

**MINUTES  
BAYFIELD COUNTY PLANNING AND ZONING COMMITTEE  
PUBLIC HEARING AND PUBLIC MEETING  
DECEMBER 15, 2011**

1. **Call to Order of Public Hearing:** Chairman **Rondeau** called the public hearing to order at 1:02pm.
2. **Roll Call:** **Jardine, Maki, Miller, Rantala, and Rondeau** – all present.

Others present were: Director-Karl **Kastrosky**, Deb **Kmetz**-Office Manager and Krystal **Hagstrom**-Secretary. Mike **Furtak**-AZA – absent, arrived at 1:08pm.

3. **Affidavit of Publication:** **Kastrosky** showed the audience the December 1 and December 8, 2011 affidavit of publication and the certified mailing receipts.
4. **Review of Meeting Format** – Chairman **Rondeau** explained the procedure of the meeting. He asked everyone who wished to speak to fill out a form; and stated they will be asked to come forward and speak into the microphone.

5. **Public Hearing:**

- A. **A petition by Karl Kastrosky, Director of Planning and Zoning, on behalf of the Bayfield County Planning and Zoning Committee, requesting an amendment to the Bayfield County Zoning Ordinance to create section 13-1-22(I) regarding setbacks on properties subject to adverse possession.**

**Sec. 13-1-22 Setbacks.**

- (I) **Easement Setbacks.** In situations where adverse possession applies, setback requirements may be met or complied with by obtaining an easement from the adjacent property owner. Said easement shall specifically describe the easement parcel with a map of survey attached. The easement shall be reviewed and approved by the Bayfield County Planning and Zoning Department and shall be recorded in the Bayfield County Register of Deeds Office.

**Kastrosky** explained the reasoning for this petition is to create easements for buildings that are found to be on the adjoining property. With the sophisticated mapping that the county has, more of these parcels of land are being found. The only way to remedy this is to buy more land from the neighbor or file an adverse claim which goes through the courts. If both parties agree to an easement, and that easement was recorded, then it would relieve the burden of being on someone else's property. **Kastrosky** pointed out a letter from Attorney Mike **Fauerbach**, and stated to the committee to take his suggestions into consideration. **Kastrosky** asked the committee to look over the petition and table it until the next meeting as a business item. A couple of questions that need to be answered before the next meeting; if the house burns down, does the easement go away and the owner has to then build on their own land. **Maki** asked who takes care of

the taxes on that parcel and **Kastrosky** stated that is another good question that needs to be figured out. **Maki** also asked if the property sells does the easement go with the property and **Kastrosky** replied yes. If both land owners agree, this is an option for them. **Miller** asked what **Kastrosky's** intent is and he replied, he would like some public input and have this issues come back as a business item next month.

Brenda **Rowley** spoke in support and stated her concerns. One being if a child of the land owner were to get hurt who is liable. **Rowley** also stated that there should be some case studies done.

**File Report:** **Kastrosky** stated there is nothing more in the file.

Discussion ended.

- B. A petition by John A. Wichita, Chairman Town of Lincoln Planning Commission, on behalf of the Town of Lincoln, requesting an amendment to the Bayfield County Zoning Ordinance to create Section 13-1-68 regarding an overlay district for the same minimum shoreline frontage for Multiple Unit Development and Conservation Subdivisions as single unit residential development.**

**SEC. 13-1-68 Town of Lincoln Overlay District**

- (a) Applicability.** The Town of Lincoln Overlay District shall apply to and include all lands within the Town of Lincoln.
- (b) Intent of the Town of Lincoln Overlay District.** The intent of this overlay district is to promote the public health, safety, convenience and general welfare; to encourage planned and orderly land use development; to protect property values and the property tax base; to encourage uses of land, water and other natural resources that are consistent with the Town of Lincoln Comprehensive Land Use Plan; to maintain water clarity and quality in lakes, rivers and streams; to protect soil and preserve wetlands; to protect groundwater and surface water; to protect the beauties and amenities of landscape and man-made developments; and to provide healthy surroundings for recreation, tourism and family life.
- (c) Definitions.** All terms used herein shall be as defined in Sec. 13-1-4.
- (d) Shoreline Frontage Requirements for Multiple Unit Developments and Conservation Subdivisions in the Town of Lincoln.** Part of the purpose and intent of the Town of Lincoln Overlay District shall be achieved by applying minimum shoreline frontage requirements for both Multiple Unit Developments and Conservation Subdivisions which equal to the minimum shoreline frontage requirements for single unit dwellings as provided in Sec. 13-1-32(b)(1). All Multiple Unit Developments and Conservation Subdivisions providing access to navigable waters in the Town of Lincoln shall be subject to the following minimum shoreline frontage requirements: Class 1 Lakes, 150 feet per unit, 600 feet minimum; Class 2 Lakes, 200 feet per unit, 800 feet minimum; Class 3 Lakes, Rivers and Streams, 300 feet per unit, 1200 feet minimum. All other minimum dimensional requirements for Multiple Unit Developments and Conservation Subdivisions which provide access to navigable waters

in the Town of Lincoln shall be as stated in, respectively, Sec. 13-1-32(e)(1) and Sec. 13-1-32(em)(1).

- (e) **Nonconforming Parcels.** Notwithstanding Sec. 13-1-26(d), any parcel of land with dimensions not conforming to the zoning district dimensions of this section that was created by a county-approved certified survey map or plat prior to the adoption of this section on the (date of adoption) shall not be subject to the dimensional requirements of this section. Further division of such parcels shall be governed by this section.
- (f) **Pre existing Multiple Unit Developments and Conservation Subdivisions.** All Multiple Unit Developments and Conservation Subdivisions which are not defined as described in (d) that were created prior to (date of adoption) of this section shall not be subject to the dimensional requirements of this section. Further division of such parcels shall be governed by this section.
- (g) **Expansion of Multiple Unit Developments and Conservation Subdivisions.** The dimensional requirements of this section shall apply to all contiguous parcels added to Multiple Unit Developments and Conservation Subdivisions defined in (d) or (e) on or after (date of adoption) and to those created after (date of adoption). An additional unit may be constructed for each parcel or portion of parcel which meets the per unit dimensional requirements of this section. The additional unit may be located on the existing Multiple Unit Development or Conservation Subdivision parcel or on the added parcel in conformance with the dimensional requirements of this section. Structures on the added parcel which are non conforming to the Multiple Unit Development or Conservation Subdivision dimensional requirements shall be removed and the vegetated shoreline buffer restored.

**Jack Wichita**, Chair of the Planning Commission for the Town of Lincoln spoke in support explaining this change would bring the shore line requirements for Multiple Unit Developments (MUD) into line with the requirements for individual land owners. Currently the ordinance states Class 1 lakes and waterways MUD need 50 feet per unit and individuals need 150 feet. Class 2 lakes and waterway it is 100 feet for MUD and 200 for individuals. For class 3 it is 300 feet for individuals and 200 feet for MUD. There are a number of consequences for these MUD requirements, one being a substantial increase in shoreline user traffic, resulting in a negative water quality. More aquatic invasive species could be brought in with the increase in traffic. There could be a drop in property value and finally it is in direct conflict with the key values expressed in the Town of Lincoln public survey conducted in 2008. This is not an anti development zoning change but to insure fairness. The Town's water ways and lakes are small and fragile, Marengo Lake being the largest at only 99 acres. This is fully consistent with the wishes of the Town. The Town also engaged in a 30 day review and comment period which these and other aspects were discussed and approved unanimously. Then this petition went on to the Town Board and was approved and passed unanimously as well. **Miller** asked about Items E, F, and G, and why were they needed and **Wichita** explained that the Town just wanted to cover every aspect.

**Mark Dryer** Clerk for the Town of Lincoln spoke in favor representing the Town Board. **Dryer** explained the Town fully supports this change and would like the Committee to pass this ordinance.

**Mary Wichita** spoke in favor of this proposal pointing out that this gives the Town(s) an avenue to the County and to be able to reflect their values and desires. Also this is a good partnership since the County approved the Comp Plan. This change has huge support from the Town's people. **Jardine** asked how many people were at the meeting and if all were in support of exactly what is being proposed and **Wichita** answered about 12 people and all supported it. The people asked questions then the Town Board went into deliberation and it was approved unanimously.

**Roland Wolff** spoke in support and emphasized what **Wichita** already stated.

**Gayle Gradilles** spoke in favor representing the Marengo Lake Association. As a lake association they are in favor of the proposed changes. **Gradilles** read a letter that spoke in favor of the petition for reasons that were already mentioned by **Wichita** and the letter was submitted to the Committee. **Jardine** asked about all the people that lived on the lake presently if they have catch basins to prevent water runoff into the lake. The response was yes most people do and they work as a unit and people within a mile of the lake are also proactive. **Gradilles** explained this is not a means to stop development along the lake but to protect the lake. Keep the frontage requirements the same for everyone. For clarification, **Furtak** explained that in order to do a MUD on a class 2 lake one has to dedicate 800 feet of frontage.

**File Report:** **Kastrosky** stated no letters of support or opposition. These issues may not be good for the County as a whole since there are some areas that need MUD but as a Committee it has to be decided if this is good for the Town of Lincoln. If this is passed, the Committee needs to make sure that they don't make someone's property non conforming. In the zoning code today, there is not a prohibition about MUD but there is language to give the Committee the discretion on setting the density standards for MUD. The number of units in a MUD may be restricted through the Conditional Use process to fewer units that would be allowed. Basically if someone came in and wanted to build 10 units and the comp plan only suggests 6 then the Committee has the right to approve only 6 units. A person can get 1 unit for every 50 feet of frontage but has to have the raw land mass available behind it. It has to be built at 200 feet back. The viewing and access corridor has to be in one area. On rivers you need 1,200 feet of frontage. If this is adopted the frontage required for a MUD would be the same as an individual owner; Class 1 lakes = 1 unit/ 150ft, Class 2 lakes = 1 unit/200ft, and Class 3 lakes = 1 unit/300ft. What the proposal states is that a MUD does not get any more density than an individual lot whether it is made a MUD and everyone owns it or the parcel is cut into individual lots it is the same. There is no incentive to cluster or move back 200 feet from the water; it will be the same as a residential lot. **Miller** asked if this is targeted more to people with river frontage or on smaller lakes the answer was no.

Discussion ended.

- C. Josh & Brenda Rowley (Kelly) – Reclamation Plan** [34.91-acre parcel (ID# 040-026-2-46-05-28-1-01-000-10000) described as NE ¼ of the NE 1/4 less V 353 P. 98, Section 28, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI]

**Brenda Rowley** explained that the reclamation plan that was set up 5 years ago is for the whole 100 acre parcel. This would stay exactly the same.

**File Report:** **Kastrosky** stated there is a memo from Ben **Dufford** indicating no changes to the rec plan. A meeting and review was conducted November 16<sup>th</sup> with Josh Rowley and the plan was approved contingent upon financial assurance.

Discussion ended.

- D. Josh & Brenda Rowley (Kelly) – Non-metallic Mine** [34.91–acre parcel (ID# 040-026-2-46-05-28-1-01-000-10000) described as NE ¼ of the NE 1/4 less V 353 P. 98, Section 28, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI]

**Brenda Rowley** explained she would like to extend the life of the existing pit.

**File Report:** **Kastrosky** stated they are expanding the size and extending the life of an existing pit. **Miller** asked what the Town's decision was and **Kastrosky** stated it is approved with conditions of a route from Maple Ridge East and to the West to Roy Anderson Road. Hours of operation 8 – 12 Saturday, closed Sunday, and 7am to 6 pm Monday – Friday, also no more than 15 acres open including roads for the combined total on both the 40 acre and the 34.9 acre.

Discussion ended.

- E. Josh & Brenda Rowley (Kelly) – Reclamation Plan** [40–acre parcel (ID# 040-026-2-46-05-28-1-02-000-10000) described as NW ¼ of the NE ¼ in V 937 P. 5, Section 28, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI.]

Chairman **Rondeau** asked if anyone would like to speak in support of this item.

**Brenda Rowley** was in support (refer to item C).

**File Report:** **Kastrosky** stated nothing in the file.

Discussion ended.

- F. Josh & Brenda Rowley (Kelly) – Non-metallic Mine Plan** [40–acre parcel (ID# 040-026-2-46-05-28-1-02-000-10000) described as NW ¼ of the NE ¼ in V 937 P. 5, Section 28, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI.]

Chairman **Rondeau** asked if anyone would like to speak in support of this item.

**Brenda Rowley** was in support (refer to Item D).

**File Report:** **Kastrosky** stated the town reviewed it for compatibility with the comp plan. The committee needs to place a duration time on the permit. **Kastrosky** asked **Rowley** if there was any idea on the time duration they would like for this mine and she stated she does not know and that would have to be up the Committee when they would like to see this item back on the agenda, every 2 years, 5 years, or 10 years. (There was a brief discussion on the durations of other approved mines) **Furtak** explained that this area is a sand deposit that will last quite awhile, stating they are going to mine sand for mound systems. **Rowley** also agreed with this, and the intention of the pit is to not even leave a

hole in the ground once they are done. There is a 2% slope from Roy Anderson Road to Maple Ridge, about 8 million yards of sand, a long lived deposit. **Maki** wanted to know if there are any rules on washing sand. **Kastrosky** stated washing and screening is part of the application and there is a retention pond on site.

Discussion ended.

- G. Town of Drummond, Owner and Shane Begley, Consultant agent on behalf of Norvado Inc. (Drummond) – erect and operate a 195’ telecommunication tower with 3 additional tenants** [on a lease parcel of land containing 10,000 sq. ft (0.229 acres) (part of ID# 04-018-2-45-07-33-3-01-000-60000), located in part of the NE ¼ of the SW ¼, in Section 33, Township 45N, Range 7W, Town of Drummond, Bayfield County, WI.]

**Shane Begley** representing the Town of Drummond and Norvado explained this is a 195 foot tower located on a parcel of land owned by the Town of Drummond. The access road was changed to the North, off of a dead end road. **Maki** asked about the elevation of the land and with the tower being 195 feet does it require lights and the response was no. **Begley** went on to say that this is a multi tenant tower so there are others like AT&T that will be using this tower as well.

**File Report:** **Kastrosky** stated the Town Board of Drummond stated this construction to be beneficial to the town in terms of economics, social, and educating. **Furtak** asked **Kastrosky** if the Town amended their ordinance prohibiting any more towers and **Kastrosky** stated they did. **Begley** also stated there are state stats that would over ride them anyway.

Discussion ended.

**6. Adjournment of Public Hearing:**

*Jardine made a motion to adjourn, Miller seconded. Motion carried. Adjourned at 2:00pm.*

- 7. Call to Order of Planning and Zoning Committee Meeting:** **Rondeau** called the meeting to order at 2:00pm.

- 8. Roll Call:** **Jardine, Maki, Miller, Rantala, and Rondeau** –all present.

Others present were: Director Karl **Kastrosky**, AZA, Mike **Furtak**, AZA, Deb **Kmetz**-Office Manager and Krystal **Hagstrom**-Secretary.

- 9. Minutes of Previous Meeting(s):** **Rondeau** stated the minutes are from the November 17, 2011 meeting.

*Miller motioned to approve, Rantala seconded. No further discussion. Motion carried.*

**10. Business:**

- A. A petition by Karl Kastrosky, Director of Planning and Zoning, on behalf of the Bayfield County Planning and Zoning Committee, requesting an amendment to the**

**Bayfield County Zoning Ordinance to create section 13-1-22(l) regarding setbacks on properties subject to adverse possession.**

*Miller motioned to **table** and come back as a business item. **Rantala** seconded. No further discussion. **Motion carried.***

- B. A petition by John A. Wichita, Chairman Town of Lincoln Planning Commission, on behalf of the Town of Lincoln, requesting an amendment to the Bayfield County Zoning Ordinance to create Section 13-1-68 regarding an overlay district for the same minimum shoreline frontage for Multiple Unit Development and Conservation Subdivisions as single unit residential development.**

*Miller motioned to **table**. **Rantala** seconded. No further discussion. **Miller** asked why no more discussion on this item and **Rondeau** replied that when an item is tabled there is no discussion and **Miller** asked if the rules can be suspended for that. **Rondeau** is not sure. **Kastrofsky** stated if no one is positive on this then to withdraw the motion. **Miller** withdrew his motion and changed to **postpone** (to be able to discuss why he motioned the way he did) to January. **Rantala** seconded. **Kastrofsky** asked if the reason to postpone is to get more information on the issue and see the outcome of the cable meeting and if the committee is going to bring it back as a public hearing so it can be discussed or a business item and **Rondeau** replied the committee needs to look at each town individually. **Jardine** stated it needs to come back as a public hearing. **Rondeau** stated the committee can take input at that time. **Miller** said that it does not need to come back as a public hearing but postpone and add it to the business section of the meeting and take public input. **Rondeau** agreed and said the committee can open it up to the floor. **Maki** stated that it should be added to the motion that if it is brought back as a business item then it can be discussed, **Rondeau** also stated that would be fine on this issue and if it comes back into the business section and the committee decides to hear it the rules can be suspended and the committee can hear from people in the audience. **Maki** wanted it in the motion now so it is clear what to expect. **Rondeau** stated he doesn't want to put it in the motion now and **Maki** again stated that he wants it in the motion so when the next meeting arrives the public can speak on it. **Rondeau** restated the motion as to postpone to January and put it on as a business item and **Miller** stated the committee can open discussion up to the public regardless if it is said in a motion or not and **Rondeau** agreed with **Miller**. Discussion ended. Favor – **Miller, Jardine, and Rantala** Opposed – **Maki. Motion carried.***

- C. Josh & Brenda Rowley (Kelly) – Reclamation Plan** [34.91-acre parcel (ID# 040-026-2-46-05-28-1-01-000-10000) described as NE ¼ of the NE 1/4 less V 353 P. 98, Section 28, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI]

***Maki** motioned to approve. **Jardine** seconded. No further discussion. **Motion carried.***

- D. Josh & Brenda Rowley (Kelly) – Non-metallic Mine** [34.91-acre parcel (ID# 040-026-2-46-05-28-1-01-000-10000) described as NE ¼ of the NE 1/4 less V 353 P. 98, Section 28, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI]

***Jardine** motioned to approve. **Rantala** seconded. **Kastrofsky** stated this should be based on the consistency of the town plan and **Rondeau** asked about the duration. **Kastrofsky** also asked if the Rowley's sell the property, does the permit go with the land.*

*Miller* stated most permits are 10 years. *Rondeau* stated that if we are going to give them 20 years then let's just attach the permit to the current owner and if the land is sold the new owner must come to the Committee with a new permit. *Jardine* approved, *Rantala* seconded. No further discussion. **Motion carried.**

- E. Josh & Brenda Rowley (Kelly) – Reclamation Plan** [40-acre parcel (ID# 040-026-2-46-05-28-1-02-000-10000) described as NW ¼ of the NE ¼ in V 937 P. 5, Section 28, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI.]

*Rantala* motioned to accept the reclamation plan. *Jardine* seconded. No further discussion. **Motion carried.**

- F. Josh & Brenda Rowley (Kelly) – Non-metallic Mine Plan** [40-acre parcel (ID# 040-026-2-46-05-28-1-02-000-10000) described as NW ¼ of the NE ¼ in V 937 P. 5, Section 28, Township 46 North, Range 5 West, Town of Kelly, Bayfield County, WI.]

*Jardine* motioned to approve with the same conditions as item D. *Maki* seconded. *Kastrosky* stated that they did not capture the town's conditions on hours of operation. *Jardine* approved with same conditions as item D and with the Town's conditions and that these same conditions apply to item D. *Maki* seconded. No further discussion. **Motion carried.**

- G. Town of Drummond, Owner and Shane Begley, Consultant agent on behalf of Norvado Inc. (Drummond) – erect and operate a 195' telecommunication tower with 3 additional tenants** [on a lease parcel of land containing 10,000 sq. ft (0.229 acres) (part of ID# 04-018-2-45-07-33-3-01-000-60000), located in part of the NE ¼ of the SW ¼, in Section 33, Township 45N, Range 7W, Town of Drummond, Bayfield County, WI.]

*Miller* motioned to approve with any Town stipulations and contingent on Town approval also that it meets the Town plan. *Rantala* seconded. No further discussion. **Motion carried.**

## 11. Other Business

### H. Discussion and Possible Action on NR115

*Kastrosky* noted still ongoing but the DNR is going to come out with a scoping statement in March asking for the same revisions they asked for the past 5 years and they are finally going to do it. The department wrote and received a \$5000 grant to rewrite the ordinances. *Furtak* asked for a two year extension and it was accepted so the funds don't have to be applied until 2014 to rewrite our ordinances to meet the new regulations.

### I. Discussion and Possible Action on Comprehensive Planning

*Kastrosky* stated Pilsen meets on the 20<sup>th</sup>. The County is ready to submit a report. *Kastrosky* is concerned about consistency in the comp plans for all the Towns.

## 12. Monthly Report

**Maki** asked about the extra money needed to pay legal fees. **Kastrosky** answered that is Board of Adjustment's fees and the CFS case.

*Miller motioned to approve. Maki seconded. No further discussion. Motion carried.*

### **13. Budget and Revenue**

Discussed above as 12.

### **14. Adjournment**

*Rondeau called adjournment at 2:25pm.*

*Prepared by kmh on 12/16/2011*

*Approved by KLK on 1/5/2012; 1/19/2012*

*Final Approval on 1/19/2012*

*cc: (after final approval)- (8) Supervisors, Cty Admin./Clerk, DNR, Web*

*k/zc/minutes/2011/#12 December*