

Minutes of the Joint Jurisdiction Committee
Unapproved
09/19/19

Chairperson Bartley called the meeting to order. Bartley, Lee Ann Pierce, Holly Tilton Byrne, Ope Neimeyer, Mike Struck, Duane Knutson, Al Heuton, Robert Hexum, Steve Meyer, Scott Mohror and Greg Fargen (9:49 AM) were present. Luke Muller with First District Association of Local Governments, Deputy County Development Director Richard Haugen and Brookings County Commission Department Director Stacy Steffensen were also in attendance.

A quorum was determined to be present.

Knutson moved/Pierce seconded that the agenda for the September 19, 2019 Joint Jurisdiction Committee meeting be approved. Struck moved/ Hueton seconded a motion to amend the agenda to add item three under 5B – procedures for zoning amendments and to switch the order of items 5A and 5B. All members voted “aye.” Amendment carried. All members then voted “aye” on the main motion as amended.

Tilton Byrne moved/Pierce seconded that the minutes from the July 30, 2019 Joint Jurisdiction Committee meeting be approved as presented. Motion carried.

There was discussion on how to proceed with recommending approval of the ordinance. Struck said he doesn't feel comfortable approving the ordinance without the amendments being approved, specifically the amendment regarding the aquifer protection uses.

Fargen arrived at 9:49 AM.

Pierce asked if this committee will review any changes made to the ordinance by the planning commissions. Muller said not unless specifically requested by the County Commission and/or City Council. He said he would like to have joint City and County Planning Commission meetings starting in November to review the ordinance. Muller said they will continue to have joint meetings until they work through the document, come up with their amendments and then pass it on to the City Council and County Commission. Muller said he hopes the elected officials will attend these meetings, as well. Heuton asked if this committee has to vote on the ordinance since they are just proposing language. Bartley said they need to or they may never agree.

Pierce moved/Knutson seconded a motion to recommend approval of an ordinance establishing zoning regulations and a zoning map for the City of Brookings and Brookings County Area of Joint Zoning Authority and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of SDCL Chapters 11-2, 11-4 and 11-6, and for the repeal of all ordinances in conflict therewith.

Struck moved/Tilton Byrne seconded an amendment to the motion to review the proposed amendments to the ordinance. All members voted “aye.” Amendment carried.

The committee discussed amendment #2: Zone A – Aquifer Protection Uses. Meyer said he would like to remove the word “agricultural” before the word “structures” in item #1 under permitted uses. Pierce said there is no definition for agricultural structures. Muller said they could include language that excludes structures after a particular date and have reconstruction as a conditional use. Struck said people can rebuild what's already there, but they want to eliminate expansion in Zone A. There was discussion on allowing pump houses. The group said if it is 16 square feet or less, they would be allowed.

Motion by Pierce, seconded by Hueton to amendment Zone A – Aquifer Protection Uses as follows: Section 3.06.04.01 – Permitted Uses in Zone A: Delete “and farm related buildings” and “agricultural” before the word ‘structures’ and delete “Single family residences including manufactured, mobile and modular homes” in #1. Delete #3 – Accessory uses. Add a new #3 – pump houses less than sixteen (16) square feet in area. Section 03.07.06.02 – Conditional Uses in Zone A: Delete “substations, gas regulator stations and reservoirs” in #1. Delete “truck gardening, nurseries and greenhouses” in #2. Delete all of #3, #4 and #5. Add a new #3 that reads “Reconstruction of structures in existence on {DATE OF ADOPTION}, provided application is made within one year of removal or destruction of the structure.” All members voted “aye.” Motion carried.

The committee discussed amendment #3 – procedures for zoning amendments. Struck said the ordinance says 14 days’ notice for public hearings; but he suggested changing that to 10 days’ notice to be consistent with state law. Pierce said there was extensive discussion on this when the county adopted their ordinance. She said many people said 10 days is not enough notice. Struck said the city would need to adjust their deadlines which is an administrative concern. Pierce said she believes there should be 14 days’ notice with everything in the joint jurisdictional area. She said this is a huge concern for the public. Tilton Byrne said the more notice the better and she’s comfortable with the 14 days. Neimeyer agreed that they have issues with people trying to push things through because they came in at the last minute. Struck said this could cause long wait times. Neimeyer said he is okay with the 14 days. Tilton Byrne said they don’t want to rush things; that is unfair to the general public.

Amendment #3 died for lack of a motion.

The committee discussed amendment #1 – establishing boundaries of a rural residential overlay district. Pierce said she agrees with Knutson’s comment at a previous meeting that if they rezone this area, the ordinance will not pass. She suggested doing this as a permitted use with a minimum of three acres with residences that meet certain requirements, rather than rezone. Muller said they should still notify those that would have that ability. Hueton said it could also be considered a conditional use. Pierce said that would work, too. She suggested listing townships where this would be possible, allow residences with a minimum of three acres per quarter-quarter section, it can be a conditional use and then applicants would only have to go through one joint board.

Muller said the amendment could be to allow a conditional use for a single family residence on less than 35 acres, minimum of three acres per quarter-quarter section, including setbacks with the specific location criteria noted. Neimeyer asked if there are any potential issues with this. Muller said they need to be absolutely sure the area they choose is outside the city’s potential growth area. Or if they want to even open this door. He said a small number of people will be able to do this or access this benefit. Knutson said they may have issues with someone “getting to do something across the road” that isn’t allowed on their own property. Muller said there are winners and losers in zoning. Knutson said he believes applicants should have to go through at least one board so they can try to educate people on the process.

Struck asked if they could reference that this area is south of a certain street. Muller said it would be easiest to reference the section, township and range, rather than a general area.

Bartley asked if the city will expand into the proposed area. Neimeyer said he cannot see the city expanding south of the S-curves south of town. Meyer asked about the sections in question and wondered if they should be reviewed again. Tilton Byrne said they already made that decision. She said she would be okay with not allowing basements, as long as they could build a storm shelter. Pierce said that drainage could be addressed as part of the conditional use permit process.

Hueton moved, Fargen seconded an amendment to eliminate the rural residential district and to allow a conditional use for a single family residence on less than 35 acres, provided they meet the performance standards in Section 5.21 and are in property located in the following sections, townships and ranges: 9-T109N-R50W; 10-T109N-R50W; 11-T109N-R50W; 12-T109N-R50W; 13-T109N-R50W; 14-T109N-R50W; 15-T109N-R50W; 16-T109N-R50W; 23-T109N-R50W; 24-T109N-R50W. All members voted "aye." Amendment carried.

The committee voted on the main motion, to recommend approval of the ordinance, as amended. All members voted "aye." Motion carried.

Bartley said he is happy they were able to conclude the work of the committee. He said the group is not dissolved until this ordinance has fully passed, but he thanked the group for their work to get it to this point.

Tilton Byrne moved, Struck seconded a motion to adjourn. Motion carried.

Submitted by Stacy Steffensen
Brookings County
Commission Department Director