

Codington County Planning Commission/Board of Adjustment Minutes  
December 19, 2016

The Codington County Planning Commission/Board of Adjustment, and Codington County Commissioners, met in a special joint session at 9:00 am., Tuesday, December 19, 2016 at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Bob Fox, Mark O'Neill, Myron Johnson, Charles Rossow, Brenda Hanten, Rodney Klatt, Mel Ries, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer). Chairman Fox presiding. Roll call for the County Commissioners was taken. Commissioners present were: Lee Gabel, Tyler McElhany, Myron Johnson, Elmer Brinkman, and Brenda Hanten; Chairman Brinkman presiding.

Others present were Jim Czech, Cindy Brugman, Elmer Kruger, Elmer Brinkman, Tyler McElhany, Lee Gabel, Patrick McCann, Jerome Haider, and Becky Goens.

Commissioner Brinkman (Chairperson Brinkman) called the meeting of the Codington County Board of Commissioners to order. Motion by Hanten, second by McElhany, to approve the County Commission portion of the agenda; all present voted aye; motion carried.

Planning Commissioner Fox (Chairman Fox) called the meeting of the Codington County Planning Commission to order.

Chairman Fox called the Joint Meeting of the Codington County Board of Commissioners and the Codington County Planning Commission to order.

Chairman Fox noted that the he, the State's Attorney, and Chairperson of the County Commissioners had instructed the Zoning Officer to place Ordinance #65 on the agenda for this joint meeting.

Chairman Fox asked for a motion from the Planning Commission to recommend approval, and allow for discussion and public hearing. Motion by O'Neill, second by Klatt, to recommend approval of Ordinance #65, an ordinance amending Ordinance, #15, an ordinance establishing comprehensive zoning regulations for Codington County, and providing for the administration, enforcement, and amendment thereof, pursuant to SDCL 11-2, 1967, and amendments thereof, and for the repeal of all resolutions and/or ordinances in conflict herewith. A new Official Zoning Map is also included as part of Ordinance #65.

Chairman Fox turned to States Attorney Patrick McCann, to briefly describe the court decision that brought the need for the adoption of Ordinance #65. The States Attorney noted a court decision that determined Ordinance #30 was not properly adopted due to an additional public hearing that was not noticed. The States Attorney recommends adoption of Ordinance #65 which will re-adopt all zoning related ordinances beginning with Ordinance #16 through #64. Chairman Fox asked Zoning Officer Muller some of the things that have changed since Ordinance #15. Muller responded indicating since ordinance #15 there have been 24 ordinances rezoning property and 13 ordinances amending policy, including Ordinance #30 which was a major update of the ordinance, and in 2012 the county updated the Land Use Plan to ensure the land use plan was reflected in the current ordinance. In each case these amendments were adopted to reflect past policies and accommodate land uses not already addressed after the Planning Commission requested staff and/or 1<sup>st</sup> District to review and present the history and potential ramifications of those rules. Muller read a letter from FEMA regarding the ramifications if the ordinance is not properly adopted (letter attached).

Chairman Fox advised the audience there will be a time limit of five (5) minutes for each speaker.

Chairman Fox, on behalf of the Planning Commission, opened the hearing to the public at this time. Chairperson Brinkman, on behalf of the County Commissioners, opened the hearing to public at this time on behalf of the Board of County Commissioners. Elmer Krueger addressed the board stating two points: verification of the meeting being recorded and due to the amount of items covered in the ordinance, suggests each Section be gone through individually. No one else came forward to speak on this issue. Chairman Fox closed the public hearing of the Planning Commission at this time. Chairperson Brinkman closed the public hearing of the County Commissioners at this time on behalf of the County Commissioners.

Chairman Fox asked for individual input from each Planning Commission Board Member on this agenda item:

Chairman Fox – was concerned about the notification from FEMA. Approximately 25 residents currently have NFIP insurance but this would also apply to disaster funding per the referenced letter. Fox would not want to be responsible for residents' loans being withdrawn. In addition, if there was another flood event, he does not want to be a part of this community's inability to apply for disaster aid. The approval of Ordinance #65 is also a recommendation of Codrington County States Attorney.

Mark O'Neill – Agrees with Bob Fox. With regard to past ordinances, the Board did diligence on passing those ordinances and sees this as following the States Attorney's advice.

Charles Rossow – Also agrees with Fox and O'Neill; and would like to follow the recommendations of the States Attorney.

Rodney Klatt – Does not want to interfere with FEMA and the ability for aid.

Mel Ries – agrees with all previous statements by board members.

Myron Johnson – The board has been following the ordinance since 2001 until this glitch was found. He does not want to put anyone in the flood plain in jeopardy of losing their flood insurance or loans. He does want to see the county lose out on government funding and wants decisions made appropriately.

Brenda Hanten – Is in support of re-adopting this ordinance based on the recommendation of our States Attorney and so the Board can continue business as usual.

Chairperson Brinkman asked for individual input from each Commissioner on this agenda item:

Lee Gabel – agrees to the need to re-adopt this ordinance. He would like to make clear that at the last hearing there was discussion about possibly amending some ordinance guidelines and approving this ordinance does not affect any future discussions with respect to that hearing, this action allows the Planning Commission the ability to continue to operate. He would like to see a Table of Contents included in the ordinance due to the amount of items within the ordinance.

Tyler McElhany – Believes following the advice of the States Attorney is the right thing to do. It makes good sense as the content of the ordinance was not in question but rather a result of a procedural issue.

Elmer Brinkman – Verified a Joint Jurisdictional Ordinance recently adopted will not be affected by the actions of the board today and does not require any additional hearings by this board or the City. It may be a possibility in time but needs further research. Brinkman also confirmed the purpose for this action is due to a procedural error which is being contested in court. It may even be determined by the Supreme Court that Codrington County did adopt the original ordinance correctly but a lengthy time frame in waiting for the decision could delay the Planning Commission from issuing permits for county residents.

He supports the States Attorney's recommendation.

Chairman Fox confirmed the meeting and public hearing was properly noticed in the paper. Muller confirmed the proper notification. The first reading of the Board of County Commissioners will follow the Planning Commission vote. The second reading and an additional opportunity for testimony is scheduled for Tuesday, December 27 at 9:00 am in the Codington County Court House.

Muller indicated the board may review these ordinances in the following year but for the public's reference. Chairman Fox affirmed that though not the subject of this meeting, it is the intent over the next year to review the ordinance in detail.

Chairman Fox asked for a roll call of the Planning Commission board members. Motion on Ordinance #65 passed unanimously.

Chairperson Elmer Brinkman, asked Zoning Officer, Luke Muller, to give the first reading of Ordinance #65 to comply with County Commissioner's responsibility. The Zoning Officer gave the first reading. Chairperson Brinkman noted the 2<sup>nd</sup> reading, public hearing, and action on proposed Ordinance #65 will take place at the December 27 meeting of the Codington County Commissioners at 9:00 a.m., in the Codington County Courthouse, Commission Chambers.

Motion by Hanten, second by Rossow, to recommend approval to the Board of County Commissioners the plat of Czech Second Addition in the Northeast Quarter of Section 34-T116N-R52W. This plat redraws lot lines of 3 nonconforming lots of record, required as a condition of variance on November 21, 2016. Motion passed unanimously. The Board of County Commissioners will take action at their December 27 meeting on the aforementioned plat.

Motion by Hanten, second by O'Neill, to adjourn as the Codington County Planning and Zoning Board. Motion passed unanimously.

There being no further business to come before the Board a motion was made by Johnson, second by McElhany, to adjourn at 9:37 a.m., until 9:00 a.m., Tuesday, December 20, 2016; all present voted aye; motion carried.

ATTEST:

Cindy Brugman  
Codington County Auditor

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