

twice, and the broader list is under "A" on page 21-13. On page 21-13 members wish to change "J" from small to "Non-Commercial," and also the same change on page 21-15 under "G." On page 21-16, Yearout reviewed and explained 21-111 to members. Richards asked to delete "SR" on page 21-16 under #5.

Yearout noted that under Article 14, 14-104 and 14-105, he will add language to allow administrative approval of building additions on properties with a CUP that do not have an approved plan on file. Yearout explained this will be for someone putting a building addition on, but not violating anything.

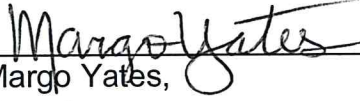
Members discussed Article 32 compared to page 21-8 of Article 21. Yearout said weight is an issue on towers, as some are not designed to carry a load. Yearout said he requires towers to be three miles apart and if a company wants a closer tower they need to explain why. Members discussed setbacks and then agreed on page 21-8 #51 "A" is okay.

Mueller noted this leaves Articles 31 and 6 to review, and asked members if they wish to schedule a special meeting to continue. It was agreed to meet June 23, 2011, at 7 p.m. Mount moved to adjourn and Kraus seconded.
In favor: 8; Opposed: 0; Motion carried and the meeting adjourned at 10:16 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



David Mueller,
Chairman



Margo Yates,
Secretary