

**MINUTES OF THE
JEFFERSON COUNTY PLANNING AND ZONING COMMITTEE
DECISION MEETING**

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

**ROOM 203, COUNTY COURTHOUSE
311 S. CENTER AVE., JEFFERSON, WI 53549
8:30 A.M. ON MONDAY, MARCH 27, 2017**

1. Call to Order

The meeting was called to order by Vice-Chairman Greg David at 8:30 in the absence of Chairman Nass.

2. Roll Call (Establish a Quorum)

At 8:30, all Committee members were present, other than Chairman Nass. Also present were Blair Ward, Corporation Counsel; Andy Erdman of the Land Information Department; Patricia Cicero, Joe Strupp and Mark Watkins of the Land and Water Conservation Department; and Rob Klotz, Deb Magritz and Matt Zangl of the Zoning Department.

3. Certification of Compliance with the Open Meetings Law

Reese verified that the meeting was being held in compliance with open meeting law requirements.

4. Approval of the Agenda

No changes were proposed.

5. Public Comment (Not to exceed 15 minutes and not to include petitions slated for decision-members of the public who wish to address the Committee on specific agenda items must register their request at this time)

There was no public comment.

6. Approval of February 27, March 10 and March 16 Committee Minutes

Motion by Reese, seconded by Jaeckel to approve the February 27 meeting minutes as presented. Motion carried on a voice vote with no objection.

Motion by Jaeckel, seconded by Reese to approve the March 10 meeting minutes as presented. Motion carried on a voice vote with no objection.

Motion by Reese, seconded by Rinard to approve the March 16 meeting minutes as presented. Motion carried on a voice vote with no objection.

7. Communications

Klotz handed out a brochure, "Know Your Septic System" and explained. Reese suggested that the Solid Waste Committee should see this too, and Klotz responded that when the list of items not to flush is published, he will get that to the Solid Waste Committee.

Nass arrived at 8:34 a.m. and took over chairing the meeting.

8. February Monthly Financial Report for Land Information Office – Andy Erdman

Erdman showed his revenue report and explained that revenues for 2017 are about where they were in previous years.

9. Discussion and Possible Action on Extending the Current Parcel Map Improvement Contract with Pro-West and Associates – Andy Erdman

Erdman reported that requests for proposals were put out last year to do parcel mapping improvements. These maps were last done in the 1990s. Pro-West was awarded the contract last year for the rural areas in the northern tier of the county, and is nearly complete with that, but Erdman asked for a one-year contract extension for Pro-West to complete the work. A draft resolution to that effect was sent in the Committee's meeting packet. To Jaeckel's question, Erdman reported that the County has a \$50,000 grant, and \$10,000 was budgeted, which would allow another 6,800 parcels to be completed. Erdman expects this to be a 3-year project. Motion by Reese, seconded by Jaeckel to approve the contract extension. Ward was asked whether he had any issue with this proposal, and he does not. Motion carried on a voice vote with no objection. Erdman added that this will be going to County Board in April.

10. March Monthly Financial Report for Zoning – Rob Klotz

Klotz explained that revenues are down \$1,679 from this point in 2016, but still very close to revenue projections going forward.

11. Discussion and Possible Decision on the Request by Donald Kiedrowski to Revise the Configuration of Lots Approved by Petition 2757A-03 Including and Adjacent to N8776 County Highway E, Town of Watertown

Klotz explained Mr. Kiedrowski's proposal, showing a reconfiguration from his 2003 rezoning approval for two lots. Vacant Lot 1 is proposed at 1.01 acres, Lot 2 with the existing home at N8776 County Road E is proposed at 1.45 acres. Motion by Reese, seconded by Jaeckel to approve the reconfiguration, with the conditions imposed in 2003 still in effect. Motion carried on a voice vote with no objection. The request will be taken back to County Board.

12. Discussion and Possible Decision on the Request by Eugene Hasel to Undergo Rezoning for Enlargement of the Lot Approved with R3494A-10 on County Road G in the Town of Lake Mills

Klotz explained the requested adjustment, allowing a 0.4-acre wooded area adjacent to the current approval to be added, increasing total lot size to 2 acres. Motion by Jaeckel, seconded by Reese to approve this adjustment, and send it back to County Board. Motion carried on a voice vote with no objection.

13. Discussion and Possible Determination of Completeness for Dolph Dairy LLC, Town of Waterloo

A roll call was taken in accordance with Administrative Rule ATCP51, with Reese, Nass Jaeckel, Rinard, David, Klotz, Watkins and Cicero signifying their presence. Cicero explained that Dolphs are requesting to increase their animal units to 989.5, adding livestock housing and a manure transfer system to the existing manure storage structure. They are also working on improving their runoff area, planning to get rid of an animal lot and having animals inside. Cicero went on to say that their application meets the letter of the law for completeness regarding the standards they are supposed to be meeting on their application and worksheets. Motion by Reese, seconded by Jaeckel to accept Land and Water Conservation Department's recommendation of completeness, and send the petition on to public hearing. A roll call vote was taken, with Reese, Nass, Jaeckel, Rinard and David all voting yes. Motion carried.

14. Discussion and Possible Decision on CU1912-17 for Cold Spring Egg Farm, Town of Palmyra, Presented in Public Hearing on February 16, 2017 and Subsequently Postponed on February 27, 2017

Jaeckel noted that he will abstain for possible conflict of interest, and Supervisor Jim Schroeder sat in to vote only in the event of a tie. Due to this being done for ATCP51 standards, a roll call was taken, with Reese, Nass, Schroeder, Rinard, David, Rob Klotz-Director of Planning and Zoning, Mark Watkins and Joe Strupp of Land and Water Conservation Department (LWCD) and Blair Ward, Corporation Counsel signifying their attendance.

Klotz began by explaining that the petition has had its public hearing, notice of completeness from Land and Water Conservation, all the worksheets have been determined complete, and now it requires a decision under ATCP51. It is up against the 90-day time limit from the original notice of completeness, which Watkins verified. Rinard asked, if the Committee does nothing after the 90-day time expires, it means that it goes to the DNR? Klotz said that his first question was why would you do nothing, to which Rinard replied, she was just asking the question. Klotz said that he would ask Corporation Counsel to answer that question. Ward responded that if no action is taken, then after 90 days the application is deemed approved pursuant to State Statutes and Administrative Code. Rinard asked whether anything additional has been added to the record since the postponement, to which Klotz replied that nothing can be added to the record after public hearing. Rinard noted that the reason for the postponement was to see if the petitioner could get some of these permit questions resolved, to which Klotz asked if Rinard meant permit questions from the worksheets? Rinard answered, permit questions from the Committee, and Klotz said right, permit questions from the worksheets? And what were the questions regarding? Rinard remembered that Klotz was not present at the meeting when the petition was postponed, and Klotz noted that if the questions were regarding the WPDES permits or air quality permits, those are not under the purview of the Zoning Committee under the ordinance. It's ATCP51 and the five worksheets. Rinard then said if the Chairman didn't mind, she would like the Corporation Counsel, Mr. Ward, for the benefit of the audience and everybody in the room, to just describe exactly the limits on what the Committee is able to do in regards to this petition. Ward asked, today, what can the Planning and Zoning Committee do today? Rinard continued to ask what are the restrictions on Committee authority under the livestock siting law? Ward replied that there has been a public hearing for agenda item 14, and all the information should have been obtained by the Committee at that hearing, which is part of the record. This is the Planning and Zoning Committee meeting today to decide whether or not to grant the petition of Cold Spring Egg Farm, and that is what this Committee should decide on, whether or not to vote. The information has been provided, so no more information can be taken at this meeting today. If the Committee chooses to do nothing, or if there is a tie vote and no action is taken, then the petition will be deemed approved. He asked if there was anything else that Rinard would like him to address. She responded with a yes, the completeness of the application is what the Committee is restricted to look at and decide upon. Ward said yes, that is correct. He has been informed by Land and Water Conservation and the Planning and Zoning Director that the application has been completed; it has met the standards of the Land and Water Conservation Department as well as Planning and Zoning, therefore there is no reason by either department or for the County to not approve the petition or application as it currently exists. Rinard went on to say that the only question before the Committee today is, is the application complete. Ward responded that that is correct. Nass added, of the things that the Committee can regulate. Ward went on to comment, is the application complete, and is there any authority of the Planning and Zoning Committee to deny the application based on what state law mandates or what authority state law gives counties. In this situation, the State of Wisconsin has taken almost all authority away from counties to regulate these types of facilities. It's a paper review; if the application's complete, if it's in the

proper zoning district, if there are a few other requirements that are met, then the County is required to approve the application according to state law. The County has almost no authority to regulate these types of facilities, and that was a decision of the legislature. It's an unusual scenario for the counties; counties have a significant amount of power in regulating zoning, in regulating land use, this is an exception to that. Rinard noted that the language she was looking for is "required to approve," and Ward said that that is correct. Klotz responded that it's another example of, just like cell towers, wind energy systems, shoreland wetland regulations, where, through legislation, whether you agree with it or not, counties' powers have slowly but surely been dwindled and depending upon what side of the issue you're on, that can be a good thing or a bad thing. Klotz said that he wasn't trying to make a political statement here, but that Jefferson County just changed its cell tower ordinance to no longer require going through the public hearing process; he can just issue a permit now, because the State said, if they meet these standards, you can't deny it. It's very similar in that nature so the County quit going to public hearing with cell towers and just issues permits. Rinard said that it's so frustrating; there has often been talk about how frustrating it is to hear concerns of neighbors and people who have done a lot of research, they raise a lot of good questions, and the Committee just can't do anything about it. Nass said he thinks that's why it's so important, and he's glad to see a newspaper here, because this is how you get this issue out to people so they can understand this better. Klotz said he thinks the other thing that people should understand is that maybe this research and questioning does not go necessarily unnoticed because this is the ATCP51 permit issued by the County, however there's still a WPDES permit that has to be issued by DNR; they hold hearings for that. If an air emissions permit is required by DNR, there would be a public hearing for that, and the ability to testify in that regard. So it's really pigeonholed the County's ability to do things in this permitting application, but it doesn't shut it off completely. Klotz went on to say that he and Nass had a good conversation a couple of weeks ago, and their concerns were not necessarily about this but other actions up at the State, so this isn't uncommon, dismantling of DNR and the lack of staff and the lack of follow through with a lot of these state laws. Septic hauling, septage spreading, you can add four or five issues like this, so this isn't uncommon, but unfortunately, the Committee, as elected to County Board and serving on this Committee, have the ordinance to enforce, and the County gets its powers from the State. Klotz had a conversation with Corporation Counsel the other day, and counties really exist at the whim of the State, and they can give power to review and act on things and they can take the power away. Rinard interjected that this particular petition has really shed light on the DNR's failure to keep on top of the permitting process. Klotz said that he thinks that's changed-Rinard said she hopes it's changing-and Klotz said he means the County has done a lot of these livestock siting permits, and this is the first time the Committee has started questioning, not necessarily the law, but the ability for DNR to follow through on the things that the County no longer can. Rinard stated that it seems like the DNR is just rolling over these permits because they haven't had a chance to look at them. But still, Klotz answered, if the petitioner is required to have a WPDES permit or air emissions, this is not going to change that. This is an additional step, and the Committee unfortunately has to focus only on what they have the power to do. Rinard acknowledged that she knew that, but was just expressing her opinion about how she doesn't think the system is really working very well.

Nass asked if there was anything else, any further discussion, or any further information that anybody needed. Reese made a motion to accept the petition as it had been presented. Nass asked for any further discussion. Klotz added one more thing, that at the hearing, Land and Water Conservation was there because the applicant asked for a different date for the nutrient management plan submission. That needs to be with the original motion-they have to have conditions on their approval, and asked Strupp to go over those and whether his office would object to the change in the date. Strupp obliged, saying the standard they request are September

30 for the following crop year. Dave (the petitioner), in the hearing at one point asked for January 1, and then it moved maybe to January 30 through the hearing. With January 1, the petitioner wants it to align with when he has to submit it to DNR, so he writes a plan and submits it to LWCD and then makes changes and submits it again to DNR. That's why he wants the two plans to have a similar date, so he can just have it done once and not have to worry about it. So the January 1 date would work with LWCD. January 30, it just keeps getting later at that point. His Department likes to see them come in as early as possible. This petitioner's plan's a little different because they are planning not to spread manure, because it's a backup plan for them for the most part because they pelletize and sell their manure. So Strupp would prefer to see January 1st or thereabouts as a submittal date instead of pushing it off to January 30. Klotz asked if there were one or two other conditions on the report, and Strupp said yes, environmental conditions, but he did not have that report with him. Klotz noted that Zoning has that record in the file, and he would suggest that the Committee add those conditions along with the change in date suggested by LWCD along with the five worksheets, the notice of completeness, and Klotz suggested that the Committee would have to make a finding that there was no scientifically based evidence presented either prior to or at the public hearing that refuted the information on the worksheets. Reese asked that that be added to his motion, and Nass repeated that the statement be added to Reese's motion. He then called for a second to Reese's motion; David seconded. Nass called for a roll call vote, starting with Reese. Reese-yes; Nass-yes, Rinard-yes; David-yes. The motion passed unanimously.

15. Discussion and Possible Decision on Revocation of Livestock Siting Regulations for Jefferson County

Klotz explained the situation to date, and that he understands the frustration of the Committee in hearing intensive ag operation conditional use requests. He is looking for Committee input. Rinard said that she feels the problem with holding a public hearing is that it gives the public a false sense of the Committee's power. There was discussion with LWCD staff about what and how that office regulates. No action was taken by the Committee on this item. Cicero added that two technical reviews have taken place at the state level, one at 5 years from inception in 2006 and a second in 2016. Suggestions for changes to the law have recently been made by this technical Committee, and she questioned whether the Committee might look at those changes and possibly put together a letter suggesting that the State make those changes. Klotz went on to remind the Committee of other opportunities to make change to make it a better law.

16. Discussion and Possible Action on Petitions Presented in Public Hearing on March 16, 2017:

PLEASE SEE INDIVIDUAL FILES FOR A COMPLETE RECORD OF THE FOLLOWING DECISIONS:

FROM A-T, AGRICULTURAL TRANSITION TO R-2, RESIDENTIAL

APPROVE WITH CONDITIONS R3958A-17 – Jeffrey & Deborah Lemke on a motion by Reese, seconded by Jaeckel. Rezone all of PIN 016-0513-2511-000 (27.404 Acres) to allow for new residential construction along **Koshkonong Mounds Road** in the Town of Koshkonong in accordance with Sec. 11.04(f)2 of the Jefferson County Zoning Ordinance. Motion carried on a voice vote with no objection.

CONDITIONAL USE PERMIT APPLICATIONS

APPROVE WITH CONDITIONS CU1913-17 – Oconomowoc Area School District/Joint School District No. 3 on a motion by Rinard, seconded by Reese. Conditional use to bring into conformance an existing school at **N8425 North Street**, and allow its expansion in accordance with Sec. 11.04(f)1, Conditional Uses b of the Jefferson County Zoning Ordinance on a motion by . The site is on PIN 012-

0816-2111-000 (14.64 Acres) in the Town of Ixonia in a Residential R-1 zone. Motion carried on a voice vote with no objection.

APPROVE WITH CONDITIONS CU1914-17 – Ruth Poyer Trust on a motion by Jaeckel, seconded by Reese. Allow up to five truck boxes for storage in an A-1, Agricultural zone at **W5812 County Road M**, in accordance with Sec. 11.04(f)6, Conditional Uses k of the Jefferson County Zoning Ordinance. The site is on PIN 016-0514-1041-000 (42.05 Acres) in the Town of Koshkonong Motion carried on a voice vote with no objection.

17. Possible Future Agenda Items

18. Upcoming Meeting Dates

Friday, April 7 - 8:00 a.m. - Site Inspections Beginning in Courthouse Room 203

April 20, 7:00 p.m. – Public Hearing in Courthouse Room 205

April 24, 8:30 a.m. - Decision Meeting in Courthouse Room 203

May 12, 8:00 a.m. - Site Inspections Beginning in Courthouse Room 203

May 18, 7:00 p.m. – Public Hearing in Courthouse Room 205

Monday, May 22 - 8:30 a.m. - Decision Meeting in Courthouse Room 203

19. Adjourn

Motion by Reese, seconded by David to adjourn the meeting. Motion carried on a voice vote, with no objection, and the meeting adjourned at 9:39 a.m.



Don Reese, Secretary

If you have questions regarding the petitions, please contact the Zoning Department at 920-674-7131. Petition files referenced on this agenda may be viewed in Courthouse Room 201 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays. Materials covering other agenda items can be found at www.jeffersoncountyiwi.gov.

A quorum of any Jefferson County Committee, Board, Commission or other body, including the Jefferson County Board of Supervisors, may be present at this meeting.

Individuals requiring special accommodations for attendance at the meeting should contact the County Administrator at 920-674-7101 at least 24 hours prior to the meeting so that appropriate arrangements can be made.

A digital recording of the meeting will be available in the Zoning Department upon request.