

**GREEN LAKE COUNTY  
LAND USE PLANNING AND ZONING COMMITTEE  
Business Meeting & Public Hearing Minutes – August 6, 2008 – 4:30 p.m.**

**CALL TO ORDER**

Committee Chair Sue McConnell called the meeting of the Land Use Planning and Zoning Committee to order at 4:36 p.m. in the Green Lake County Courthouse, County Board Room, Green Lake, Wis. The requirements of the open meeting law were certified as being met.

Present:       **Eugene Henke, Susan McConnell, Howard Sell, Thomas Traxler, Jr.**

Absent:         **Roberta Erdmann**

Also Present: **Al Shute, County Surveyor/Land Development Director**

**John Selsing, Corporation Counsel**

**Carole DeCramer, Committee Secretary**

**Orrin Helmer, County Board Chair**

**APPROVAL OF AGENDA**

**Motion by Sell/Henke, unanimously carried, to approve the amended agenda. Motion carried.**

**APPROVAL OF MINUTES**

**Motion by Traxler/Henke, unanimously carried, to approve the minutes of June 25, 2008, and July 2, 2008. Motion carried.**

**PUBLIC APPEARANCES** – None

**PUBLIC COMMENT** – None

**CORRESPONDENCE**

Shute distributed copies of correspondence addressed to the committee from Attorney Maureen Martin regarding the Crosby issue. A copy of a letter addressed to the committee from Ted Dominowski, regarding the model home topic, was also given to each of the committee members.

Shute told the committee members about a meeting that he had with John Davel, the engineer for the ABA development, and Doug Cruzan, the developer for the project regarding the preliminary plat and their efforts to revise it.

Traxler stated that this has been done in the past, but it would have to be up to the committee if that's what they want.

Shute said that they will be sending a revised plat that will be copied and forwarded to the committee members. They are proposing to show the roads as dedicated to the public.

McConnell stated that she had hoped that, if the roads become public, they would be paved wide enough for walking and biking paths, they would allow accessibility to other people in the area, and would help to fulfill the 10% open space requirement. Shute explained that whatever goes on in the right-of-way is strictly a Town issue and that that area would not be counted as part of the open space. Traxler agreed and said that the 10% should be over and above that.

**PURCHASES** – None

**CLAIMS**

Claims totaling \$1,542.68 were submitted.

**Motion by Traxler/Sell, unanimously carried, to approve the claims in the amount of \$1,542.68 for payment. Motion carried.**

**APPROVAL OF DEPARTMENT ACTIVITY REPORT**

**Motion by Henke/McConnell, unanimously carried, to approve the June report. Motion carried.**

Shute explained that staff is in the process of creating another column in the report that will show the status of violations. The corporation counsel can update and discuss open violations with the committee based on this report.

**DEPARTMENT/COMMITTEE ACTIVITY**

**a. Fees for public hearing applications**

As a result of a previous committee discussion, Shute researched what other counties are charging for public hearing fees. The result of the research showed that the average fee is \$418 and Green Lake County is just below that average at \$375. Consequently, the committee agreed that the fees should not be raised at this time.

**b. Discussion - model home/subdivision sales office in residential zoning district as conditional use**

The committee discussed allowing a sales office in a residential zoning district as a conditional use. Some of the ideas included limiting a sales office strictly for that subdivision, and setting a time limit on it (five years, for example). The committee directed Shute to bring back a proposed ordinance amendment with the wording *model home/subdivision sales office*, so it's not just a real estate office. Corporation Counsel Selsing advised not to just focus on this project.

**GENERAL COMMITTEE DISCUSSION**

**a. Such other matters as authorized by law**

Shute – I was hoping Jeff Haase would be here. I've had discussions over the past year with the committee with regard to response time. When I call Jeff for something, the time it takes for him to get back to me or doesn't get back to me. I've had another one of those. I've assured Jeff that I won't hang on the phone for a half an hour and waste his time. Typically, when I call, it's something procedural. The last time this happened it turned out to be about a 45 second discussion on the phone and I got what I needed but I had to wait a week and a half to get it. Last Tuesday I did the same thing. I called for Jeff and left a message for him to call me. I asked the secretary to mark it important. I didn't get any response so I called the next day. I called Friday and didn't get a response. I left another message for him to call me first thing Monday morning. No response. I have trouble functioning as a department head that way. I don't have a problem making a decision but this was a procedural question with the board of adjustment item. I prefer not to make a decision that will create a whole bunch of controversy later on. The way litigation is going and attorneys are jumping down our throats for the least little decision that we make that doesn't meet the letter of the law. I just am looking for a quick feedback from Jeff on something. I was hoping to see him tonight to get an answer to my question. I can check with John (Selsing) afterwards to see how he feels. This is not isolated.

Traxler – Al, how many times, on average, do you make those phone calls? Once a week, once a month?

Shute – I would say, on average, it would be once a month.

Selsing – I know that's not correct. You call a lot more than that.

Shute - Yes, because I'm calling about the same issue.

Selsing – I don't believe that.

Shute – I don't call you. How would you know?

Helmer – My question would be, would John (Selsing) be able to answer some of these questions even though Jeff (Haase) is our attorney? I'm wondering if Jeff is gone for a day or two and if John is around, could John answer the questions?

Shute – I'll talk to anyone that will call me back.

Traxler – I'm not real in tune as to whether we have Jeff or John here for legal counsel.

Selsing – We always overlap or cover for each other.

Traxler – Other than being here, is that also for all of the departments at any given time?

Selsing – If it's something that I know about. We've had discussions about it and quite frankly, I say he's a department head and he needs to make that decision. These aren't legal questions usually in my opinion and any other department head would simply make the decisions as department head. If it's a legal question, then fine, tell us what the facts are and tell us what you know about it so we have somewhere to go or somewhere to start with as far as a legal opinion. I know there has been some feedback to me that some of the stuff marked urgent and important is just like this. Some procedural thing that we wouldn't consider urgent or important.

Shute – So 45 seconds out of your day is too much to cooperate with another department?

Selsing – No.

Shute – Fine, I'll make the decisions and if I would have known that was your departments approach, that these were not matters for us to consult with you, then I wouldn't be making the calls. I was never given that information. These are the same type calls that I made to Dan Sondalle when he was in the department so I'm just following what was done historically.

Traxler – Is there any language in the contract for the county that says something that makes it easier for you people to work together?

Selsing – No. We're the counsel for the employees as well as the board. But I also understand that, at least once a month, he comes over and actually has sit-down meetings with you.

Shute – I'd like to see that documentation, John. That is just pure B.S.

Selsing – He doesn't come over here?

Shute – No.

Selsing - He doesn't make time?

Shute – No, there is nothing like that going on. Unless I call him and schedule a meeting, then we get together, but he has not set up a practice of meeting with our department on a regular basis once a month. Wrong.

Selsing – But you have set up meetings and he has come over here?

Shute – Absolutely, because that's the only way I can talk to him.

Traxler – Sue (McConnell), does this have anything to do with us or is this something that they have to work out? I'm curious as to where we're going with this.

McConnell – What I would comment is, if there is a question that needs to be asked concerning something that is happening and someone is not heard back from in a week and it's timely with a violation, the department can't do their work. They're tied up because they're waiting for a response.

Traxler – I understand that but legal counsel is saying that it wasn't important to the point they had to get back.

Henke – How do they know it's not important if they don't call back?

McConnell – Exactly.

Selsing – I get that and I get the same response when I call back three times and Al is not there when I call back. I have heard this and I have followed up on it. There are two sides to the situation. Al has also said that he wants his own budget for his own law firm to be on call.

Shute – Wrong.

McConnell – I don't think that's accurate.

Shute – Not at all, John.

McConnell – I think the board of adjustment felt very uncomfortable operating without competent legal advice dealing with situations.

Selsing – They should have had the attorney because it's not a court proceeding. I sat with the board of adjustment when I was the only one. Basically, you're there to make sure that the meeting is conducted in a proper manner so that both sides have an opportunity so that the issues are identified. It's not an adversarial attorney thing on the floor. It's making sure that the committee feels comfortable hearing what they should hear and what the issue is they should decide.

McConnell – I agree with that, but we've been placed in situations where people coming for decisions on variances have brought legal representation and blind side the board of adjustment with all of the posturing that happens with lawyers and the board felt uncomfortable making a decision when they're told that they can be sued for this and sued for that if you don't make the right decision. They've asked for representation on a regular basis.

Helmer – We've taken care of that part.

McConnell – Right, we've taken measures to deal with that.

Selsing – I agree, they should have had representation. They should have.

Traxler – In this case, where AI really needs an answer with something that is coming up.

McConnell – We're dealing with violations that need to be acted on on a timely manner, if we can't make a decision and act on it, situations occur that we don't need that to happen if we can act in a timely manner and I think that's what we need to see happen. A timely response should be given to handle things when they're small and can be handled easily not we missed our deadline and now we have to go beyond that. That's what we see happening.

Shute – Maybe I misunderstood the role of John's office and if I did, I apologize for that. I thought that they were there to help protect the county from getting into situations that may cause us additional litigation that wasn't necessary so to me, a 45 second phone call that could help prevent that seemed worth it. If the message is that I make my own decisions and most of this stuff that I'm calling about isn't important, I'll adjust.

Selsing – It's not a matter of whether it's important. Basically, as department head, you need to make department head decisions. If it has a legal consequence, if it's legal, then by all means, give it to us and one of us will take care of it.

Shute – Those are the phone calls I've been trying to make. That's the one I tried to make last Tuesday. Unless I talk to Jeff, as a non-legal person, it's hard to judge if it's got legal consequences. I won't continue beating that. This has occurred different times over the past 15 months and it's frustrating for us to try to do our work and I guess I now have better direction as to what I should use the corporation counsel for at this point.

Traxler – Sue, what kind of input do we have on this?

McConnell – I know that this has been brought up before. There have been some letters exchanged and some comments by AI asking for better contact with Jeff. It has been since Jeff was here. We understand that he's assigned to a lot of other committees, but if he's not available to help, we can't do our job as well.

Henke – Isn't that what we have legal counsel for?

McConnell – That's what I would assume.

Traxler – How do we correct this then?

McConnell – I'm not sure.

Henke – Maybe the best would be to have Jeff here next time.

Shute – I was hoping Jeff would be here.

Traxler – I honestly believe for this board to act, we have to have answers and meet our deadlines, but I don't know how to tell you to work out that problem. I thought if there was some language in the contract for legal counsel as to how many times you can call.

Selsing – The thing is, just think about this. This isn't an issue in any other department or any other committee. This is the only one so I have tried to look into it. I'll be honest, Dan Sondalle said that if you allow it to happen, zoning will take up your whole time and that shouldn't be.

Henke – Zoning has more problems than any other departments, too.

Selsing – If you ask law enforcement, they may say different. If you ask personnel with 200 employees, they may tell you something different. Maybe it's a case where too many of them scream wolf. He say urgent, dropped everything, and found it wasn't urgent. Some of it works both ways. I don't think this is a one-sided neglect situation.

Traxler – I understand running a business plus this there will be times where some of us won't be here. For the most part, Al tells me an average of once a month, twelve times, you're saying it's not.

Selsing – I know that's not the case. Just with the secretary alone with the messages.

Traxler – I'm going to count on Sue as the Chair to lead this board in the direction to correct us I guess.

McConnell – We're speaking to John now.

Selsing – I will definitely talk to Jeff.

McConnell – I would suggest that he makes an honest effort to faithfully schedule at least once a month with Al. Maybe a once a week email asking what is going on that week. Maybe things could be handled that way.

Traxler – Maybe text messaging. I don't know if you're in to that.

McConnell – I really would suggest that he make an honest effort to get together faithfully with Al once a month whether it's the beginning of the month or the end of the month. We've gotten involved in some really heavy matters legally that we're not capable of seeing the ins and outs. That's why we rely on corporation counsel.

Selsing – My impression is that these legal issues are not the purpose of these calls.

Traxler – There are many ways as you mentioned, Sue, email, text messaging, leaving the nature of the call with the secretary, at least get back and give a response.

McConnell – At least acknowledge that the message has been received and it's not being ignored. Better communication needs to be in order.

Traxler – Since you are legal counsel, it should have to do with legal things. No one wants to be bugged any more. The committee needs information from both of you guys in a timely manner. I suggest you sit down and work this out.

Shute – Hopefully, the violation report will help bring you up to speed on what's going on. The things that affect us day to day are the split second questions that could have a legal connotation or a negative impact on the county.

Traxler – If you ever call AT&T about your phone bill, then you know what a wait is.

Henke – I have one more thing. Wallace Williams talked to me about the audience not being able to hear the committee's comments during the public hearing portion of the meeting. He suggested that the committee make an effort to speak into the microphones.

#### **b. Future activities**

#### **CLOSED SESSION PER WISCONSIN STATE STATUTE 19.85 (1)(G) CONFERRING WITH LEGAL COUNSEL REGARDING LITIGATION, WHICH THE COUNTY IS INVOLVED AND/OR IS LIKELY TO BECOME INVOLVED.**

*(Discussion of legal issues), and Wisconsin State Statute 19.85(1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. (Six-month review for Code Enforcement Officer)*

**5:38 p.m. Motion by Henke/Sell, unanimously carried on roll call (4 ayes, 0 nays), to adjourn into closed session per Wisconsin State Statute 19.85(1)(g) Conferring with legal counsel regarding litigation, which the county is involved and/or is likely to become involved, and Wisconsin State Statute 19.85(1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. (Six-month review for Code Enforcement Officer). Motion carried.**

#### **RESUME INTO OPEN SESSION TO DISCUSS FINDINGS OF CLOSED SESSION.**

**6:15 p.m. Motion by Traxler/Sell, unanimously carried on roll call (4 ayes, 0 nays), to resume into open session to discuss findings of closed session. Motion carried.**

**Motion by McConnell/Traxler, unanimously carried, to approve the six-month personnel evaluation for the Code Enforcement Officer and forward to the Personnel Committee. Motion carried.**

#### **NEXT MEETING DATE**

September 3, 2008

- Business Meeting 4:30 p.m.
- Public Hearing 6:00 p.m.

**RECESSED AT 6:16 P.M.**

**RECONVENED AT 6:19**

**6:00 P.M. - PUBLIC HEARING MATTERS**

Committee Chair McConnell read the Rules of Order.

*Audio of testimony is available upon request from the Green Lake County Land Use Planning and Zoning Department.*

**Item I: Owner:** Daniel N & Joan M Ambrosino **Applicant:** Don Lenz, Green Lake Surveying Co. **Address:** W2081 Irving Park Road, Parcels #004-00990-0000 & #004-00991-0000 - Irving Park Plat Lots 1 & 2 Certified Survey Map 2860 V14 (A Resurvey of Lot 1 CSM 2722, Section 29, T16N, R13E, Town of Brooklyn (± 2.761 Acres) **Explanation:** The applicant is requesting a variance to Section 315-34.B. of the County Land Division Ordinance and Section 338-13.B. of the County Shoreland Protection Ordinance to allow the modification of a lot line creating 2 new land areas, but not providing the minimum average lot width of 100 feet for one of the new land areas.

- a) Public Hearing
- b) Committee Discussion and Deliberation
- c) Committee Decision
- d) Execute Determination Form/Ordinance

*A letter was submitted by Attorney Jenna Walker, Sorenson Law Office, requesting that Item I (Ambrosino) be postponed until the September 3<sup>rd</sup> public hearing.*

**Item II: Owner:** Green Lake County Land Use Planning and Zoning Committee **Explanation:** Request to amend Code of Green Lake County, Chapter 350 of the Zoning Ordinance. The purpose of the ordinance amendment is to include standards for wind energy facilities. Ordinance is available for review and inspection at the County Land Use Planning & Zoning Department.

- a) Public Hearing

Chair McConnell stated that the committee started work on this ordinance last fall. The committee has held several workshops and has discussed several variations of the ordinance. The state has put some rules in place, but Green Lake County feels that it is necessary to put something in place that would benefit the county as well as the landowners.

David Wilke, W326 Center Road, Town of Green Lake – Spoke in favor of wind farms.

John Guderski, W4883 Evergreen Drive, Town of Princeton - Stated that he thinks it may be a good idea but needs more information.

Attorney Paul Hoffman, 385 Sand Hill Lane, Dousman, Wisconsin – Requested that the public be given an opportunity to comment and ask questions after they have had an opportunity to hear more information.

Ted Weissman, 1204 N. Bee Street, Fairfield, IA, Florida Power & Light Representative – Discussed his concern with the wording in the proposed ordinance regarding underground electrical wires. Other concerns included wording regarding setbacks, financial assurances, reclamation, and audible noise.

Guderski – Suggested that the committee visit with people in Illinois that have been operating wind turbines for years. They may have good suggestions.

Wilke – Questioned the committee about the workshops that were held. Also suggested that the committee find someone who has a workable agreement. Stated that there is a lot of noise in industry and that people do get used to it.

Shute – Mentioned that the county is not required to have a wind energy ordinance; the county doesn't have to have any standards; however, the committee feels that standards are necessary.

Henke - I've tried to find out the tax benefit for the town and county, but I don't know who would know that.

Public hearing closed.

b) Committee Discussion and Deliberation

c) Committee Decision

**Motion by McConnell/Traxler, unanimously carried, to table this until the next meeting. Motion carried.**

d) Execute Determination Form/Ordinance

**PUBLIC COMMENT** - None

**ADJOURN**

**Motion by Traxler/Henke, unanimously carried, to adjourn. Motion carried.**

Time: 9:06 p.m.

Recorded by Carole DeCramer  
Committee Secretary

**APPROVED ON:**

September 3, 2008