

**Town of Duluth  
Planning Commission  
Meeting Minutes  
4/28/11**

The meeting was called to order by Chair Dave Chura at 7:00.

The meeting immediately followed a joint meeting between the Town Board and the Commission concerning short-term rentals (see attached minutes).

Roll call:

**Present:** Dave Chura, Jan Green, Paul Voge, Jo Thompson and John Schifsky

**Absent:** Bill Lannon and Brigid Pajunen

Also present: Barb Crow and Dave Mount, Town Board Supervisors

Dave Chura began by introducing the new members of the Commission, Paul Voge, Jo Thompson and John Schifsky and having them say a little bit about themselves.

Paul said that he has lived in the Township since 1998. He lives on the upper end of Ryan with his wife and 13 year old son. He started work as a surveyor, went to law school and now has a solo practice focusing on real estate. He is interested in zoning issues and grassroots issues. Paul was on the Board of Appeals a few years ago (when the Town had a BOA that was separate from the Town Board) with Dave Miller and Jeff Cook. They heard cases concerning the Bieraugels, Odyssey and the Wordens.

Jo Thompson said that she lives on Korkii Road and is a biologist/ecologist for the USEPA where she is involved with watershed work. She has been interested in Township government for quite some time now, attending meetings and providing input. She is also involved in the Township's community education program.

John Schifsky said that he has lived on Pine Park Road since 1999. Prior to that, he lived in Duluth. He is interested in the kinds of issues that come up in Planning and Zoning. In addition, he has been involved over the past several years in creating a road association for Pine Park Road.

The proposed agenda for the evening meeting was approved without change.

The minutes from the March meeting were approved without change.

Barb Crow is the new Town Board representative to the Planning Commission, replacing Dave Mount. She said that John Kessler is still interested in continuing his duties that don't involve driving. Sue is going to do that portion of the job. So they are currently working on modifying job responsibilities and at this point they are not planning on replacing John.

**Chair Report**

Dave Chura said that the two bills possibly affecting land use were discussed during the short-term rental discussion that occurred immediately prior to the Planning and Zoning meeting, so he has nothing more to add to that discussion.

There was a question about Dave Chura's term on the Commission. He explained that when he started on the Commission, he was replacing someone and instead of filling out that person's term, as the Ordinance says should be done, his term was started from that point. So the language in the Ordinance could be clarified regarding that.

Dave Mount asked if others agreed in interpreting the Ordinance as saying that if someone fills a premature vacancy on the Commission, they should complete the term of the person they are replacing and then still be able to serve two full terms. This is a good time to clarify this because 2 of the 3 new positions on the Commission are early terminations. He thought that in the interest of keeping the Commission's turnover spread out, it would be good to have each of the new Commissioners assigned to a departing member's term, after which their own terms would commence.

Dave Chura asked how the Commission wanted to decide which new Commission member adopts which outgoing member's term.

Barb had created an example of terms, arbitrarily assigning new members to outgoing member's terms:

John Schifsky - April 2011- March 2012 (filling Yvonne's term)  
Jo Thompson - April 2011-March 2013 (filling Barb's term)  
Paul Voge - April 2011-March 2014 (new term)

Everybody agreed to adopt what she had written.

It was decided that Dave's term be set to expire in March of 2012, as it would have if his terms had started after he completed the term of the Commission member he replaced. With that, all terms expire in the month of March and things will be back on track.

Barb also sent out a proposed revision of the language in the Ordinance for Article XIII Section 3, concerning appointments (see attached).

Dave Mount asked if the outgoing Town Board should appoint new Commission members or should the new Board do it? New Board members are sworn in around March 25<sup>th</sup>. The interviews would need to be done earlier to have new Commission members appointed by the outgoing Board. Otherwise, the new Board members would be appointing people they haven't interviewed.

It was decided to leave that language as Barb had written it – to continue to appoint new Commission members at the first Town Board meeting following the annual meeting.

Paul Voge asked what exactly the phrase “annual meeting” meant and it was decided to clarify the phrase by inserting the word “Town” so it says “annual Town meeting.”

John made a motion to adopt the language Barb proposed with the addition of the word “Town” to “annual meeting.” Paul seconded and the motion was approved unanimously.

Dave Mount said that regarding the Ordinance, there is a lot of clean-up that needs to be done. The Board cannot do anything without the Commission recommending it to the Board. As soon as the Commission puts forward a package of changes that they think should be turned into an amendment to the Ordinance, he is sure the Board will move forward with it.

Dave Chura suggested that Beth start a document with proposed changes to the Ordinance.

### **New Business**

The Commission has not gotten a financial report from Ann for a couple of months. We will try to get one for the next meeting.

Dave Chura directed everyone to the program of work for the coming year that Sue drafted and sent out (see attached). He asked if anyone had any additions to it and asked that members consider how to prioritize the items on the list.

Dave Chura said that he was not sure if it was a Township responsibility to inventory culverts and ditches.

Dave Mount said that it was a requirement for meeting stormwater requirements and that is typically the responsibility of the road supervisor, currently Dave Miller.

Jan was concerned that adopting interim use permitting could put the Township at risk because there is so little precedence. If we were to use it for something controversial, we could be on the losing end.

Dave Chura said that having it would give us the option to use it. We can decide at the time if we are comfortable with it. We don't have to use it.

Jan said that it would be too tempting to use if it were available. She said that she looked at the Statute and thinks it's pretty sketchy.

Paul pointed out that we would have to revamp the zoning matrix to include which uses would be appropriate for interim use. He said that he reads it as a conditional use with a time limit. And like a conditional use, if the applicant does not agree to the terms of use, he doesn't get it.

Jo asked if interim use would be used for activities that were one-time events.

Paul said that he sees it most often used for things like livestock, borrow pits, and mineral exploration. It would mean more oversight, revisiting the permits and granting extensions.

Dave Chura said that he will put the list for the program of work in an Excel spreadsheet and have everyone rank it.

Jan said that redoing the Comprehensive Land Use Plan (CLUP) would be a fairly extensive activity for the Commission to take on. If Sue did not lead the effort, it would take money bring someone on to do it. Perhaps a STAR grant.

Dave Mount suggested Coastal Program money.

Paul said it seemed like a good idea to look at it again. It has been 10 years and a lot could have changed.

John said that he would like to see the new Township census information and compare it to 2000 census data.

Paul asked what GIS capabilities the Township has. He said that St Louis County's new website links County data to Google Earth and shows parcel codes, ownership, etc. It is one of the best county GISs he has seen.

Dave Chura said that it also shows anything that has been recorded with the County for a parcel. They have a lot of capabilities that could be valuable for the Township. There would be costs involved. They are putting together a fee structure for local government entities. They also have some good instructional videos for putting together a site map, identifying wetlands, etc. He will check with Sue to see if we can get them to meet with us.

Paul said that the St Louis County Planning and Zoning surveyor emailed him and they finally put out their draft subdivision ordinance. It can be found on the County website and they are inviting comments on it until July 29. Among the changes are that they will be allowing "minor boundary adjustments" to deal with nonconforming lots, and that they are allowing for more conservation-oriented subdivisions.

Jan said that we don't approve subdivisions, the County does.

Paul said that we approve the preliminary plat.

### **Old Business**

Dave Chura asked about wind generation and alternative energy. A lot of work has been invested in it and it seems as though we should continue with it.

Jan said that she would like to work on it, but doesn't have time right now. Alternative energy can include a lot of different things. The original impetus was that someone on Greenwood Road wanted to put in a horizontal axis wind generator. She suggested that instead of trying to deal with all alternative energy that we just work on wind for now.

Dave Mount said that he came across something that might be of interest. In 1971 the Legislature "passed a special act conferring upon Duluth Township the authorities that cities and municipalities have." No one seems to know why that was done or what the impact would be. It may provide for more tools. It's listed as #746. He found an index that references its existence, but it says something like "the chapter that is not in statute." There was time when there were several classes of local units of government that were later consolidated. He will continue to look into it.

Dave Mount wanted to discuss the issue of accessing legal advice for the Commission. Tim Strom has historically wanted to limit the number of people that he deals with. It is currently the Chair of the Board and Sue Lawson. It seems like it might be worthwhile to add the Chair of the Commission or the Town Board's representative to the Commission to that list to be able to get Tim's help when the Commission needs it.

Dave Chura asked if it wouldn't be most appropriate for Sue to be the liaison to Tim for the Commission since she is supervised by the Board and it would be easier to keep an eye on the use.

Dave Mount said that because Sue makes decisions on her own that can involve legal matters, it makes sense for her to have that ability. She has been doing this in practice. The question is whether the Commission would like to have that capability, too.

Dave Chura said that the Commission's budget has not been charged for these inquiries in the past. What is the charge?

Dave Mount said that Tim gives the Township a discounted "hometown" rate of \$100 an hour. He will also sometimes do things for free as a Township citizen. He often attends Board meetings free of charge but will still answer questions that come up. He sends out a very detailed bill.

Paul said that it seemed as though litigation comes up most frequently on Planning & Zoning issues. It might be nice if he came to P&Z hearings.

Dave Mount noted that at a hearing the Commission takes in a lot of information, evaluates it and is then asked to make a decision and have well-thought-out findings. Because of this, a Commission member often comes to the hearing prepared with points to support a decision. That can create the impression that the Commission decided on the outcome before the hearing. Tim says you cannot make a decision and then work on the reasons. You are supposed to adopt your findings when you vote. It is a tall order to have a fair and impartial hearing and prepare detailed findings.

Jan said that we have adopted that procedure because of the 60 day rule.

Dave Mount said that you only need to send a letter saying you need more time to extend the period to 120 days. After the 120 days, the deadline can be extended if both parties agree. In addition, the appeal period has been shortened.

Jan said that we don't have a well-defined time that is set for when an application is received and the fee submitted. It is usually when Ann takes it.

Paul said that Sue should have 15 days to review the application.

Dave Chura said that he thinks it is good to do it all at the hearing like we do now, while the information is still fresh. You are already thinking about it and have an idea of the findings.

Paul said that the decision and findings are based to a large extent on the written record. Sue is like the gatekeeper to make sure the Commission has the information they need to make a decision.

John said that he can see both sides. He said that he has been involved in hearings where input from the audience changed the direction.

Jan said that motions can be amended, seconded, withdrawn. They are a tool.

It was asked if the Bieraugel property had been sold. Dave Chura said that it was his understanding that the property would be more marketable with the variance.

The business of electing new officers, which had been tabled at the previous meeting, was reopened. Jan made a motion that Dave Chura continue as the Chair of the Commission until his term expires in March of 2012. John seconded the motion and it passed unanimously.

Jan then made a motion to nominate Paul as the Vice Chair. Jo seconded and the motion passed unanimously.

### **Concerns from the Audience**

None

The meeting was adjourned at 8:30.