

# Town of Union

## PLAN COMMISSION MEETING

### Minutes of June 26, 2008

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The Town of Union Plan Commission meeting was called to order on Thursday, June 26, 2008 at the Eager Free Public Library, 39 W. Main St., Evansville, WI at 7:00 p.m. by Chairman Alvin Francis. Members present included Plan Commission members Alvin Francis, Doug Zweizig, Eric Larsen, Doug Lee, Kim Gruebling, Dave Pestor, and Renee Exum. Town Supervisors George Franklin and Don Krajeck, Building Inspector Bob Fahey, Town Engineer Greg Hofmeister, and Clerk Regina Ylvisaker were also in attendance.

#### **Approve May 29, 2008 Plan Commission Minutes**

Motion to approve May 29, 2008 meeting minutes as written made by Doug Zweizig. Second by Eric Larsen. Minutes of May 29, 2008 approved by unanimous voice vote.

**Public Hearing: Review and approval of extension of existing Conditional Use Permit held by Tom & Connie Davis 10608 N. East Union Rd. Evansville, WI 53536 to operate a pheasant shooting preserve on parcel 6-20-94 located along North East Union Rd. in the SW 1/4, NE 1/4 of Section of the Town of Union. The pheasant preserve may be open by appointment only between the hours of 8 a.m. and 5 p.m. Monday through Friday and from 8 a.m. - 5 p.m. on Saturdays and noon to 5 p.m. on Sundays beginning October 1<sup>st</sup> and ending April 30<sup>th</sup>. Hunting may commence at the east-west property line which is approximately 1,400 feet from the south property line.**

Chairman Francis briefly reviewed the history of the conditional use permit and the request for extension, as well as summarizing the letter sent by Clerk Ylvisaker dated April 25, 2008 which discussed the Plan Commissions decision to table the request for extension of the permit pending receipt of further information (copy of membership agreement, contact information for the local Ducks Unlimited chapter chairperson, copy of CUP Davis' referenced at April 24, 2008 Plan Commission meeting stating that hunters may carry in alcohol).

Public hearing opened 7:05 p.m.

Tom and Connie Davis were present, with Attorney Mitch Olson representing them. Olson reviewed the letter dated May 23, 2008 which was sent to the Plan Commission in response to the April 24, 2008 letter. Davis' are requesting an extension of their CUP, as they have received extensions in past years. Olson stated that problems arose in that the current CUP grants permission for a "hunting preserve", which is not clearly defined in the Town's ordinances. The May 23, 2008 letter from Attorney Olson outlined some possible ways to address this issue. It is Olson's opinion that the Davis' facility is an asset to the community.

Kim Gruebling asked Attorney Olson if, regarding the statement in his letter of May 23 that "It is the common and well established practice in Wisconsin that shooting preserves encompass a hunting lodge available for its members/guests" he knew how many hunting clubs are in Wisconsin, or in Rock County? Gruebling would like statistics to back up this statement. He has been to a number of facilities across the state, and none of these functions are held at any of the facilities that he had been to. Gruebling feels it is not standard practice to hold weddings, graduations, etc. at hunting clubs in Wisconsin. Olson stated that he has talked to a number of facilities that do hold these functions, and can provide statements from them to that effect. Doug Zweizig felt that the argument that it is a "standard practice across Wisconsin" to hold such functions at hunting clubs is not a valid argument; Olson has only spoken to a few places and cannot make such a statement without data to back it up. Zweizig feels that throughout the CUP extension process the Davis' have been reluctant to provide information about what goes on at their location. Renee

Exum provided the definition of a “shooting preserve”, as found on WordWeb and South Dakota’s legislation.

Randy Shotliff, a resident of the area for 47 years, stated that he has attended parties at the local trap shooting club and at the Brooklyn Sportsman Club.

Regarding the membership form provided by the Davis’, Francis inquired what an individual would get for a membership at the \$250 level? If he wanted to have a party using their facilities, could he? Tom Davis stated that the individual membership is not meant for hunting, it is for people who may want to come out and train their hunting dogs. Francis asked for clarification: could he pay a \$250 membership fee and then discuss having a party at their facility? Davis stated yes. Zweizig questioned how a member knows what’s included in their membership, as it is not clear on the membership form? Davis stated that individuals are told verbally. Zweizig asked how many meetings an individual could hold at the facilities as part of their membership. Davis stated an individual could hold as many as they wanted. Zweizig inquired what the specific communications are with the members regarding their membership and benefits of it. He stated that he requested a membership agreement, but only received a membership form. According to Davis, there is no membership agreement. Gruebling asked if hunters have to wear blaze orange when using the lands. Davis stated yes, individuals are told to wear blaze orange. They do not sign a form. There are no rules and regulations to read and sign off on.

Gruebling feels the issue is that the way the facility is being used is commercial.

Motion to deny the renewal of the conditional use permit for Tom & Connie Davis on merits made by Doug Zweizig. Second by Kim Gruebling. Zweizig specified that the “merits” are that the facility is not being operated as a pheasant hunting preserve, and it is being used outside of the times and dates specified on the CUP. Gruebling stated that in the past there have been serious situations there. Dave Pestor asked for specifics on the situations Gruebling referenced. Gruebling stated that the Davis’ were very vocal in their complaints that N. East Union Road was in unsafe condition this spring; the Plan Commission then made a recommendation to the Town Board that the repair of the road be performed as soon as possible and that road closed signage be erected at the end of N. East Union Road for public safety. Following this action, a Ducks Unlimited sign was placed over the road closed signage. It was believed that the Ducks Unlimited sign related directly to a function held at the Davis’ facility. Eric Larsen stated that he saw the Ducks Unlimited sign, and it covered the “road closed” portion of the safety signage completely. Ken Kerl, Chapter Chairman for Oregon Ducks Unlimited, was in attendance and stated that he placed the Ducks Unlimited sign in question on the road closed sign on N. East Union Road. He further explained that there are limited banquet facilities in Oregon, and the chapter has held previous banquets at Valentine’s restaurant and Eugsters. He received information from a member about Davis’ facilities and they decided to use it this year for the Ducks Unlimited donors/sponsors dinner, which is for community members who donate to or sponsor the chapter. JL Richards catered the meal, and the Davis’ donated the use of their facility. When the coordinators were at the location to set up, they realized N. East Union Road was closed from the north, to assist attendees they did post signs stating “Ducks Unlimited this way” on the orange and white portion of the road closed signage, not over the “road closed” wording. Kerl stated he used a piece of cardboard and a magic marker to make sign, estimates it was approximately 20” x 16” in size. The event was successful in the eyes of Ducks Unlimited. Attendees were not charged for the meal or event; a silent auction was held, which raised \$3,000 for Ducks Unlimited.

Larsen reiterated that the Ducks Unlimited sign covered a significant portion of the road closed sign.

Francis asked Kerl if he felt what the Davis’ are asking for in their CUP a common thing (i.e. holding events, etc)? Kerl stated that his parents have raised pheasants since 1969, and he has delivered pheasants throughout the state. He has been to many lodges throughout the state and they have hunters gather there, drink beer, etc. He cannot speak to the weddings, graduations, etc. issue.

Shotliff stated it was his opinion that the Davis' facilities are an asset to the community, it is a nice facility and they've done a good job with it. It is an income source for the township, generating tax revenue. He feels the Town could work out the issues with the Davis'. With regard to the issue of damage to N. East Union Road, the road was damaged by the gravel pit, and it is irrelevant to this issue. Feels more is being made out of this issue than needs to be.

Francis questioned who is responsible if there are issues at the lodge, specifically regarding alcohol, underage people, someone at a function who drinks too much? Do Davis' take full responsibility for that? Attorney Olson stated that yes, the Davis' take full responsibility for such issues. There were only 3 events held at the facility last year; they are not competing with any other establishment in the area. What they are doing is no different than other people that have parties in their backyards. Zweizig believes the issue is different, as the Davis' are running a commercial establishment.

Francis brought up the issue of possible extra need for public services at the location, and wondered if there is any concern about this issue, specifically Rock County Sheriff's Department/law enforcement? Attorney Olson stated that any commercial establishment may have criminal activity; it is not specific to this facility. Olson further stated that the Town approved building permits to construct a parking lot at the facility that holds a large number of cars; the Town was at that time aware of the intentions of the Davis' with regard to the facility. Francis recalled a concern in 2004 about shooting noise, believes it was the only concern raised at the time. Exum thought that there had been concerns about functions going beyond 10 pm, and beer/wine bottles along the side of the road. Larsen felt the beer/wine bottle issue most likely stems from Union Tavern. Gruebling stated that the main issue is that the Davis' are trying to increase what they are doing there, beyond the scope of what they are permitted to do at this time. Larsen stated he has been to riding stables that have similar facilities; he feels the real debate is whether what they are doing within the scope of the definition of a shooting preserve?

Davis asked Gruebling what his objection was to continuing use of the facilities during summer months. Gruebling clarified that his objection is that they originally requested to use the facilities from October through April, and that's what they were granted in their CUP. The Davis' expanded the dates of operation on their own, and did not come to the Plan Commission and Town Board to request it.

Don Moen, neighbor to Davis': was involved in the initial discussion prior to issuing the original CUP, he is in favor of allowing the preserve to operate. He feels that the problem is that things are too vague in the CUP. The main issue four years ago was alcohol, and it is still a concern. The CUP needs to be further defined, as the use of the facilities is changing. Believes it is the job of the Davis' attorney to lay it out.

Larsen feels a basic question is, if they adjust the conditional use permit to include some of the requests of the Davis', do they need a new application? The hours changed at the last CUP review were not even reflected in the permit issued (2007). Davis reiterated that he would like to have the Town Board and Plan Commission out to the property to see what they do. Both Exum and Pector agreed that the use of the property doesn't seem to fit in anywhere under the current zoning ordinances. Zweizig believed the first step would be to obtain a statement outlining the operation of the facility, and then try to fit it into the ordinances.

Doug Lee brought up his concern about liability issues, and the lack of any rules/regulations that facility users agree to and sign off on.

George Franklin: stated that he spoke with Tom Davis 2 years ago when they were having a swimming pool constructed, some of that construction affected the condition of N. East Union Road. Thinks they have a conditional use permit for pheasant hunting, seems they are coming in the back door with requesting changes to their permit for things that they are already doing. Believes they should obtain the CUP first, and then change your practices accordingly. If you don't have a CUP that says you can do something, and you do it anyway, you're in violation.

Greg Prudhon: stated that every hunting club he's ever known has a charter, feels that is what the Plan Commission is asking for and would solve most of the problems/issues.  
Attorney Olson stated that the Davis' are willing to put something on paper regarding how the business is operated, as well as proposed language for a CUP. Gruebling wanted it made clear that anything that is not specifically spelled out on the CUP will be allowed.

Question arose regarding restrictions imposed upon the Evansville Country Club; Gruebling stated that they have a liquor license and are a commercial establishment. Don Moen stated that the Country Club has a charter.

Public hearing closed at 7:55 p.m.

Zweizig requested an amendment to his prior motion; Motion to not renew existing Conditional Use Permit issued to Tom and Connie Davis to operate a pheasant hunting preserve, and to encourage the applicants to provide a new Conditional Use Permit application which accurately reflects their business activities.  
Second by Kim Gruebling.

Francis would like clarification wants to be clear that their current CU P is not valid.

Larsen questioned whether if the applicants return with a new application, would the Plan Commission then have to define a shooting preserve? He felt the process is being drawn out, would like it to be more efficient. Larsen would like them to bring back information regarding why they think that a shooting preserve would allow the additional activities they are conducting and are requesting. Larsen then brought up the question of if the Davis' still want to operate a shooting preserve even if the Town does not approve the extras they want, would they have to file a new application to continue what is already in place?

Exum feels that the Town's attorney should review the issue.

Attorney Olson stated that the motion before the Commission will revoke the property rights of the Davis', and he would request that the CUP remain in effect until further decisions are made. Zweizig believes that the Davis' preserve and facilities should not be in operation at this time anyway, according to the current CUP. Attorney Olson disagrees; feels that only hunting is limited to October – April, and other activities do not have this restriction.

Francis suggested that the Plan Commission could renew the existing CUP with specific definitions, and ask the Davis' to return next month with further requests. Exum stated that the current CUP states operations will end April 30; are there things going on between April and October? Davis stated yes, he has five events scheduled. Larsen inquired how many are scheduled between now and the next Plan Commission meeting (July 31); Davis believes there are two events, but is unsure. Davis expressed his concern that his business experiences a loss of income when word gets out that they are having problems with the Town.

Motion to table the earlier motion as amended by Doug Zweizig, made by Renee Exum. Second by Eric Larsen. Motion approved by unanimous voice vote.

Motion to request the Town Board refer the renewal of the Conditional Use Permit for Tom & Connie Davis to the Town attorney for review and opinion made by Renee Exum. Second by Eric Larsen. Motion carried by unanimous voice vote.

Francis requested clarification regarding whether the Davis' are operating under a valid CUP at this time? Lee felt that if the current CUP is read in black and white, the permit is not valid until October 2008. Francis questioned if the Plan Commission will object to them operating between now and the next Plan Commission meeting (July 31, 2008)? Per Zweizig, to do so is their choice and at their own peril.

The Plan Commission will anticipate further information from the Davis' regarding their existing CUP, and suggested language for a renewed CUP for consideration at the July 31, 2008 Plan Commission meeting.

**Public Hearing: Review and possible recommendation to the Town Board for adoption of the Draft Large Wind Turbine Siting Ordinance. During the current moratorium the Large Wind Turbine Citizens Committee has developed a recommended ordinance to protect the public health and safety of residents.**

Zweizig reviewed time limits (3 minutes per person); asked individuals to stick to facts in their comments, not opinions; reminded speakers to state their names and whom they represent; and asked any printed materials be given to Clerk Ylvisaker.

Kevin Kawula: supports the ordinance with ½ mile setback. Has submitted a petition to the Magnolia Town Clerk supporting ½ mile setback. Believes the machines will make noise, and destroy the quality of life in the area. Visited Montfort wind farm, heard noise generated by the turbines; compared it to living under a flight path. The draft ordinance does not prevent individuals or businesses from purchasing small turbines for personal use. Encourages individuals presented with contracts from energy companies to have them reviewed by legal counsel prior to signing.

Carol Prudhon, lives in Evansville but owns land in Union in the area turbines are proposed. Talked to Paul Helgesen who works for the Public Service Commission. Helgesen stated the State's model ordinance was a compromise between stakeholders, landowners, etc and was written 10 years ago. Helgesen also told her that the State knows of no stray voltage, health issues, etc. related to turbines. Prudhon then called the Spirit Lake, Iowa school district where she spoke to the building and maintenance supervisor for the district. There are two turbines located on the school property, 800' from the elementary school. Two turbines are used to generate 100% of the school's power; the supervisor stated that with new building projects they plan to tear down their smaller turbine and build a larger one to supply all the power for the additional buildings. The supervisor stated they have had no instances of illnesses related to the turbines, nor health concerns of any kind. He has given many talks about their projects. Prudhon would like the Plan Commission to modify what she believes are strict requirements in the draft ordinance.

Joan Mitchell, Magnolia: has no financial interest in the turbine projects. She is concerned with health and safety. These are industrial turbines, and are not the same as what the Spirit Lake School District is using. Believes that zoning serves a purpose, to separate commercial and residential uses of land. People moved into this area for the quiet; believes people don't thrive in an environment with this amount of noise. Concerned with nighttime quiet, children need quiet and restful sleep to grow. It was previously stated that the noise created by the turbines would be equivalent to the level of conversation; she would find it difficult to sleep with a conversation going on in her bedroom. Now is the time to make the decision if they want an industrial township or a rural township. These are health and safety issues for many people; bear in mind that the turbines will last for 20 years.

Dave Olson, on Magnolia Town Board: believes health and safety is very important to everyone. Thanks the Citizens Committee for all the work they've done on the draft ordinance – the Town of Magnolia has used most of the wording from the Town of Union's draft ordinance to use as their own, and made only a few changes. Magnolia will be having one more public hearing to address any remaining issues with their ordinance. Believes that if local government doesn't make a decision someone else will make it for them. Local government can be contacted to address issues within your township; it is difficult to reach government officials at higher levels, and get action from them on local level issues.

Jim Bembinster, Town of Union: discussed noise as it relates to wind turbines. To simplify: if the head of your bed faces an outside wall of your home, your ears are 3 feet from the outside of your home and the noise created by turbines. Your ears never turn off. If WPPI was truly concerned about health & safety they would not recommend a setback of less than 1 mile. Believes that more turbines will be sited by

WPPI if the 1000' setback is allowed. Feels it is better to be conservative now with setbacks rather than have problems later.

Cathy Bembinster, Town of Union: Cited papers from the Wind Sound Conference.

Matt Gaboda, Evansville: supports original ordinance given to the Plan Commission by the Citizens Committee. Everything within the ordinance was researched by the committee members. Believes that a ½ mile setback should be the minimum, 1 mile is optimal. The ½ mile setback should be viewed as a compromise between the optimal 1 mile setback and what the developers would like for setbacks. Feels accusations made by power companies about validity of statements in ordinance need to be founded, otherwise all statements made by them should be questioned.

Sue Pestor, Citizens Committee: did a lot of work on the ordinance; feels the Plan Commission should recommend a 1 mile setback. She and her husband went to Brownsville and spent time with a camera and noise meter. Spoke with one farmer who said it was noisy but he "put up with it." Ice coming off turbine blades in the winter is dangerous. The biggest complaint they heard in the Brownsville area was that the roads were not repaired after turbines were put up. Others had complaints about noise, shadow flicker. Hopes the Plan Commission and Town Board take their responsibility for resident health and safety seriously.

Elaine Strassburg, W. Cty. Rd. C: supports draft ordinance, ½ mile setback. Supports wind energy, however as a neighbor of people on whose land the turbines may be placed, wants to be sure that her health and safety is taken into consideration. Resents the fact that landowners are certain that there will be no effect on neighbors, they are effectively making this decision for her. Concerned with the equity in her home, effect on groundwater, etc. as a result of turbines being sited near her home. Would like an ordinance that provides legal assurances. Believes quality of life should be considered a part of the definition of health and safety.

Tonto Abey: the State has a wind ordinance, is simple - short and sweet - and should be used. Thinks too much time and money has already been spent on the ordinance.

Eric Kostecki, WPPI: is against ordinance as written, setbacks and noise level restrictions will restrict the ability to site large scale turbines in the area. Dodge County ordinance should be considered; it is in effect and is working for them. Requests that the Plan Commission remove the wind measurement towers from the moratorium, which would allow them to install a MET tower and better understand if Union is a good site for turbines.

Mike Leeder, Citizens Committee member: the Town only has one shot at getting the ordinance right, if the turbines are not sited correctly the Town's residents will suffer. Supports the draft ordinance but feels a setback closer to 1 mile is needed. Residents' health and safety is important when considering the ordinance. Spirit Lake turbines are small scale, not industrial scale as will be put up here. If you are considering signing a contract with an energy company, please be sure you know what you're signing.

John Meyers, EcoEnergy: is an Iowa County Board member and on the County Health Committee. Has a vested interest, as he works for EcoEnergy. Lives in the county where the Montfort wind farm is located, drove up there and talked to residents. Talked to a farmer whose home is ¼ mile from the turbines, he has no complaints. Tim Lykes, a farmer with 2 turbines on his property, had no problems with installation. Evelyn Miller, hosted Farm Progress Days in Iowa County in 1979, believes the turbines are soothing at night, leaves bedroom windows open at night. Miller states that the turbines do not sound like jet engines; she has 3 turbines in her backyard ¼ mile from her bedroom windows. Miller does not lease any land to turbines or have any on her land. Meyers read in a statement from the Iowa County public health nurse who stated that they are unaware of any health concerns related to turbines.

Don Maas, Town of Union: costs of electricity will continue to increase, cost of wind energy will remain the same. Legal decisions have been made regarding health effects of energy sources such as fossil fuels and uranium, however no legal decisions have been made about wind turbine syndrome. Doctors and nurses in the areas turbines are located don't know anything about it. They will be located in Minnesota or Saskatchewan if they're not built here, and as a result electricity will be more expensive as it will be brought in from there instead of produced in our backyard. Does not know of any health problems that would affect his neighbors.

Joanne Van Norman: wonders if people John Meyers spoke to have a vested interest in the turbines? Meyers stated he spoke to a variety of people, some did and some did not.

Don Krajeck: would like the Plan Commission to consider a change to the decommissioning portion of the ordinance to require the purchasing utility to be a partner, to help ensure that there is money available for decommissioning at the end of the life cycle of the turbines.

Public hearing closed at 8:46 p.m.

Gruebling wished to make it clear to the public that nobody on the Plan Commission takes their responsibility in this matter lightly, most have taken personal time to visit wind farms first hand.

**Discussion and possible recommendation to Town Board to extend Ordinance 2007-02, An Ordinance to Impose a Temporary Stay on Construction of Large Wind Energy Systems in the Town of Union, which will expire on August 13, 2008.**

Following the June 17 working meeting, the Plan Commission agreed that there may be a need to extend the current Large Wind Energy moratorium. Lee feels there is no reason that the Plan Commission can't get their review and recommendation of the ordinance done in a timely manner; he would make a motion to recommend to the Town Board extending the Large Wind Energy Ordinance moratorium 3 months, to November 15, 2008. Second by Doug Zweizig.

The Town Board will need time to review the ordinance once it is handed over to them. Gruebling believes the Plan Commission will need a couple more working meetings prior to their regular July meeting, but the ordinance review should be done by then, and he does not believe an extension of the moratorium is needed.

Motion carried by a 5-1 verbal vote. Kim Gruebling voted "nay"; Alvin Francis abstained due to a conflict of interest.

Clerk Ylvisaker will work with the Town Attorney and Plan Commission members to schedule two working meetings prior to the July 31, 2008 regular Plan Commission meeting.

Meeting adjourned at 8:59 p.m.

*Respectfully submitted by:  
Regina Ylvisaker, Clerk*

Note: Minutes are considered draft until reviewed and approved by the Plan Commission at a properly noticed meeting