

**GREEN LAKE COUNTY
LAND USE PLANNING AND ZONING COMMITTEE
Business Meeting – 4:30 p.m.
October 6, 2010**

CALL TO ORDER

Committee Chair Sue McConnell called the meeting of the Land Use Planning and Zoning Committee to order at 4:30 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, Rick Perr, Donald Peters, Thomas Traxler, Jr.

Absent:

**Also Present: Al Shute, County Surveyor/Land Development Director
Carole DeCramer, Committee Secretary
Jeff Haase, Assistant Corporation Counsel
Dan Priske, County Board Chairman**

APPROVAL OF AGENDA

Motion by Traxler/Peters, unanimously carried, to approve the amended agenda.

APPROVAL OF MINUTES

Motion by Peters/Traxler, unanimously carried, to approve the September 1, 2010, minutes.

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

PUBLIC APPEARANCES

Janice Hardesty – Board of Adjustment

Janice Hardesty – It has come to my attention that I've been the topic of discussion among this board, as well as other members of the county board, as to my residency status. Those conversations were perpetrated by Mr. Priske in conversation with another member of the Board of Adjustment. I would like to just take a minute to lay out what the rules of residency are, and this is the state rules of residence. The legal residence is defined in Sections 49.001(6), 49.001(8), 51.01(14), and 51.42(1)B(b). As follows: The voluntary concurrence of physical presence with intent to remain in a fixed place of habitation. Physical presence is prima facie evidence of intent to remain. Section 2, which is Section 49.001(8), voluntary means according to an individual's free choice. I need to inform you that I have and am a resident of Green Lake County. Nobody, including Mr. Priske with his allegations, has asked me to provide evidence. It has simply been a rumor mill. He drives by my house to check if I am home. That is inappropriate. I do have a voter registration on file with the town clerk of Princeton, but that is not a requirement for residency. It's simply one indicator. I have not voted in any other county in the last year. I also have a driver's license with my current address, N4207 Lakeshore Drive, Markesan, WI. I would appreciate that the board consider me a resident, which I am legally, and have been. I also have my tax documents with me this evening, if there is a question, as well as two letters that I have received from Attorney Michael Lehner, who, unfortunately, couldn't be here this evening, one dated 2005, the other dated September, 10, 2010, dealing with legal matters. If this is not sufficient evidence for my retention on the Board of Adjustment and, instead, Mr. Priske decides that he is going to continue with my removal, so be it; however, as Mr. Priske says, no action has been taken by the county board, to my knowledge. And, if it's a removal issue, it needs to show cause.

County Board Chairman Priske – Today I was up in Little Chute and saw your beautiful residence up there. I also talked to the clerk up there and they said the last time you voted up there, it was 2008. I checked with our county here and, from our records, you are not registered as a voter here and from reading the law, it appears to me that you have to be a resident of this community and from all indications, this is not fact and that's how this all came about because, first of all, you have to be a resident of this county to be on any committee, and that's about where it's at. And now I've got a letter from an attorney in Markesan and he wants to know, Wilsnack from Markesan, wants to know exactly where this part is going. I talked to our legal counsel, basically, that's what it comes down to, Janice. If you can prove that you are a resident and you vote here, that's fine, but we have a lot of people here that live here during the summer and during the winter they're out of here and they're not residents. They do not vote here and you did not vote here and you weren't registered to vote here. You registered up in Little Chute so I don't know how else to interpret it. What was going to happen, basically, was we're going to take it to the county board at the next county board meeting and do it. I don't know what else to say. Jeff (Haase), do you have any ideas? From all indications, that's the facts. From the stand point of an individual, she's a great lady, it's just a matter that is she a resident or not?

4:44 p.m. Motion by Henke/Peters, unanimously carried, to seat Rick Perr.

Traxler – So, if I hear you right, the only thing that is hindering this is her not being in the county as a voter?

Priske – That and proof that she is a resident year round, not just summer.

Hardesty – If Mr. Priske is so concerned about my residence, number one, I am very much aware of what it takes to be a resident. I have been a resident of a number of districts as part of my employment contract. I was a school superintendent for ten years. That was a condition of employment. I know what it takes. The fact that there has not been an election, other than a primary for which I was not in attendance in the State of Wisconsin and did not choose to vote, remember voting is a choice, it is not a requirement, I have a driver's license that says I am a resident at my address, the clerk at the Town of Princeton has my voting registration, if that is the big deal that is the problem here.

Priske – That's not showing up.

Hardesty – I'm wondering where you are getting your information from, Sir.

Priske – Right from the records that we have in the office here.

McConnell – I know for a fact that each town keeps its own individual voting records and while they might not be on record here, a visit to the Princeton town hall could produce the evidence that Ms. Hardesty is saying is there.

Hardesty – Exactly.

Priske – By law, you need to be a resident of this county, the long and short.

Hardesty – One of the criteria is that I say I am a resident and I say I am a resident. I have the appropriate paperwork, I have been receiving mail at my address, I'm sorry, voting is not a requirement, changing your driver's license is not a requirement, I am going strictly by the law, which, by the way, I teach.

Priske – I don't know what else to say. That's, basically, why it came up.

Assistant Corporation Counsel Haase – As we've discussed in the past, the residency definition, and I have brought out that intent, under the law, the idea behind residence, and you can look for, as Ms. Hardesty said, indicators: address, mail, driver's license. All of these things are not required, but they go to show intent. So the intent is the big thing for residency.

Henke – Up at Little Chute, are you a resident there, too?

Hardesty – I own a home up there, I own a home in Verocqua, I own a home in Wisconsin Rapids. My residence is here.

Henke – Where do you live?

Hardesty – I live at N4207 Lakeshore Drive. Am I physically present there seven days a week? No, I travel. I don't know what I need to do. Do I need to carve it on the door post? My residency is here. I've maintained separate residencies for my husband many times in the past, I continue to do it, besides which, that is none of Mr. Priske's business.

McConnell – I would make a comment to Mr. Priske, he made mention in his statement that people, perhaps, go south for the winter are not residents. I would bring to mind the fact that Mr. Bill DePue, who also served on the Board of Adjustment for many years, did, in fact, spend his winters in Florida. I work with his wife and I know that they did, in deed, spend their winters in Florida, yet he remained on the Board of Adjustment. You can't have it both ways would be my comment.

Priske – I don't know what to say. We have to talk to legal counsel to decide what you want to do.

Henke – What's your opinion, Jeff (Haase), what do we do? Where do we go from here?

Jeff Haase – Looking at how a person is appointed to the Board of Adjustment, that has all been done. I did not find a statute on how someone is removed, but I'm assuming that this is a matter that would have to go to the county board and let the county board make a decision. They're the ones who approved Mr. Priske's original nomination.

Priske – On the other hand, if our legal counsel says that there is enough evidence to justify her to be there, why take this to the county board? It's gone through the whole system. Why go back it up? It doesn't make any sense.

Traxler – I would, personally, just have her show counsel that then and get this matter cleared up and get rolling instead of letting this linger all of the time.

Priske – There's no sense in expanding on this. It's nonsense, really. The basic thing is to get the proof there. I checked with the records here for registration and it wasn't there.

Ms. Hardesty proceeded to the front of the room and presented her driver's license, property tax bill, utility bill, and letters from Attorney Lehner dated 2005 and 2010, to Assistant Corporation Counsel Haase.

Haase – For the record, I am looking at her driver's license, which does indicate an address of N4207 Lakeshore Drive, Markesan. Also, a real estate property bill in Eugene and Janice Hardesty's name, again the correct address. There is a letter from Lehner Law Office addressed to Eugene and Janice Hardesty at N4207 Lakeshore Drive, Markesan, August, 2005. Also, another letter from Lehner Law Office, September 14, 2010, addressed to Eugene and Janice Hardesty, N4207 Lakeshore Drive, Markesan.

Priske – Basically, at the hearing, the first meeting we had, Don (Ahonen) and I both heard you say that you're not a resident here.

Hardesty – No, Sir, I did not say that.

Priske – And you said you didn't vote here.

Hardesty – I did not vote here, that is correct, but I am a resident here. Remember, voting is not a requirement of residency, not a requirement.

Priske – I agree with that, I did hear you and so did Don (Ahonen), and Don is up in Canada right now but we can have him retreat, on the other hand, let's not beat the dog-gone thing to death. You do qualify. There is no reason not to so let's just drop the darned thing, OK?

Hardesty – That's satisfactory. That's what I've been looking for all along.

Traxler – I think there is enough proof there to accept her.

Priske – At that meeting, that's what got it though, when she said that she wasn't.

McConnell – Do we need a motion to that affect?

Shute – There is a correspondence out there removing her. My question would be, is there a follow-up correspondence needed?

Traxler – I think Jeff (Haase) just said that there is enough proof there to indicate that she is and I would like to wrap this up tonight and get moving. Can we make a motion that this matter is cleared up and that we stand as it was voted on?

Haase – I don't think we need a motion. The minutes will cover it.

Shute – As long as this is good with her being there. He did the removal. If we're going to rely on the minutes, we need the minutes to reflect that.

Traxler – We definitely can use good people on that board.

Priske – That's right. It's just the the law says you have to be a resident.

Traxler – I understand your concerns on that and I'm glad that we've got this matter cleared up so we can move on.

Peters – Where do we stand with the last meeting that we had another individual come in and now where are we?

Shute – At the last meeting, Dan (Priske) asked me to inform Marge (Bostelmann) to put her (Kathleen Moore) on the agenda for the county board meeting for appointment, and I notified Marge today, with a short memo, so that should be for your next meeting.

Peters – We have two openings, an alternate and a regular board member.

Shute – If Janice's (Hardesty) position is confirmed, then we have a full board. We have Janice, Don Ahonen, and Roger Ladwig as our board; Kathleen Moore and Chuck Lepinski will be alternates.

Traxler – So this matter is finished as of right now, right?

Henke – It's filled, the board of adjustment is filled.

Shute – Once the county board confirms Kathleen.

Priske – Why would the county board have to get involved at all?

Shute – For Kathleen (Moore); they have to approve that appointment.

Priske – She's a pretty high-class gal.

Traxler – But for Janice (Hardesty), that matter is finished here, right?

McConnell – I would say that the committee finds that there is sufficient evidence to prove her residency and intent, and that she is to remain a board of adjustment member, as Jeff (Haase) said, the minutes should cover that and we're hearing that we do not need a motion. I would call the matter closed.

Henke – This does not have to go to the county board, right? It's a dead issue now and forget about it, right?

McConnell – Correct.

Traxler – I'm sure the other county board people are going to ask questions about how this came out. I think we should have a short statement and clear the air.

Priske – I'll be glad to do that.

PUBLIC COMMENT

James Fox , Town of Green Lake Chairman – What is happening with the Kloosterboer issue?

McConnell – This is under *Public Comment* so the committee really can't discuss this right now. I will say that it is on hold. We are doing nothing right now as a committee. It's being worked out beyond our scope.

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; REVIEW PENDING VIOLATION

4:57 p.m. Motion by Henke/Peters, unanimously carried on roll call (5-ayes, 0-nays), to move to 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 and review of pending legal issues and violations.)

RESUME INTO OPEN SESSION TO DISCUSS FINDINGS OF CLOSED SESSION

5:40 p.m. Motion by Henke/Perr, unanimously carried on roll call (5-ayes, 0-nays), to resume into open session.

Findings:

McConnell –

No further instruction; directing staff to follow the negotiation correspondence from the point of Chapter 30 permit approval forward and report back to the committee any update as they come.

CORRESPONDENCE

a. Town of Seneca inquiry regarding the Darryl Jones property

Shute – This has been a potential violation for a number of years. The department has received complaints from the town and we needed to inspect a lot building on the property because of suspecting their wastewater pipe from the mobile home went into this building and it had a lock on it, so we could not determine if it was a violation or not. We've had the need to get in there. This started with Jeff's (Haase) predecessor and it started with an administrative warrant to get on to the property. It's at a point where the property is being taken through tax deed and the county will have control October 11th. At that point in time, we can get in there and do an investigation to see if it is a violation. The complaint is that they are dumping raw sewage on the land. It was suspected that the sewage was collecting in the building and then being dumped out.

Traxler – If it is a violation and becomes the county property, who becomes liable for this?

Haase – The county just has to notify whoever wants to buy it that there is not a proper septic system.

Joe Formiller, Town of Seneca Chairman – The complaint was that he was using pails for a septic and then taking it at night and dumping it in the ditches and on the neighbors' yards. If he does come in, like he has in the past, and pays his taxes by the deadline, what can be done about it then?

Haase – At that point, if he does that, we will get the court order to go on property and look at it.

Formiller – That was our concern.

PURCHASES - None

CLAIMS

Claims totaling \$3,400.11 were submitted.

Motion by Traxler/Peters, unanimously carried, to approve the claims in the amount of \$3,400.11 for payment.

APPROVAL OF DEPARTMENT ACTIVITY REPORTS

Permits/Violations/Budget

Shute – Discussed the various aspects of the report.

Motion by Henke/Traxler, unanimously carried, to approve the August, 2010, monthly report.

5:56 p.m. – 6:08 p.m. The committee took a short recess.

DEPARTMENT/COMMITTEE ACTIVITY

a. Review draft of the Shoreland Protection Ordinance, Articles I - III

The committee reviewed the first three articles of the proposed Shoreland Protection Ordinance.

UPDATE COMPREHENSIVE REVISION OF THE COUNTY ZONING ORDINANCE

The committee discussed the comprehensive revision of the zoning ordinance versus reviewing a section of the ordinance at a time. Shute handed out a draft correspondence that could go to consultants for this work. The committee will discuss this issue at the next meeting.

GENERAL COMMITTEE DISCUSSION

- a. Such other matters as authorized by law**
- b. Future activities**

NEXT MEETING DATE

October 27, 2010

- Business Meeting 4:30 p.m.

November 3, 2010

- Business Meeting 4:30 p.m.
- Public Hearing 6:00 p.m. – No Items

PUBLIC HEARING MATTERS

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

Committee Chair McConnell reconvened the meeting of the Land Use Planning and Zoning Committee at 6:00 p.m. for the public hearing item and read the rules of public hearing.

Item I: Owner/Applicant: Roger Swanke **Site Address:** N2875 Nicolet Rd, Parcel #014-00511-0000, Part of the SE¹/₄ of the SW¹/₄ of Section 36, T15N, R11E, Town of Marquette, (±.4948 Acres)
Explanation: The applicant is requesting a rezone from A-1 Exclusive Agriculture District to R-2 Single-Family Mobile Home Residence District

a) Public Hearing

Don Lenz, Green Lake Surveying Co., representing Roger Swanke – Spoke in favor of the request.

James Fox – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

The committee members expressed concerns about the existing violation. They agreed that it should be cleared up before granting the rezone request.

c) Committee Decision

Motion by Traxler/Peters, unanimously carried on roll call (5-ayes, 0-nays), to recommend approval of the rezone and forward to the county board for final approval when evidence is submitted of compliance of zoning violation.

d) Execute Determination Form/Ordinance

ADJOURN

Motion by McConnell/Henke, unanimously carried, to adjourn.

Time: 7:46 p.m.

Recorded by Carole DeCramer
Committee Secretary

APPROVED ON:

November 3, 2010