HUBBARD COUNTY
Planning Commission Meeting
Tuesday, September 7, 2010 at 9:45 A.M.

OPEN PUBLIC HEARING 9:45 AM

ROLL CALL: The Hubbard County Planning Commission met with the following members present: Bob Ruhnke, Tom Krueger, Jerry Novak, Terry Clairmont, Arnold Christianson, Sally J. Shearer, Tim Johnson, and Oakley Williams. Absent member was Donald "Doc" Carlson. Also present were Environmental Services Officer Eric Buitenwerf and Recording Secretary Janet Thompson.

Approval of the Minutes from the July 13, 2010 Planning Commission Meeting:
Clairmont moved to approve the July 13, 2010 Planning Commission minutes as presented. Shearer seconded the motion. The motion carried unanimously.

Old Business: No old business was presented.

New Business: Proposed **Social Host Ordinance # 39.**
Hubbard County Attorney, Don Dearstyne, and Sara Bowles, representative for the Hubbard County Youth Drug and Alcohol Task Force, presented the proposed Social Host Ordinance # 39 to the Commission. The purpose of the ordinance is found in Subd.1. "The Hubbard County Board of Commissioners intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the even or gathering supplied the alcohol."

Dearstyne said this is a strong ordinance and one that is needed. Law enforcement personnel from both the Hubbard County Sheriff's Department and the City of Park Rapids Police Department are supportive of utilizing this Ordinance. It gives law enforcement an extra tool in curbing under age drinking and provides a tool for the County to provide criminal liability to those who would host.

Dearstyne referenced a Park Rapids Enterprise newspaper article which seems to indicate that there is a significant problem with even selling alcohol to under age persons. The attempt of this ordinance is to curb the locations where the drinking can occur.

Krueger questioned the procedure currently taken by law enforcement in entering a home with suspected alcohol abuse to minors and how would that differ after this ordinance is put into place.

Dearstyne said that law enforcement can only enter a home either through invitation or by a search warrant. That will remain unchanged with this ordinance. This ordinance is not only simply for a house; it can be used for keg parties which occur in a rural field setting. This Ordinance does not give law enforcement a carte blanche to go into anyone's home uninvited or without a search warrant.

Krueger said it was concerned that a "Gestapo" type approach would be used.

Dearstyne agreed that was a concern of his also. This ordinance will in no way circumvent the Constitution in any way. Law enforcement can, if they have probable cause, contact the County Attorney's Office and that is not uncommon. The last few weekends they have called a number of times on weekends for search warrants to be issued. Regardless of the time of day, they know that there is always someone on call 24/7 for those types of issues if there is probable cause for it. This gives the

County the eye to ensure that there is probable cause prior to the search warrant being issued. It is a safe-guard.

Ruhnke questioned if any neighboring counties have enacted similar ordinances.

Dearstyne said it is very similar to approximately twenty plus counties in the State of Minnesota which have this ordinance. Many cities also have similar ordinances. Four counties were researched, Cass to our east, for example who have adopted similar ordinances. If the Hubbard County Board of Commissioners passed it, he intends to bring it before the City Council of Park Rapids and draft one for them too. This would provide consistency within the County.

Shearer questioned how long Cass County has had their ordinance and its effectiveness, wondering if they have viewed a notable change.

Dearstyne said that it is a recent ordinance for Cass County so no noticeable change has occurred. This ordinance is a tool and he did not see more than half a dozen to a dozen citations being issued under this ordinance in a year if it is adopted. He referenced an example of a 21 to 22 year old college student coming home who has friends who are still under age. Those types of a party are the ones targeted by this ordinance. It is not uncommon for law enforcement to receive a complaint of a party, go there, and charge an under age individual if they find one to have been drinking. All of the kids when asked deny divulging who purchased or provided the alcohol. This way, if they are providing a place for it, they can charge that individual under this ordinance.

Shearer questioned if the owner of the property would be charged.

Dearstyne said it is not necessarily the owner of the property, but rather the host. It could be one in the same, but we are not talking about a situation where we have a couple parents who are gone and someone throws a party at their home. They would not be the ones charged under this ordinance. It is whoever allowed the party that would be charged. It also doesn't circumvent under our Statute right now if a parent wants to allow their under aged child to drink in their home. That is still allowed pursuant to this ordinance.

Shearer referenced a family wedding reception and how if it all, this ordinance would apply.

Dearstyne said that is not a situation where this ordinance would be utilized. It is meant for parties which are strictly for the purpose of alcohol.

Shearer questioned if there is any current ordinance which addresses graduating keg parties in the field.

Dearstyne said the only Statute is one for under aged drinking. He explained the importance of this ordinance and the danger of an under age drinker leaving a party by getting into a car and driving. Dearstyne said since he has been in office, over the past four years, he has seen between fifteen to twenty vehicular homicide cases, which are a lot for this area. The average alcohol level for those individuals was point two zero.

Bowles said this ordinance also gives a deterrent to parents who are permissible such as parents who may not buy the alcohol for the under aged persons, but allow their home to be used for partying. This ordinance provides a tool for fighting that.

Johnson questioned if a landlord or multiple renters are held liable for one person's allowance.

Dearstyne said only the one who is there is held liable. It is who is present, who is responsible. The ordinance definition of "host" in Subd. 3. Definitions (d) was read into the record, "Host. 'Host' means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event."

Dearstyne said if the two roommates are gone, that eliminates their liability under this.

Williams questioned the penalty.

Dearstyne said it is a misdemeanor punishable of up to 90 days in jail, and/or a $1000 fine. Those are maximum punishments.

Novak asked if the host were to serve the alcohol to an under aged person who then is involved in an auto accident, if that would then increase the penalty.

Dearstyne said that if it can be proved that the host served the alcohol and not just allowed the party, other statutes may be used for charges to be issued. There is also civil liability which the host may be facing. That is one thing that people don't realize. Civil liability can be huge.

No public comment was given.

No correspondence was presented.

Clarimont moved to approve "Ordinance No. 39, Social Host Ordinance" as presented. Novak seconded the motion. The motion carried unanimously.

Miscellaneous: Buitenwerf informed the Commission that the variance that accompanies the Schneeman's conditional use permit request was before the Board of Adjustment during their August meeting. That application was tabled to allow the Board the opportunity to review a large document that was submitted at the meeting as well as give the applicant the opportunity to see if they would be willing to incorporate some suggestions that the Board members had and time to collect information that the Board requested on various aspects of the proposal. It was tabled for one month. The applicants then-due to some personal events occurring…a family wedding-decided that timing wise it made more sense to bring the matter before the Board in October instead of September. The tentative plan is that the variance will be taken up at the October Board of Adjustment meeting. With the timing of that meeting relative to the Planning Commission meeting, it would not be before the Commission prior to the November Planning Commission meeting. Today is the deadline for the October Planning Commission meeting.

Shearer questioned a special Planning Commission meeting proposed for September 27, 2010.

Buitenwerf said it is unsure if that meeting will be held. No application had been submitted as of this meeting.

Communications: No communications were presented.

ADJOURNMENT: With no further business, Clairmont moved to adjourn. Krueger seconded the motion. The motion carried unanimously. The meeting was adjourned at 10:15 a.m.

Respectfully submitted,

Janet Thompson
Recording Secretary