

**JEFFERSON COUNTY BOARD/PUBLIC HEARING MINUTES
TUESDAY, OCTOBER 27, 2015, 7:00 P.M.**

Chair Jim Schroeder presiding.

County Clerk Barbara A. Frank called the roll, all members being present except Supervisor Rinard who gave prior notice of her inability to attend.

District 1.....	Richard C. Jones	District 2	Mike Kelly
District 3.....	Greg David	District 4	Augie Tietz
District 5....	James B. Braughler	District 6	Ron Buchanan
District 7.....	Dwayne C. Morris	District 8	Michael Wineke
District 9.....	Amy Rinard	District 10	Al C. Counsell
District 11.....	Donald Reese	District 12	Peter A. Hartz
District 13.....	Ed Morse	District 14	Kirk Lund
District 15.....	Steven J. Nass	District 16	Laura Payne
District 17.....	Russell Kutz	District 18	Jennifer Hanneman
District 19.....	Jim Schroeder	District 20	Jim Mode
District 21.....	John C. Kannard	District 22	Blane Poulson
District 23.....	George Jaeckel	District 24	Gregg Patrick
District 25.....	Matthew Foelker	District 26	Vacant
District 27.....	Glen D. Borland	District 28	Dick Schultz
District 29.....	Paul Babcock	District 30 ...	Walt Christensen

County Administrator Ben Wehmeier led the Pledge of Allegiance. A moment of silence was observed.

Wehmeier certified compliance with the Open Meetings Law.

There being no objection, Public Comment on Non-budget Agenda Items (#8) was placed after Special Order of Business (#9) on the agenda.

Communications.

Frank presented the following communications relating to the Bittorf zoning petition:

1. Letter dated October 7, 2015, from Attorney Tyler Wilkinson of Axley Brynelson, LLP, representing Philip and Sandra Bittorf.
2. Letter, with attachments, dated October 20, 2015, from Attorney Tyler Wilkinson of Axley Brynelson, LLP.
3. Letter dated September 24, 2015, from Attorney Jay Smith of Neuberger, Griggs, Sweet & Smith, LLP, representing property owners opposed to the petition for zoning amendment of Philip and Sandra Bittorf along with three Formal Protest Petitions Against Proposed Zoning Amendment from Wapke Wilma Kraak, Trustee of the Kraak Trust; Peter and Sara Muchka; and Michael and Dorothy Donnelly.
4. Petition dated October 20, 2015, and received by the Jefferson County Clerk's Office on October 20, 2015, with signatures of 23 neighbors of Philip and Sandra Bittorf who have no objection to the proposed re-zoning.
5. Letter, with attachments, dated October 26, 2015, from Attorney Jay Smith of Neuberger, Griggs, Sweet & Smith, LLP, representing property owners residing on Stoney Creek Road.

Jones, Chair of the Finance Committee, moved to open the public hearing on the 2016 Recommended Budget. Seconded and carried.

The public hearing on the proposed 2016 County Budget commenced at 7:07 p.m. Twenty-eight supervisors were present with one absent (Rinard) and one vacant.

The floor was opened for public comment on the 2016 Recommended Budget. No one requested to comment.

Jones moved to close the public hearing. Seconded and carried at 7:08 p.m.

Special Order of Business.

Wehmeier introduced Sara Carpenter, Wisconsin Community Services Multi-County Administrator, who introduced Henry Gibbemeyer as the first Jefferson County Alcohol Treatment Court graduate.

Megan Findlay, Executive Director of United Way, gave a presentation on "Get Connected".

Public Comment on non-budget agenda items. Speaking on the Bittorf rezoning issue were Hope Oostdik, Lake Mills; Karen Battist, Waterloo; Jean Lenz, Waterloo; Ellen Rust, Deerfield; Caryn Hanson, Deerfield; Ehren Bittorf, Lake Mills; Brandon Wilke, Waterloo; Elaine Schollmeyer, Waterloo; Carol Eck, Cambridge; Erik Halverson, Deerfield; Roselynn Bittorf, Lake Mills; Terry Adams, Cambridge; and John Phillips, Waterloo.

Bittorf Zoning Petition.

Schroeder reiterated the communications listed above.

Attorney Tyler Wilkinson spoke for the petitioners in favor of rezoning followed by Philip and Sandra Bittorf. Additional information showing maps and vehicles was distributed to the Supervisors on their desk tops.

Attorney Jay Smith spoke for those opposed to the rezoning petition.

Zoning Report.

REPORT TO THE HONORABLE MEMBERS OF THE JEFFERSON COUNTY BOARD OF SUPERVISORS

The Jefferson County Planning and Zoning Committee, having considered petitions to amend the official zoning map of Jefferson County, filed for public hearing held on September 17, 2015, as required by law pursuant to Wisconsin Statutes, notice thereof having been given, and being duly advised of the wishes of the town boards and persons in the areas affected, hereby makes the following recommendation:

DENIAL OF PETITION R3829A-15

Petition R3829A-15 was a request by Philip and Sandra Bittorf to create an A-2, Agricultural and Rural Business zone at N7103 Stoney Creek Road in the Town of Lake Mills. Testimony in support of the request was given by the petitioner and Attorney Andy Rumpf; the Town of Lake Mills was in favor of the request.

Opposition was voiced by numerous citizens. The file contains all information pertaining to the application, the public hearing and all documents submitted. The Committee based its recommendation for denial upon the findings that the proposal is in an area that is not relatively isolated and rural in nature and would be utilizing a narrow Town road, and therefore conflicts with the purpose of the A-2 zoning district as described in the Jefferson County Zoning Ordinance and the A-2 Agricultural and Rural Business Zoning District Policies of the Jefferson County Agricultural Preservation and Land Use Plan. The Committee found that the petition did not meet multiple standards of rezoning as listed in Sec. 11.11(c)6 of the Jefferson County Zoning Ordinance, which are required to be met in order to rezone out of the A-1 Exclusive Agricultural district.

DATED THIS TWENTY-EIGHTH DAY OF SEPTEMBER 2015

Donald Reese, Secretary

EXCERPT OF MINUTES OF PUBLIC HEARING

JEFFERSON COUNTY PLANNING AND ZONING COMMITTEE

Steve Nass, Chair; Greg David, Vice-Chair; Don Reese, Secretary; Amy Rinard; George Jaeckel

SUBJECT: Map Amendments to the Jefferson County Zoning Ordinance and Requests for Conditional Use Permits

DATE: Thursday, September 17, 2015

TIME: 7:00 p.m. (**Courthouse doors will open at 6:30**)

PLACE: Room 205, Jefferson County Courthouse, 311 S. Center Ave., Jefferson, WI

1. Call to Order

The meeting was called to order by Chairman Nass at 7:00 p.m.

2. Roll Call

Committee members in attendance at 7:00 were Jaeckel, David, Nass, Reese and Rinard. Zoning staff present included Michelle Staff and Rob Klotz.

3. Certification of Compliance with Open Meetings Law Requirement Reese verified that the meeting was being held in compliance with the open meetings law requirements.

4. Approval of Agenda

There were no changes proposed to the agenda.

5. Explanation of Process by Committee Chair

Chairman Nass explained the process of the public hearing.

6. Public Hearing

Klotz read aloud the following:

NOTICE IS HEREBY GIVEN that the Jefferson County Planning and Zoning Committee will conduct a public hearing at 7 p.m. on Thursday, September 17, 2015, in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin. A hearing will be given to anyone interested in the proposals. **PETITIONERS, OR THEIR REPRESENTATIVES, SHALL BE PRESENT.** Matters to be heard are petitions to amend the official zoning map of Jefferson

County and applications for conditional use permits. A map of the properties affected may be obtained from the Zoning Department. Individual files are available for viewing between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, excepting holidays. If you have questions regarding these matters, please contact Zoning at 920-674-7131.

R3829A-15 & CU1843-15 – Philip & Sandra Bittorf: Rezone 3.2 acres of PIN 018-0713-0614-000 (40 acres) with conditional use for a highway warning sign business at N7103 Stoney Creek Road in the Town of Lake Mills.

Petitioner: Attorney Andy Rumpf, 152 West Main Street, Cambridge WI 53523 represented the Bittorfs. Rumpf explained that the petitioners would like to rezone and obtain a conditional use permit for contractor's equipment and materials. He explained the business operations and areas to be utilized. Rumpf explained the areas proposed for outside storage with the hours of operation to be M-F 7 a.m. - 8 p.m., Sat. 7 a.m. -5 p.m. and Sun. 9 a.m - noon. They are using existing buildings.

Philip Bittorf, N7103 Stoney Creek Road – Bittorf explained what his business entails, what they do and when they do it. Bittorf explained that he was running the same business from his previous residence in Dane County and stated there weren't any issues with his neighbors there. He explained the reason for moving to Jefferson County and that he hopes to continue to live and work within Jefferson County. He addressed several concerns from the neighbors that were discussed at the Town of Lake Mills meeting such as noise, safety, truck traffic, property values, etc.

Attorney Rumpf rebutted the statements from the opposition. Rumpf explained that the operation is on a dead end road that is between the interstate and a county road. He stated it is a rural area and the Bittorfs' business is similar to any other contractor's such as electrical, excavator, etc. Rumpf stated that there are other uses permitted in the agricultural district that could be considered more offensive than the Bittorfs' business. He stated that the previous owners had a horse stable with people coming and going all the time. Rumpf stated that the hours of operation proposed are similar to other operations such as this and they believe those are reasonable. He mentioned that the buildings themselves are natural screens and the property is well maintained. Rumpf explained the weighting black rings and possibility a truck for loading being outside on the property. Rumpf stated the hours of operations again (M-F 7 a.m. to 8 p.m., Sat. 7 a.m. to 5 p.m., Sunday 9 a.m. to noon) and stated that these are acceptable times to allow noise in most municipalities. He stated they are utilizing pre-existing buildings and not taking agricultural lands out of production. In closing he stated that all of the buildings and a parking area are 15 feet off property lines, buildings are taller than 6 feet and they believe hours of operations are reasonable.

In response to Klotz's question about bathrooms, Bittorf explained that the building on the top of the hill does have a restroom and the septic serves the building and the residence.

Comments in Favor: None

Comments Opposed: Klotz read the following letters of opposition into the record:

- A letter dated August 28, 2015, from Attorney Jay Smith from the law offices of Neuberger, Griggs, Sweet and Smith, LLP.
- A letter dated September 15, 2015, from Attorney Jay Smith from the law offices of Neuberger, Griggs, Sweet and Smith, LLP.
- A petition received by the Jefferson County Planning and Zoning Department on August 10, 2015, addressed to Jefferson County Planning and Zoning and Town of Lake Mills Board.
- A petition received by the Jefferson County Planning and Zoning Department on August 21, 2015, addressed to Jefferson County Planning and Zoning and Town of Lake Mills Board.
- A letter received by the Jefferson County Planning and Zoning Department on September 14, 2015, from Sara Muchka with attached e-mail from Muchka.

Mike Donnelly, N7154 Stoney Creek Road, Lake Mills, WI – Donnelly said he heard the petitions that were read into the record and wanted to add a couple of additional concerns. Donnelly stated since he didn't know where Bittorf operated in Dane County, we don't know what he was zoned or how he operated. Donnelly stated that their attorney did a limited research but he couldn't find any business similar to this commercial request. He said there may only be a handful of contractors' storage operations in the County. He feels that the A-2 rezoning request should be denied. Klotz explained the process for rezoning to all and explained appeal rights to the audience. Donnelly asked that all equipment be stored inside. He requested that the hours of operation be similar to what the Town of Lake Mills requested which is M-F 7 a.m. to 8 p.m., Sat. 8 a.m. to 5 p.m. and no Sundays. Donnelly stated that Stoney Creek Road has sight limitations on it and the truck traffic should go 25 mph. He also would like Midstate Traffic to be respectful of their neighbors with noise.

Sarah Muchka, N7180 Stoney Creek Road, Lake Mills, WI – She stated that along the road there are 5 existing homes and 3 vacant parcels to be built on. She stated this commercial business does not fit the area.

Peter Magnoni, N6851 Stoney Creek Road, Lake Mills, WI – He stated that there is a cost burden to our local government. He stated that he contact Mark Miller of the Jefferson County Sheriff's Office and Town of Lake Mills police that set up radar along the road. He stated there were several traffic speed violations. This puts extra cost burdens on the local government. Magnoni stated that Bittorf's employees don't know the area.

Corinne Magnoni, N6851 Stoney Creek Road, Lake Mills, WI – She explained they are located on the first farm on the west of Stoney Creek Road and have been living on the property for 35

years. When they moved in there were only 4 houses on the road. Magnoni explained why she moved to the area and expressed her concerns about living by a commercial enterprise. Magnoni stated she is in opposition to the Bittorfs' proposal.

John Phillips, N7072 Stoney Creek Road, Lake Mills, WI – Phillips explained that Stoney Creek Road has many dangerous curves. He submitted air photos with other photos and explained them to the Committee. He doesn't believe commercial traffic is a good fit for the neighborhood.

Linnea Phillips, N7072 Stoney Creek Road, Lake Mills, WI – She explained that she is a stay-at-home mom and has seen a difference in the traffic since the Bittorfs moved in. Phillips stated she does not feel secure as she once did with the traffic on her road. She does not know the workers. She explained concerns about her children being at home in the summer when it is the busy time for the Bittorfs' business.

Paul Hynek, W9501 Britzke Road, Cambridge, WI – Hynek stated that he is a BOA alternate and agrees with most of the letters that were submitted. He stated that the question is whether this use is allowed in the A-2 zone. He stated that storage of contractor's equipment is quite broad. Hynek gave background and history of the land use process in Jefferson County.

Peter Muchka, N6851 Stoney Creek Road, Lake Mills, WI – Muchka is opposed to the rezone. He explained his reasons for opposition. Muchka submitted photos and explained them to the Committee. He believes all storage should be inside the buildings. He has other concerns such as property value with the additional traffic and noise.

Questions from the Committee: Reese asked the petitioner about the location of outside storage.

Town Response: Klotz read Town response into the record and it is in the file. Klotz read all conditions recommended by the Town of Lake Mills.

Staff Report: Staff report given by Robert Klotz and now on file in the Zoning Department. Klotz explained all plans and ordinance involved in this decision.

[The County Board also received (1) a copy of the Certified Mail, Return Receipt Requested USPS tracking showing receipt of the Notice of Public Hearing scheduled for September 17, 2015, by the Clerk for the Town of Lake Mills; (2) Affidavit of Publication on the Notice of Public Hearing scheduled for September 17, 2015, from the *Daily Jefferson County Union* that said notice was published for a period of two successive weeks with the first publication being on September 4, 2015 and the last on September 8, 2015; (3) Section 11.11(b)b. thru (c)6(a) –(i) of the Jefferson County Zoning Ordinance; (4) Section 59.69(5) thru (7), Wisconsin Statutes; and (5) draft Decision of the Jefferson County Planning & Zoning Committee/County Board.]

Nass introduced Ordinance No. 2015-18.

WHEREAS, the Jefferson County Board of Supervisors has

heretofore been petitioned to amend the Jefferson County Zoning Ordinance, and

WHEREAS, Petition R3829A-15 was referred to the Jefferson County Planning and Zoning Committee for public hearing on September 17, 2015, and

WHEREAS, the proposed amendment has been given due consideration by the Board of Supervisors in open session,

NOW, THEREFORE, BE IT ORDAINED that the Jefferson County Board of Supervisors does deny Petition R3829A-15 and that no change shall be allowed:

**FROM A-1, EXCLUSIVE AGRICULTURAL TO A-2,
AGRICULTURAL AND RURAL BUSINESS**

Rezone 3.2 acres of PIN 018-0713-0614-000 (40 acres) with conditional use for a highway warning sign business at N7103 Stony Creek Road in the Town of Lake Mills. R3829A-15 & CU1843-15 – Philip & Sandra Bittorf

Nass moved for the adoption of Ordinance No. 2015-18. Seconded. Schultz moved to refer Ordinance No. 2015-18 back to committee. Corporation Counsel Ward raised point of order. Schroeder called for a vote on Ordinance No. 2015-18 which failed: Ayes 3 (Reese, Hartz, Christensen), Noes 24 (Jones, Kelly, David, Tietz, Braughler, Buchanan, Morris, Wineke, Counsell, Morse, Lund, Nass, Payne, Kutz, Schroeder, Mode, Kannard, Poulson, Jaeckel, Foelker, Patrick, Borland, Schultz, Babcock), Absent 2 (Rinard, Hanneman), Vacant 1 (District 24).

This matter was referred back to the Planning & Zoning Committee pursuant to § 59.69(5)(e)5, Wis. Stats.

Public Comment (General). None.

Supplemental information presented at the October 27, 2015, Jefferson County Board/Public Hearing meeting will be available at the County Clerk's office upon request or on the County's website at www.jeffersoncountywi.gov.

There being no further business, Buchanan moved that the Board adjourn at 8:47 p.m. Seconded and carried.