

TODD COUNTY BOARD OF COMMISSIONERS

Work Session Agenda

Date: February 16, 2016

Time: To Follow County Board Meeting

Meeting to be held at the Historic Courthouse 215 1st Avenue So, Long Prairie, Minnesota

Item #		Approx. Time
1	Discussion on Hiring HR Director / Coordinator	11:45
2	Human Resources	
2.1	Springsted Update	
3	Soil & Water Conservation District	
3.1	Divison Complaint Response Procedures	

The County Board Meeting will begin promptly at the prescribed time. The County Board reserves the right to alter the order of the agenda items and the amount of time allowed for an item based on business needs.

Planning and Zoning Complaint Response Procedures

May 2015

Step 1: Acceptance of Complaints

Todd County Board of Commissioners are committed to having all complaints and/or reports of land use violations investigated. The following process outlines how county staff are to respond to complaints and/or reports of land use violations submitted by citizens (10.02).

1. Complaint information and notes are kept in a complaint log and filed under land parcel number.
2. All complaints and/or reports of land use violations from citizens must be accompanied by the complainant's name and one or more of the following: a. Phone Number, b. Email Address, c. Physical Address
3. All complainant information will be kept confidential unless the County is legally required to produce said information.
4. All complaints received meeting item #1 will be investigated as staff time allows as determined by the Planning and Zoning Director.
5. If requested, the Planning and Zoning Director shall ensure that the complainants are provided with the findings of the investigation, when the case is resolved or concluded, and what, if any, actions were taken.

Note: A complaint is not a violation. Only when the complaint is verified by staff can it be considered a violation.

Step 2: Complete a Reasonable Investigation

Alleged ordinance violations shall be referred to the Director. The Director, or the Director's designee, shall make a reasonable investigation and determine whether or not a violation exists (10.04).

If it is determined that no violation exists – this information must be documented as “no violation” in the complaint log. This saves significant time in the future if the case needs to be re-researched. Follow-up with the individual that filed the complaint may be necessary and noted in the log.

If it is determined that a violation exists, facts supporting this determination are collected and recorded in the county Planning and Zoning file system. Information collected shall be recorded in the land use management software with date and staff initials that collected the information. Photos of the situation also need to be downloaded into a software sub-directory under the parcel in question. Land use software notes should specify that no permits should be issued until violation is resolved.

If a situation changes and it becomes apparent that a violation no longer exists – it is important to document this in the land use software immediately to avoid having a landowner being denied land use requests.

Step 3: Notifying and Contacting Landowners

It is policy to attempt to notify landowners prior to entering their property. If a landowner can not be reached then the staff must limit their search to “off property” photography or those features that can be documented to and from the residence.

Contacting a landowner can be completed via phone , email, or written correspondence. Whichever method is used it is important that a detailed note be made in the complaint file. For example, if a landowner is initially contacted about a violation and they agree to come in that week to obtain the needed permits the process will be set back if the landowner fails to follow through. A note in the file recording landowner intentions builds a history that is important in case enforcement actions need to be taken at some point.

a. Initial Contacts – can be phone, email or letter, or an on-site visit

Relay that there is concern that a violation may have occurred. Focus is on collecting information and establishing communication with the landowner. If a site visit is made - photos and possibly measurements should be taken and made part of the complaint file. This to establish what appears to have occurred and what ordinance has been violated.

Another reason a site visit is needed is to determine if some form of resolution or action by the landowner is required and to establish a reasonable time frame for resolution. If there are options on how the situation could be resolved indicate this and ask that they contact the office to work out a solution. Some administrative flexibility in resolution is available at this stage as to how the issue is resolved. If the situation is complex detailing what needs to be completed in writing is more important. Oftentimes violations can be resolved quickly after initial contact. It is still important to document contacts so they can be referred to if subsequent enforcement is necessary.

b. Follow-up contact - if landowner does not respond, does not meet initial deadline for taking steps to solve a problem, notify them in writing a second time – give last chance to fix without administrative fee. The follow up contact should contain the elements listed below:

In addition to using proper letterhead, date, and whom to contact about the violation:

- (1) the action required on the part of the property owner to eliminate or resolve the violation; and
- (2) a reasonable time in which the violation must be remedied; and
- (3) no permits shall be issued to the landowner for the property in question until the violation is resolved;
- (4) If not resolved, enforcement action may be taken including a misdemeanor fine through the court system or Administrative Order issued through the department with costs of \$300 to \$500 to the landowner.

Step 4: Enforcement Actions

If initial and follow up actions have not convinced landowners to resolve the violation some form of enforcement action may be necessary for resolution. Staff should consult the Director to determine what course of action needs to be taken and when. Since there is a high number of existing violations – the cases needing enforcement action may require prioritizing to avoid impacts to regular work duties. The following enforcement options can be used alone or in combination – not necessarily in order.

1. Enforce after-the-fact fees – only a factor if they need a permit.
2. Stop ability for additional permits on property by documenting in land use software - standard
3. Issue Cease and Desist Order – if active construction. Follow up with written instruction and timeline.
4. Issue Restoration Order if the violation involves shoreland damage or creates other natural resource problem or hazard.
5. Sheriff – charge with misdemeanor – court – follow up on cases – costly, slow, and raises additional problems such as the fact that the legal system does not understand

Cease and Desist Order

In some cases a Cease and Desist order can be used if there is active construction on a project that is proceeding in violation of the ordinance. If a Cease and desist Order is issued it is important to inform the rest of P&Z staff so they can be alerted to the situation. Always follow up a Cease and Desist order with written correspondence clearly defining what needs to be corrected with a timeline.

Restoration Order

A restoration order is used primarily when a landowner significantly alters a site through earth moving or vegetation removal. The restoration order specifies what is needed to be completed by the landowner to resolve the violation. This may include leveling the site to its original grade, removal of features installed, erosion control measures, planting of trees & shrubs, etc.. Also include a reasonable timeline for the work to be completed.

Sheriff's Office

Prepare and submit materials to sheriff's office.

Request sheriff's office to issue a citation of Todd County Planning and Zoning Ordinance

Include: Landowner, site address, property description.

Describe offense.

Chronological Order detailing all contact with landowner.

Ordinance section(s) violated

Include photos & copies of correspondence with landowner

Once received in the Sheriff's office - a deputy will issue citation and a court date will be scheduled. Often times the issue can be resolved prior to the court date if staff are available to concentrate on the case which can be tough during the May – October period.

At the court hearing the case will come up and judge should direct landowner to fix issue.

Future Options To Resolve More Violations and Prevent New Ones

Make the after-the-fact fee process more flexible.

Proposed After-The-Fact Process

Rate	Amount of Contact	Project Completion	Landowner
1X Permit Fee	1 st notice	Not yet completed Started but not yet completed	No prior violations No previous correspondence on project
2X Permit Fee	Notice required or mult. Site visits, deadline for #1 exceeded	Totally completed project	Had prior contact and knew about rules with this or previous situation
3X Permit Fee	Corresponded 3 or more times and has exceeded time frames	Completed project or continued work after cease and desist	Prior correspondence on file for the specific project indicating need for permits or process to follow

Administrative Orders & Fees

If a case is not resolved by landowner contact and established timelines are not followed and no significant progress is made in the case. What is required is outlined in the Administrative Order. Send notice using Certified Mail of pending Administrative Order and 30 days to take action, last chance to avoid administrative penalty. Copy also sent to County Commissioner in that District at this stage.

If the individual responds and **fully resolves** the case within the 30 days – the Administrative Fee is not assessed to the landowner. A notice is sent to the landowner that the violation is resolved.

If substantial progress is made toward resolution within 30 days the Administrative Order can be re-issued with a longer timeline. This decision is made by the Director.

If no substantial progress is made by the landowner to resolve the violation an Administrative Fee is assessed to the landowner and notification made in writing using Certified Mail. Payment of the Administrative Fee does not resolve the violation. Funds received through Administrative Fees are non-refundable and transferred to the general fund at year end and do not support the Planning and Zoning Department.

If the Administrative Fee is not paid by Oct. 15 of that year the amount assessed to the landowner is assessed to their land taxes if not successfully appealed.

Cases in which an Administrative Fee is assessed but not resolved will be reviewed at least annually with the potential for an additional fee assessment following the above protocol.

Timing

Also need to consider how much time has expired since the violation – courts do not want to consider “old” violations. If something can be worked into a new system handled within our department that would be a benefit and provide staff direction.

Proposed Administrative Fee Schedule

Complaint Type	Proposed Administrative Fee or Action First Penalty	Follow Up Actions Administrative Fee
1) Structures with No Permit or not consistent with permit issued	3x permit or \$500 whichever is greater	\$1000
2) ISTS failing, not permitted, needs upgrade, none established	\$500	\$1000
3) RV's used as residences, un authorized campground	\$500	\$1000
4) Trash / Garbage / Unsightly	\$500	\$1000
5) Shoreland or Bluff Ordinances Violation – failure to meet restoration order issued by the department.	\$500	\$1000
6) Setbacks to property lines or ROW not followed	\$500	\$1000
7) Land Split Improperly – creating non-buildable parcel	Flag in LU program – NO PERMITS	
8) C.U.P. needed or case conditions not met	\$500	\$1000
9) Variance board or planning commissions conditions not met	\$500	\$1000

- Wetlands and Feedlot Provisions administered with SWCD Board oversight.