

Town of Union PLAN COMMISSION MEETING Minutes of September 30, 2010

The Town of Union Plan Commission regular meeting was called to order at 7:02 pm on Thursday, September 30, 2010 at the Eager Free Public Library, 39 W. Main St., Evansville, WI by Chairman Alvin Francis. Members in attendance included Chairman Francis, Doug Zweizig, Renee Exum, Dave Pector, Kim Gruebling, and Eric Larsen. Town Chairman Kendall Schneider and Clerk Regina Ylvisaker were also in attendance. Commissioner Doug Lee and Building Inspector Bob Fahey were absent.

Approve August 26, 2010 Plan Commission Minutes

Page two, change statement more clearly reflect the intent to: The current land use map, when updated, should reflect land use as of that date.

Motion to approve minutes of the August 26, 2010 Plan Commission meeting as amended made by Kim Gruebling. Second by Dave Pector. Motion carried by unanimous voice vote.

Public Comment (10 minutes max/issue)

Doug Zweizig reported on the issue of current wind legislation and the Town's position. Currently, there are 5 contiguous Towns that have adopted some form of the Town of Union's Wind Energy Systems Licensing ordinance (Magnolia, Center, Spring Valley, Janesville and Union). The proposed PSC rules are now at legislative committee but no announcements of hearings have been made as of yet. Possible outcomes are 1) the committee could send the rules back to the PSC for more work, or 2) the committee could take no action and the rules as they are now would go into effect. Zweizig feels there may be use in having the five Towns work on this issue together in the future to share costs, and the Plan Commission may want to ask the Town Board to consider the option. The Town's Wind Ordinance may need to be revised as a result of the proposed PSC rules, and legal costs would be incurred by the Town in accomplishing this. The rules currently under consideration allow the Town to permit wind towers under 100KW; however the Town's ordinance cannot be more restrictive than the final PSC rules. There is little doubt that our ordinance will need to be reviewed and some modifications made; however we can still retain control in some areas including enforcement, roads, and defining "reasonable" when it is used to discuss "reasonable effort." Zweizig feels the Town needs to be able to react quickly in modifying our ordinance whenever a final decision is made by the State/PSC. Renee Exum, Dave Pector agree that having additional Towns involved makes sense, would reduce costs. Eric Larsen questioned how exactly the cost sharing between Towns would work; Zweizig felt determining those specifics would be a second step, once the agreement to work together was made. Larsen expressed concerns about having more stakeholders involved, that as a result the revision process would become more cumbersome and less efficient; also unsure what version of our ordinance other Towns adopted and if working with different versions would make the process more complicated. Zweizig clarified that he didn't envision all Towns having the exact same ordinance, but instead working together somehow to address the PSC rules and their impact on their municipalities. Zweizig's main concerns are the fact that some rules, like shadow flicker and noise standard, are less restrictive than Union's are now, and we are not allowed to be more restrictive than the State rules are. Zweizig does not think that the ordinances we currently have will be able to be used once the PSC rules are put into effect without significant revisions.

Motion made by Doug Zweizig to have the Plan Commission suggest that the Town Board be aware of the possible need for revision of the Wind Energy System Licensing ordinance, and also look into the possibility of approaching the surrounding 4 other townships with similar ordinances to combine their efforts to address ordinance revisions in response to PSC rules, as stated by Alvin Francis. Consensus by all Plan Commission members to make such recommendation to the Board.

Public Hearing: Review and recommendation of amendments and updates to the Town of Union Comprehensive Plan, including long/short term development designations on maps, to the Town Board.

It was clarified that regarding the statement on page 4 of the list of amendments and updates: *Page 19: Under "Objective: Protect the Town's archeological resources," the statements "require a developer/builder to conduct an archaeological survey according to State regulations" and "require the development plan to adequately protect the archaeological resources in accordance with State regulations": the Plan Commission needs to find out more about this process and what it entails. Zweizig will try to find some information on the subject from the State Historical Society and report back.*

and the statement in the August 2010 Plan Commission meeting minutes that Zweizig had not yet reported back on this issue, Zweizig brought it to the attention of the Commission that he did report back on this issue, and it was addressed at the April 2009 Plan Commission meeting in the form of a motion. Additionally, the statement on page two of the proposed comp plan changes list addresses this issue.

Zweizig distributed to the Commission copies of a table entitled "Archaeological Sites and Cemeteries in the Town of Union" and made a motion that the table be attached to the Comprehensive Plan. Second by Kim Gruebling. Motion carried by unanimous voice vote.

Public hearing opened at 7:43 p.m.

Jeff Trumpy was in attendance, and wondering whether decisions on short and long term development areas had been made; the Plan Commission has made decisions, which are outlined in the proposed changes.

Bob Janes reported encountering resistance from the City of Evansville in response to his request to develop his land in the area of the Town's short term development area. The Town's proposed short term development language conflicts with the City's ideas, and Janes feels it will hamper and restrict development. Francis agrees with Janes' opinion. Kim Gruebling noted that the language and designations will be reviewed in a few years and can be changed. Additionally, Gruebling noted that there is no big push for development within the Town at this time. At the time of the next Comp Plan review, the Town can see what the City has done in the interim with approving developments and react accordingly. It is important to try to avoid helter-skelter development. Zweizig stated that the main policy consideration is to try to place development as close to existing development and transportation corridors as possible; market situations and City politics are a separate issue. Janes believes it comes down to a question of whether the Town is looking for any development at all; feels the proposed short term development area is really limiting development options. Larsen stated that the objective is to keep development close to areas that are already developed. Francis feels that the scoring criteria emphasizes contiguous development; and that therefore the short term/long term

development designation doesn't do any good. The majority of the short term development area is in the extraterritorial jurisdiction of the City of Evansville and if they are opposed to developing in their extraterritorial jurisdiction area, it will not occur no matter what designation the Town places upon it. It was noted that the Evansville-Union Implementation Committee was working towards improving relations and addressing some of the development/extraterritorial jurisdiction issues; however meetings of the group have not occurred since new leadership was implemented.

Zweizig noted changes on page 3 of the list of proposed changes:

- Capitalize "Union"
- Change "describes" to "described"
- Two items are missing the "Motion carried by unanimous voice vote" statement.

Public hearing closed at 8:02 p.m.

Motion made by Eric Larsen to recommend the Town Board approve the list of changes to the Comp Plan as amended at tonight's meeting. Second by Doug Zweizig.

Roll Call: Alvin Francis – Yes; Doug Zweizig – Yes; Renee Exum – Yes; Eric Larsen – Yes; Dave Pestor – Yes; Kim Gruebling – Yes. Motion carried 6-0.

Items needing further discussion:

Regarding the "Right to Farm" disclaimer issue, Exum noted that a motion was passed to include such a statement at the March 2009 Plan Commission meeting:

Motion to attach the following statement to CSMs for all land divisions made by Doug Zweizig: "The above described premises may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by Wisconsin's "Right to Farm" Law." Second by Renee Exum. Motion carried by unanimous voice vote.

It was agreed that the disclaimer requirement should be included in an ordinance, however the Plan Commission was unsure of what ordinance or where within such ordinance to place the requirement.

Motion to request that the Town Board ask the Town attorney for legal advice regarding where to locate the "Right to Farm" disclaimer requirement within our ordinances made by Kim Gruebling. Second by Renee Exum. Motion carried by unanimous voice vote.

Purchase of Development Rights issue: agreed by all to leave as is.

Parkland dedication issue: No action to be taken at this time.

Implementation chapter review and discussion should perhaps be a separate agenda item at a meeting. No specific meeting date set.

Per Exum, in the minutes of last month:

Larsen stated that defining “ag preservation” and “short and long term development”, as well as what types of activities should be allowed to occur in ag preservation, should be added to the list of comp plan issues to be addressed.

Exum believes these issues need to be addressed. No definitions were agreed upon at this meeting.

Plan Commission is of the opinion that the Comp Plan review is complete at this time.

Discussion: Revised Farmland Preservation Tax Credit program, Local Conversion Fees

Exum reviewed the issue: Under the State’s new farmland preservation law, the Town Board has a decision to make: either farmers can continue to claim tax credits or they can’t. If the Board decides to allow farmers to continue to collect the credits, the Town will need to recertify and have a new farmland preservation ordinance by 2012. As part of this process, there will be attorney fees, mapping fees, and enforcement fees. The State statutes allow Towns to place additional amounts onto the conversion fees for local farmland preservation efforts. The intent of the additional fees imposed by the Town would be to cover costs incurred as a result of implementing the farmland preservation ordinance (attorney, mapping, enforcement) and also to create a pool to fund a PACE program. Larsen noted that the idea of having a pool of money with no specific use was part of the issue the Board had with the Plan Commission’s request to implement local conversion fees. It was suggested that once the ordinance and related fees were paid for, the local conversion fees could be removed. Exum’s intent when making the motion to request the local conversion fee was to be sure taxpayers are not paying for the additional costs related to the implementation of the program.

\$100 increase in application fee for zoning out of A-1 was approved by the Board; the per acre conversion fee was not.

Gruebling thinks the Board is concerned with the high cost of the proposed fee; also the Board has not decided that it will go with the program to allow tax credits to continue. There is no official farmland preservation program set up at this time. Gruebling has not seen a big push from the community to establish PDR programs in Union. In other communities that have PDR programs, they are partly funded by increased taxes for all taxpayers which is something that he doesn’t think our residents want to pay for. The Plan Commission would like an answer from the Town Board on their stand on the farmland preservation issue, so they know which direction to go.

Motion to ask the Town Board for clarification of their policy on the farmland preservation program made by Doug Zweizig. Second by Eric Larsen. Motion carried by unanimous voice vote.

If the Town leaves everything “as is” farmers will lose their tax credits.

Exum will provide questions that the Board can review to help make their decision prior to the next Board meeting.

Review and possible recommendation to Town Board changes to ordinances including citation ordinance and related fee schedules.

Gruebling wants to keep the citation ordinance issue on the burner for consideration. The noise ordinance issue still needs to be addressed, and should perhaps be deferred until the PSC wind energy rules are finalized. The concern with the current version of the citation ordinance is that

it refers to the Town's Code of Ordinances; the Town has not yet codified its ordinances and Kendall Schneider laid out a process for codification that was extensive and time consuming. Regina Ylvisaker suggested that references to the Town's Code of Ordinances be removed from the current version of the citation ordinance and it be implemented without codifying all the ordinances, in an effort to get the ordinance in place. Several members voiced concerns with having attorney review of the ordinance prior to enacting.

Motion made by Eric Larsen to request that the Town Board have the Town attorney review the draft citation ordinance. Second by Doug Zweizig. Motion carried by unanimous voice vote.

Ylvisaker will remove the references to the Town's Code of Ordinances and reformat the citation ordinance for review by legal counsel, and will anticipate holding a public hearing on the ordinance at the October Plan Commission meeting.

Motion to request that the Town Board authorize the Town attorney to draft a noise ordinance utilizing the "reasonableness" standards as set forth by the City of Madison Code of Ordinances sec. 24.04 (1) and (2), modifying the language to fit the Town of Union made by Doug Zweizig. Second by Eric Larsen. Motion carried by unanimous voice vote.

Francis stated that following recent land sales and transfers, within the Town's land division ordinance, 16.06 (1) (c) Sale of land by adjoining land owners, he would like to add "of the same zoning classification". Exum thinks there may be a conflict with State statutes. Motion to request the Town Board allow Town attorney review of the request made by Alvin Francis. Second by Kim Gruebling. Motion carried 4-1, Renee Exum casting the dissenting vote and Eric Larsen abstaining from the vote.

Discussion: Plan Commission Policies and Implementation Strategies

Defer to future meeting.

Motion to adjourn by Eric Larsen. Second by Dave Pestor. Motion carried by unanimous voice vote. Meeting adjourned at 9:23 pm.

Respectfully submitted by Clerk Regina Ylvisaker.

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