

**SHIAWASSEE COUNTY PLANNING COMMISSION
BOARD MINUTES – JULY 24, 2013**

CALL TO ORDER: Chair Don Dickmann called the regularly scheduled Shiawassee County Planning Commission public hearing to order at 7:00 P.M. within the County Board of Commissioners’ meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, in Corunna.

ROLL CALL: Present: Glenn Love Jr., Henry W. Martin III, Robert Ebmeyer, and Don Dickmann. Absent: William Thelen and Bonnie Ott. Also present: Peter J. Preston/Community Development Director, Linda Gene Cordier/Zoning Administrator, and County Commissioners Robert McLaren and John Horvath.

Cordier informed Chair Dickmann that both Ott and Thelen had contacted the office and stated they were unable to attend the hearing. Chair Dickmann noted there was a board quorum.

PLEDGE OF ALLEGIANCE: Pledge of Allegiance to the flag was led by Chair Dickmann.

PROOF OF PUBLICATION: Cordier informed Chair Dickmann that the legal notice for the evening’s agenda was published within the Shiawassee County Independent on Sunday, July 7, 2013. Chair Dickmann declared the meeting legally published.

APPROVAL OF AGENDA: **Motion:** Martin moved to approve the agenda as printed.
Support: Ebmeyer. **Motion carried: 4 ayes, 0 nays.**

APPROVAL OF BOARD MINUTES: Cordier stated she had passed out a copy of the first page of the minutes to correct a misspelled word. The word “mailed” within the last paragraph, first line, was missing the “m”. **Motion:** Martin moved to approve the May 22nd, 2013 board minutes with the one correction as noted. **Support:** Love. **Motion carried: 4 ayes, 0 nays.**

BOARD OF COMMISSIONER COMMENTS: County Commissioner McLaren informed the board that the Finance Committee would be meeting soon to start preparing the 2014 County Budget and had nothing else new to report.

CALL TO THE PUBLIC ON NON-AGENDA ITEMS: No comments received.

OLD BUSINESS:

Special Land Use/Site Plan Approval (PSUP12-02) – Commercial Dog Kennel

Applicant/Owners – DeAnn M. and Frank J. Markva, 7494 E. Prior Road, Durand, MI 48429

Site Location – 7494 East Prior Road, Durand, MI 48429

Tax Identification – 78-012-32-100-001-06, Section 32, Vernon Township

Zoning District – A-2, Agricultural Production/Rural Residential

Ordinance Reference --- Section 4.3.43 (Kennels, Commercial)

Application Postponed – April 24, 2013 and May 22, 2013

Chair Dickmann noted that a public hearing had previously been held on April 24th and asked Preston for a brief update.

Preston noted that a motion would be in order to remove the request from the table before the could proceed.

Motion: Ebmeyer moved to take Application #PSUP12-02 from the table. **Support:** Love.
Motion carried: 4 ayes, 0 nays.

Preston explained that the board held a public hearing on April 24th. The General Standards for Approval had been reviewed. A motion was then made and supported to postpone the applicant's request due to the fact some items were missing per the staff report. The applicant has agreed to limit the kennel to 20 adult dogs. At the May 22nd hearing, the applicant had received an email from Waste Management stating she could bag the animal waste for weekly trash pick-up. However, it appeared that it depended on whom you talked with at Waste Management. One of the board members had received a different statement. After discussion, a motion was made to postpone the request again on May 22nd.

Since that time, Cordier has worked with the applicant and addressed the outstanding issues that were noted within the staff report, assisted with a re-drawn site plan, and contacted Waste Management about accepting bagged animal waste with the applicant's weekly trash pick-up.

Preston noted that the Environmental Health Department had no issues at this time if the animal waste was being picked up by a waste hauler. Preston stated it would be staff's recommendation that if the use permit is approved, the motion include that it is the responsibility of the permit holder to dispose of bagged animal waste with a licensed waste hauler. The next issue of concern as noted within the staff report was with the landscape surrounding the property. The only landscaping of concern would be with trees planted by the applicant. It would be staff's recommendation that if the permit and site plan were approved, the motion include that any trees planted by the applicant within the past five (5) years be replaced should any of them die so as to maintain a screened buffer area.

Preston again noted the applicant has agreed to 20 adult dogs. This application would be similar to the commercial dog kennel approved in 2006 located on Newberry Road not too far from Ms. Markva's property. The applicant has proposed that storage of trash (as required) will be placed within two trash cans, currently depicted as just outside the applicant's attached garage.

Chair Dickmann asked Ms. Markva if she had anything additional to add. She stated no, she agreed with the comments made within the Response to February 4th staff report. Dickmann noted that the board has gone over this several times and asked board members if they had any additional comments or questions at this time.

Cordier noted she had talked to Waste Management after a letter was sent to them. She was informed that bagged animal waste could be picked up with their weekly trash pick-up service. She had been informed that a letter would be mailed to her to confirm that; however, she had not received one. She emailed a request earlier in the day to at least confirm the conversation, but had not received a response back.

Martin stated there was just a board quorum and four (4) votes would be needed to pass a motion. Dickmann confirmed the By-laws state that four (4) yes votes were needed to pass or deny a motion.

Motion: Ebmeyer moved to approve the Special Land Use Permit/Final Site Plan request for a commercial boarding kennel as submitted by DeAnn Markva as stated within the staff report of February 4, 2013 with the following three (3) conditions of approval:

- 1) Limit to 20 adult dogs.
- 2) All newly planted trees by applicant within the last five years to be replaced should they die.

3) The applicant provide proper disposal of animal waste through a licensed waste hauler. **Support:** Love. **Roll Call: Ayes to Approve:** Glenn Love Jr., Robert Ebmeyer, and Don Dickmann. **Nays to Disapprove:** Henry W. Martin III. **Motion failed.**

Preston noted that the board had three options; 1) A motion to deny, 2) A new motion to approve with different or additional conditions of approval, or 3) Postpone until at least the full board or five of the six board members were present.

Discussion: Dickmann asked board member Martin to state his reason for denial. Martin stated he was concerned first with the concept of the dogs being housed in the basement of the home. The basement is not a walkout basement. He was concerned with the health and safety of the people in the house and his third reason was that it would set precedent in the future for others to ask to do the same thing. The next person may have larger dogs than the applicant has. Once it is approved, it can't be stopped.

Ebmeyer asked if the office had received complaints about the other dog kennel approved in 2006. Staff replied no, but noted the dogs were housed in a separate building. Ebmeyer asked what the Ordinance required. Preston answered that the Ordinance does not regulate whether or not the kennel can be within the interior of the home or if it has to be exterior. The Animal Control Officer may require a commercial kennel to be within an exterior building and not a basement, but the Ordinance doesn't have any guidelines stating that. It may be an omission within the Ordinance. The Planning Commission can ask the Rewrite Committee to look into it; however, Ms. Markva's application would still come under the current language because she had applied prior to any text amendments proposals.

Martin replied he would have liked to have heard whether or not the dog kennel could be in the basement or if it had to be within the garage or a separate building before proceeding with a motion. Martin questioned whether or not the building code would allow it. Preston answered that he didn't believe the building code regulated whether or not dogs could be kept within the basement of a home.

Markva informed the board members that she has 10 dogs. She had talked to the animal control officer about having a kennel in her basement before she applied. Her dogs are very well taken care of and her vet could attest to that. The dogs are like her children. She and her husband have two children ages 5 and 12. She continued noting there were no health issues and would be devastated if something happened to the dogs. Markva said they had previously lived in an area where she wasn't allowed to keep that many dogs and that is why they moved to this location.

Martin answered that he didn't have any issues with her or her dogs. His concern was what if the next person came in and asked to do the same thing but would have a larger breed of dog. If we allow this, we have set a precedent. Martin stated he was certain Ms. Markva took well care of her dogs, but he didn't want to open up a can of worms either.

Preston said the board needed to observe the written rules of the ordinance. If an applicant can meet all of the criteria that are required for a particular special use permit, then the board has to approve it. It can be approved with conditions if the board felt it was necessary. If the board felt approval of this request would affect the adjacent property owner, then the board could add conditions that would protect the neighbor. It doesn't mean the board doesn't have the right to have concerns. This is why it is a seven (7) member board.

Chair Dickmann agreed. That is why the concerns need to be brought forward during discussion so we can bounce them off one another. Dickmann felt it would be a good idea to recommend to the Rewrite Committee that the section on dog kennels be reviewed for possible updates to the ordinance language. Language may need to be added as to whether or not a kennel can be housed within a basement. Love said he didn't feel the board could tell her she couldn't house them within the basement because the ordinance doesn't say if you can or can't have an indoor kennel.

Chair Dickmann agreed and added that the case before them was a tricky one based on the nature of the kennel and facility.

Ebmeyer asked if staff knew what the animal control officer would be checking for during the inspection.

Markva informed the board that the crates her dogs stay in are the best. They are very large and heavy. The crates are similar to what you would see in a veterinarian's office. She purchased the larger crates so her dogs would have ample room to move around in.

Preston read the inspection sheet from the animal control officer when an inspection was completed at the Newberry Road site. The following items were standard questions on the form: **Facilities:** heating, ventilation, lighting; ambient temperature; interior walls; proper drainage. **Primary Enclosure:** structurally sound & in proper repair; protect animals from injury; keep animals dry and clean; space for animals, not overcrowded; resting perch for cats; litter for cats; animals removed from enclosure while being cleaned. **Outside facilities:** sufficient shade or shelter; drainage; dog houses; chains proper length & size; properly fenced; sign posting. **Sanitation, Husbandry & Housekeeping:** storage of food; food wholesome & palatable; animals fed sufficient quality at intervals for species and age; convenient access to feed and water and located to minimize contamination; animal waste and debris removal & disposal; building and premises kept clean and free from debris; insect, parasite and rodent control. **Animal Groups:** all animals micro chipped; all animals castrated; health certificate on all animals. Preston stated from review of the inspection sheet, it doesn't appear the animal control officer regulates interior or exterior housing of the animals.

Motion: Ebmeyer moved to postpone DeAnn Markva's special land use/site plan approval for a Commercial Dog Kennel until there at least five (5) or more board members present. **Support:** Love. **Motion carried: 4 ayes, 0 nays.**

NEW BUSINESS: None.

COMMITTEE REPORTS:

Rewrite Committee: Martin informed the board that the Rewrite Committee has been working on changes to the current Wind Energy Conversion System language found within Section 4.3.76 of the Ordinance. Draft language reflecting the proposed changes have been compiled by Preston. The Rewrite Committee is asking that the Planning Commission direct staff to forward it on to the townships for a 50-day review and/or have the board take it home to review the changes and then handle it at next month's hearing before forwarding it to the townships.

Preston informed the board that a lot of the changes were requested by a Wind Energy Company. Orisol was a company based out of Spain; but they were bought out by British Petroleum. The request for the changes is to basically clean things up for clarification purposes. Copies of Section 4.3.76 with the proposed changes were passed out. Preston briefly highlighted most of the changes proposed. Changes noted were within: Definitions 2A. Commercial WECS;

language added to the principal use, #F – Utility Scale Wind Farm; language amended allowing it to be under one (1) special use permit and final site plan, #G – Facility Abandonment – language added. Under #3 (Approval Required) changes to A, D, & E. Under #4 (General Standards) changes to E, F, G, and R. and; #5 (Additional Standards for Commercial WECS Projects) changes to G.1, 2, and added #H and #I.

Preston explained the basis as to why a greater length of time for a permit to expire was needed. There are a lot of licenses and state approvals to obtain; for example in Mt. Pleasant while installing a turbine they discovered they were crossing over drain tiles that even the Drain Commissioner hadn't been aware of. They had to go back to amend the site plans. The process for a wind farm just takes a lot longer than normal because of all the formalities and licensing required.

Discussion followed on the height of the turbines. Preston noted that in Clinton County the turbines proposed will be 428 feet in height. In Gratiot County the turbines are 390 to 428 feet tall.

Martin informed the chair that the Rewrite Committee was encouraging the Planning Commission to forward this on to the townships for review and recommendation.

Chair Dickmann informed the board that because the request came out of committee a support was not needed. Voice Vote: Ayes to forward on to the townships: 4 ayes, 0 nays. Motion carried.

Future Planning Committee: Love noted that he and Ebmeyer met with Cordier to review two (2) P.A. 116 applications submitted by Jeffrey and Cathy Vogl. One was for 121.29 acres in Section 3 of Rush Township and the other was for 49.7 acres in Section 18 of New Haven Township. Both applications were cash crops and to be placed in the program for 90 years. The committee recommended approval to the County Board of Commissioners.

Gravel Committee: Dickmann stated there was nothing to report at this time.

COMMUNICATIONS RECEIVED: Cordier stated she was in receipt of the City of Perry's 2013 Master Plan if anyone was interested in borrowing the CD.

DIRECTOR'S COMMENTS: Preston stated he had nothing to bring forward.

PUBLIC COMMENTS: None.

ADJOURNMENT: **Motion:** Martin moved to adjourn. **Support:** Ebmeyer. **Motion carried:** 4 ayes, 0 nays.

Meeting adjourned at approximately 7:40 p.m.

Recording Secretary: Linda Gene Cordier

Don Dickmann, Chairman
Shiawassee County Planning Commission

Approval Date of Minutes