

**City of Frankfort  
Planning Commission  
Draft Minutes  
Regular Meeting of June 16, 2011 at 7:00 p.m.  
Haugen Room at City Hall**

**Call to Order: 7:00 PM**

**Roll Call and Recognition of Visitors:** Campbell, Fairchild, Ogilvie, Penne, Storrer;

**Absent:** Larson, 1 vacancy

**Public:** Suz McLaughlin, Bob Dittrich, Pim Dodge, Michael Fitzhugh, architect; Dennis Heniser; Sharron May, Josh Mills, Dale Evans

**Quorum present**

---

**Motion to approve minutes of Regular Meeting of March 8, 2011 moved Fairchild seconded Storrer; all ayes; motion passed.**

---

**Motion to approve minutes of Special Meeting of March 22, 2011 moved Storrer; seconded Fairchild; all ayes; motion passed.**

---

**Motion to approve minutes of Regular Meeting of April 12, 2011 with corrections moved Campbell; seconded Fairchild; all ayes; motion passed.**

---

**Motion to approve minutes of Special Meeting of April 19, 2011 moved Storrer; seconded Fairchild; all ayes; motion passed.**

---

**Motion to approve minutes of Regular Meeting of May 10, 2011 with corrections moved Storrer; seconded Campbell; all ayes; motion passed.**

---

**Motion to Approve Agenda with changes and additions moved Fairchild; seconded Campbell; all ayes; motion passed.**

---

**Public Comments & Correspondence Concerning Items Not on the Agenda:**

A letter submitted by Mr. Dale Evans would be discussed in the Chair report.

**Suz McLaughlin** 670 Crystal Ave, sent correspondence last month regarding the Tree Farm and was wondering if there were any developments in the follow up mentioned at that meeting. She is unable to attend the Earth, Wind and Fire meeting on Thursday and she is anxious to find out how the public can be more involved.

**Ogilvie**, responding: The tree farm is under consideration. The zoning ordinance development will be similar to what was done with Urban Agriculture to get people informed on the process. They will form at least 3 subcommittees on alternative energy and proper zoning.

---

**Reports to the Commission:**

A letter of response was read to **Dale Evans**, proprietor of Bayview Grill and is available through the public records. It was regarding the special conditions for site plan approval and special use permit. Two official notices of compliance were issued. Each member of the Planning Commission received a copy of Evans' letter and the letter of response. The pros and cons of four potential options were provided by the Chair for consideration by the Planning Commission, pertaining to specific language in the zoning ordinance:

Option 1: The Planning Commission may change the conditional approval by modifying the original decision of May 13, 2010 in a mutually agreeable manner. There are conditions to that in the Zoning Ordinance. The zoning attorney recommends holding a new public hearing seeking public comment before modification. This calls for new notification, filing fees and other requirements from the applicant.

Option 2: The Planning Commission may vote to enforce the previously approved conditions and because a year has passed, conclude that a violation has occurred, mandating fees and penalties for the number of days until remediation is completed and compliance on previously approved conditions.

Option 3: The Planning Commission could vote to terminate the special use permit, effectively creating a land use violation and instituting fees and penalties for the violation.

Option 4: The Planning Commission could vote to allow Evans to reapply for a Special Use Permit and Site plan. If the City Administrator wishes, he could grant a temporary special use permit with special conditions for a limited period of time so the Bayview Grill could stay in operation during the application process. A new application with architectural plan, storm water plan, and other requirements are required, along with a new public hearing process and fees for city simulation and review process.

---

**Motion to institute a temporary permit under the supervision of Zoning Administrator Josh Mills, moved by Fairchild, seconded by Storrer.**

**Discussion** over which option was “the least draconian” which **Fairchild** stated was his preference. **Ogilvie** indicated that number four was the least draconian. **Mills** stated that with option 4, he would be able to issue at least three special use permits to accommodate the busy season and would work with Mr. Evans to eliminate the opportunity for parking in the outdoor eating area. **Campbell** thought option #4 was the most viable option to support business while complying with the rules of zoning. **Penne** asked if that would eliminate any additional fees. **Ogilvie** said that it would be up to the city council to request compensation for the City Superintendent's time. **Storrer** felt that essentially they were extending the special conditions. **Evans** asked if he could comment. **Ogilvie** responded that he could not. **Evans** interjected that Ogilvie was biased and should rescue himself; that Option 1 was the least draconian, and that he had no access to the materials that were being presented and discussed this evening. **[Evans left the meeting.]** **Fairchild** pointed out that with Option one, all the meetings would have to take place prior to approving an extension. **Ogilvie** added that if number one were chosen, Evans would have to reapply, provide a new site plan and engineering study and fees. **Mills** added that the special use procedure couldn't be modified without notifying neighbors. **Storrer** stated that

option 4 allowed him to conduct business and asked if Evans would be able to still operate with Option one. **Mills** responded that he would not have outdoor seating. **Ogilvie** explained that The Planning Commission is not an enforcement board. It goes from the Zoning Board of Appeals to the City Council to the Circuit Court. **Storrer:** we were basically trying to give him a way out. **Fairchild** was just trying to do what was in Evans' best interest. **Storrer** thought that Option 1 would not permit him to conduct business outdoors and there would be fees whereas option four would permit business outdoors and there would be no fines. **Fairchild** surmised that in essence, the Planning Commission was letting Evans slide for the summer to which **Ogilvie** added "with supervision". **Fairchild** felt that **Evans** was flagrant with dismissing everything he was supposed to comply with. **Penne**, observed that **Evans** acted as if he did not know about the four options and wondered if there was an obligation to prepare him. **Ogilvie** deferred to **Mills**. **Mills:** based on the special use approval, he had until May 13 to remedy the conditions of the approval. He received a registered letter in late September stating the conditions of approval. The September letter was a reminder, and Evans took no action to notify Mills about his plans. The spring letter required a response. Mills met with him and he said he was flat out not going to comply with it. We are trying to give him an opportunity to conduct outdoor business through the summer. Remax had to do the exact same thing and they complied. Minimizing the curb cuts for safety was part of the conditional approval. **Campbell:** I remember he said that he couldn't afford it. **Mills:** that's why we gave him a year. We are amiable people. He could have requested more time. I think he didn't have any intention of complying. **Ogilvie:** we should either vote or table it. **Penne:** we should vote; it gives him 3 months to look at all the options. **Storrer:** should we do a comparison of Option 1 and 4 when we write to him? **Fairchild:** we are giving him 3 months to do what he should have done anyway. **Mills:** it wouldn't be expensive or difficult. **Ogilvie** called a vote by role call.

**Chair called for a vote on the motion after discussion. Campbell: aye; Fairchild: aye; Ogilvie: abstained; Penne: aye; Storrer: aye. Motion passed.**

---

**Chair Report: Status of Ordinance development for Medical Marihuana and Alternative Energy** - Educational meeting on June 15, 2011 at 3:00 pm open to the public to learn details about Waste to Energy process. **Ogilvie** has reviewed what the legal authorities are saying, he has attended two meetings and there will be licensing opportunities for the caregivers but the licensing of the caregivers will not be licensed by the city. In the best interest of our entire community one person will be responsible for licensing individuals.

Discussion: **Fairchild** asked if these limited the number. **Ogilvie** responded that each caregiver could have 5 patients and grow 12 plants for each patient. Each medical patient has one caregiver. We can't license the patient but we can license the caregiver. The facilities are required to be inspected. **Fairchild** asks if the caregiver will be allowed to grow from the home. **Mills** replies that it needs to be inside a locked facility. **Ogilvie** clarifies that they are not going to be licensing dispensaries just caregivers and that he hopes to have a draft by the August meeting.

**Ogilvie** announced Earth, Wind and Fire Alternative energy forum at 6:30 PM Thursday at the Frankfort/Elberta Elementary School Multipurpose room.

### **Subcommittee Report: Public Forums – Patricia Storrer**

There will be 8 speakers; 2 keynote speakers; including connection between alternative energy and zoning; Tom Karas will talk about wind energy; Bruce Harwood and MDOT representative will talk about impact on airport and height restrictions; Marcia Curran regarding solar panels; Marsha Stobie regarding conservation and architecture; also a speaker on Plasma-gasification; This will be followed by a question exercise where they will answer as many questions as possible. Committees will be formed for the various subsets of Alternative Energy. Publicity includes local newspapers and postings on many websites, including MLUI.

### **City Superintendent Report – Josh Mills**

Main Street redevelopment project(s) and Specific Site Plan Approval.

a) Patterson Crossing (former Bayview Apartments) moving along. The DPW crew has been getting beach graded and ready by this week; volleyball posts being replanted. Will be closing off turn-around to get ready for the season. Storefronts: Momentum is slowly moving into new facility and their building is available for lease and/or sale. A new operation is going into former Adventure Sports location. There was a purchase of the former Blue Door building. Rhodes building is vacant. Hopefully by next summer, he is anticipating two more retail spaces to be filled. Making progress on the virtual model. Bone yard area will be mixed use; small hotel live/work units with clean, working waterfront models that can be looked at.

b) Complete Streets and Safe Access to Schools – in the process of scheduling a meeting. The grant program has to be a school led project, that partners with the city, with potential for paved trails or sidewalks throughout the city.

c) Other: alewives in our harbor, Farmer’s Market is doing well.

---

### **No Unfinished Business**

---

#### **New Business: Site Plan Review for Heniser Building, Main Street, Frankfort.**

Architect Michael Fitzhugh presented site plan and construction drawings. Mills reviewed and the project meets or exceeds the objectives of the Zoning Ordinance. The project includes two distinct retail spaces, approximately 1300 square ft. each, a residential space on second floor for short-term summer rental and third floor private condominium. Estimated start date: mid-August so as not to disturb summer business. Many positive comments came from the Planning Commission about the design, economical use of space and plan to use as many local contractors as possible. Ogilvie: “It justifies four and a half years of terribly hard work”

---

**Motion to close hearing on site plan for the Heniser Building on Main Street moved Fairchild, seconded Campbell, all ayes; motion passed.**

---

**Motion to approve site plan as submitted, moved Fairchild seconded Campbell. All ayes. Motion passed.**

---

Any other Business/on-going Business:

**Motion to notify Planning Commissioner, Tim Larson, that he is in violation of non-compliance of his office. Moved Fairchild, seconded Storrer; four ayes, Ogilvie abstained. Motion passed.**

---

**Pubic input:**

**Sharron May**, 904 Adams Rd, suggestion regarding Bone yard: open up to artist competition to make sculptures out of existing materials. Crystal Garden has some inspiring examples; thanked **Storrer** for considering a late suggestion for the upcoming forum with hopes that it did not undermine any decisions made by the subcommittee. She felt that **Mr. Evans** was at a disadvantage not having access to the response letter prior to the meeting and being unable to comment after hearing it for the first time. She complimented **Ogilvie** for abstaining from the vote and would like to approach Evans about permaculture-inspired landscaping.

**Mills:** Lake Express went well. Kewaunee mayor complimented that Frankfort is where he wants to be.

---

**Motion to adjourn moved Fairchild, Campbell seconded. All ayes, motion passed.**

---

Meeting adjourned at 9:30 pm.

---

Next Meeting: Regular Meeting on July 12, 2011, The Haugen Room at City Hall at 7:00 pm.  
Commissioner Handouts: Draft Minutes for Regular Meetings of March 8, 2011, April 12, 2011, May 10, 2011 and Special Meeting and Public Hearing of April 19, 2011 and Special Meeting of March 22, 2011