

**Walworth County**  
**Joint Land Conservation Committee – County Zoning Committee**

MINUTES

Tuesday, October 20, 2009 at 2:00 p.m.

Walworth County Government Center

County Board Room

Elkhorn, WI 53121

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**DATCP amended**

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The meeting was called to order by Chair Kilkenny at 1:34 p.m.

Roll call - Committee members present included: for LCC, Supervisors Hawkins, Ingersoll, Kilkenny, and Citizen Member Burwell. USDA/FSA Representative Henningfeld was absent, excused. A quorum was declared. For CZA, Supervisors Stacey, Weber, Holst, Bromley, and Citizen Member Holden. Supervisor Van Dreser and Citizen Member Kuhnke, Sr. were absent, excused.

County staff present – David Bretl, County Administrator, Michael Cotter, Director of Land Use & Resource Management (LURM), Louise Olson, Deputy Director, LURM, Fay Amerson, Urban Manager; Neal Frauenfelder, Sr Planner; Josh Clements and Peg Reedy, UW Extension; and , Joemann Douglas, Recording Secretary

Also in attendance –. Nancy Russell, Walworth County Board Chair; David Terrell, USDA Wildlife Services; Ron Fero, Dick Kraus, and Roy E. McMannaway, Betty McManaway, Town of Whitewater; Bob Kwiatkowski, Cal Magnam, and Don Maler, Town of Eagle; Ed Van der Veen, Town of Sharon; John Olson, Town of Delavan; Mark Adsit, Town of East Troy; Joe McHugh, Geneva Lake Conservancy; Christy Stair, WI Farm Bureau; Robert McIndoe and Beverly Gamache, Town of Spring Prairie; Nathan Fikkert, and Greg Igl, NRCS; Kathleen Papcke, Joe McHugh, Geneva Lake Conservancy; Terry Papcke, Farm Bureau; Jeff ? (indistinguishable last name.) Other individuals were also in attendance who did not sign in.

Working Lands Initiative/Farmland Preservation Program – Keith Foye, DATCP has been going across the state explaining the ramifications of the changes to the programs. Next week, Foye will be starting a series of sessions sponsored by the Wisconsin Towns Association. The closest one will be in Janesville. Mr Foye said a steering committee spent over a year developing the program and many items moved forward and became part of the 2009-2011 state budget passed June 29, ~~2011~~ 2009. It was found there was a need for land use planning and updating existing farmland preservation plans due to development pressures in many counties. The tax credit changes are found primarily in Ch 71. Mr Foye presented an overview of the Wisconsin Working Lands Initiative as part of the state's 2009-2011 biennial budget. Found in Chapter 91 of WI State Statutes. Some of the important points of the working lands initiative follow:

1. Expanding and modernizing the state's existing farmland preservation program (FPP)
  - Walworth County was the first county to have a farmland preservation plan certified by the state. The FPP was initiated in 1978.
  - Needed to do land use planning
  - Needed for an agricultural preservation plan focusing on a county-wide plan. Many of the county plans were never updated and became part of the comprehensive plan.
  - Walworth County plan state certification expires December 31, 2011. The county could request an extension of the certification, based on coordinating it with our comprehensive smart growth plan.
  - There are grants available (annual appropriation) to be able to update farmland preservation plans, but dollars are limited and an extension may make grant dollars unavailable when needed
  - Agriculture in Wisconsin is currently a 59 billion dollar industry (2007 statistics).
  - Farmland preservation plans are the foundation for the farmland preservation zoning
  - Farmland preservation plans required as a designation for agricultural enterprise areas (AEA)
  - It is a minimum requirement to have a parcel eligible to be able to have someone purchase development rights on the property (PACE grant)
  - Not trying to suppress development, but to direct it so that the best farmland is saved and land development is done in the best location
  - Several ways to implement FPP; one is exclusive agricultural zoning which must be consistent with certified FPP. In Walworth County, the exclusive agricultural zoning ordinance certification expires on December 31, 2012 but can also be extended for up to 2 years.
  - Provisions included for permitted uses and conditional land uses in FPP

- Also there are provisions for non-farm residences through a conditional use permit
  - There is new information regarding rezoning out of farmland preservation – land conversion fee
  - In the old statute structures had to be consistent with agricultural use or not allowed within that zoning district. Now there is more flexibility by allowing a use secondary to the operation like a equipment workshop or office out of the home.
  - To increase the economic development aspect uses not directly related to the operation like a cheese factory, on-the-farm or storage of grain, handling of agricultural waste. This could be done with a conditional use permit or allowed as a permitted use at the discretion of the local government.
  - Non-farm residences allowed as a conditional use; restrictions of no more than 4 non-farm residences on a base farm tract or a total of 5 farm residences on that parcel. It should be sited where it is not prime farmland. Based on a ratio of non-farm to farm acres of 1-20. If done through a conditional use the conversion fee would be waived.
  - Base farm tract determines how many non-farm residences are allowed. Base farm tract land must be contiguous and have common ownership. When zoning ordinance is certified is the time to determine where the base farm tracts will be. Only applies to a conditional use.
  - There is also an option to re-zone which takes the parcel out of the zoning district. The county can decide which land is more suited for development and amend the farmland preservation ordinance, have it certified with the state, and have it be consistent with the zoning ordinance. It cannot impact agriculture on surrounding lands, and the land must be suitable for that type of use. The re-zone will trigger the conversion fee. The second option would be to set up a certified zoning district and rezoning land from a larger farm to a smaller one which would not trigger the conversion fee since it would be going from one certified zoning district to another.
  - The rezoning conversion fee would not apply if land is annexed by a city or village, unless the city or village had a certified farmland preservation district. No city or village has a FPP district in Walworth County.
  - Any rezoning that would occur after January 1, 2010 would be subject to the conversion fee. If the rezone was started but not finalized by January 1, it would have to be conditionally approved before that date. It does not matter if a tax credit was collected before that point.
  - In Walworth County, the conversion fee would be collected by the county at the time of rezone and given back to the state. The state would use it for future planning grants, conservation easements, and other parts of the working lands initiative. As of March 1, 2011, where nothing could be taken out of the current budget, it would go into the working lands trust fund. Local government may increase the fee amount for zoning administration, ~~sewer and water conversion~~ planning, soil and water monitoring, etc. if they choose to do so. Class I soils in Walworth County are approximately \$260/acre (x 3 = \$780/acre) or the approximate amount of the conversion fee. This gives an incentive to rezone two or three acres, keeping the balance of a parcel in farmland. The website for finding use value guidelines is, <http://www.revenue.wi.gov/report/a.html>. Farmland in Walworth County is approximately \$7,000 versus a statewide average of \$3,200. Land changed to a development use in Walworth County is approximately \$18,000 versus the statewide average of \$12,000.
2. Establishing agricultural enterprise areas (AEA's)
- The intent of establishing AEA's is to focus on economic development while identifying best agricultural land
  - Another way to implement farmland preservation plan has been having individual farmland preservation agreements (none in Walworth County – usually in counties that have not been zoned.)
  - Area must be contiguous and devoted primarily to agricultural use, must be identified in farmland preservation plan as an area being kept in agricultural use for the next 15 years, but is not a zoning district.
  - Benefits are trying to maintain land in agriculture use on a neighborhood basis and still provide land

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- that is not in perpetuity and not subject to change as quickly as zoning could be, but is still eligible for farmland preservation tax credits.
  - New FPP agreements would have to be in a designated AEA.
  - Budget authorizes establishment of 15 AEA's or 200,000 acres through January 1, 2012. After that, there will be a maximum of 1 million acres statewide.
  - AEA's are voluntary, based on a petition where the landowners, local government, local town(s) and the county would all be asked to sign the petition before being forwarded to the state by February 26. Land must be contiguous, but landowners signing the petition do not have to be contiguous. Would be approved by the state based on the administrative rule process designating the areas. The AEA triggers the ability for a farmer to sign a 15-year farmland agreement. The agreement must comply with soil and water conservation standards and prohibitions just as those in FPP zoning, and allows farmers to claim tax credits.
  - FPP Tax Credits were streamlined . Current tax credits are \$3.00/acre or about \$650./year. In the 2010 tax year paid in 2011, a new per acre per year credit will take effect. If it's zoned for FPP it will be eligible with no maximum credit. In an AEA they would be eligible for \$5.00/ac/year, if in a farmland preservation zoning district, \$7.50/ac./year, and if under both, \$10.00/ac/year. Walworth County has about 400 farmers currently collecting tax credits averaging \$530. In the future the average credit would be about \$1,350. per participant, or just under \$600,000 in Walworth County..
  - The tax credit eligibility removes the 35 acre minimum. Eligibility requirements include: must be a certified farmland preservation district or agricultural enterprise area, have \$56,000/year gross farm revenue, be in conservation compliance, have the property taxes paid, and be a state resident.
  - Law for conservation compliance changed in 2002 that has the performance standards. People in FPP are subject to meeting the standards which include cropland erosion control, nutrient management plan, manure management prohibitions, clean water diversions, no unconfined manure piles, streambank protection, etc. Updated farmland preservation plans must meet the new performance standards. People not claiming tax credits for the 2009 tax year must be certified by the county as meeting the soil and water conservation standards to be eligible for the new tax credits paid for in the 2010 tax year.
  - Walworth County can charge a fee to review the application for a farmland preservation agreement if in an AEA. (Ch 92) It is one of the items included in the staffing grant sent to the county.
3. Develops a Purchase of Agricultural Conservation Easement matching grant program (PACE).
- This is a voluntary program to protect agriculture through a permanent deed restriction.
  - Walworth County has a certified plan which is a requirement
  - There is \$12 million available in the 2009-2011 budget for a grant to a local unit of government or other non-profit to purchase the conservation easements. It is a 50% matching grant and can also ~~to~~ pay transaction costs. Because of development pressures, Walworth County would rank fairly high in obtaining the grant money.
4. Working Lands Initiative County Responsibility
- Develop and have a certified FPP plan (expires December 31, 2011)
  - May develop, have certified and administer a FPP zoning ordinance (expires December 31, 2012)
  - May sign AEA petitions. If county chose not to have a FPP ordinance, but have a FPP plan, county could be eligible for AEA and/or PACE. There is also the choice to have farmers sign farmland agreements through AEA's. If the county would not sign the petitions with the towns/landowners, that would mean it would not be a priority for establishing an AEA and would preclude that from occurring.
  - May apply for PACE Grants. If you don't have a FPP plan, you are not eligible for PACE grant. The choice is if the county would want to be an applicant for the PACE grant
  - Monitor and administer the soil and water standards for the FPP program (based on Subchapter V in Ch 91, 2009 WI Act 28) including the compliance certification form required in s. 71.613(3)(a)3., 2009 WI

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Numerous questions were asked and answered. A recorded copy of the minutes are on file in the Land Use and Resource Management Department.

At 3:49 p.m. Supervisor Bromley was excused to attend to other business

Next Meeting Date - Committee members and staff had concerns over the timing for future discussion and decision of the Working Lands Initiative/Farmland Preservation and Zoning issues. Discussion followed regarding the best way to proceed that would be fair to the approximately 400 farmers in Farmland Preservation and those individuals who were rezoning at this time. Nancy Russell made a suggestion to put the subject on the November Meetings for both the LCC and CZA Committees and have a special meeting of the County Board for allowing rezones already in process and already through the town and the county zoning agency to get rezoned. Dorothy Burwell asked if it could be agendized as informational to plan for a future public meeting date. David Bretl said that would be acceptable. There were no members of the press at this meeting; therefore, Claudia ~~Holtz~~ Holst suggested a press release. David Weber suggested picking a time in November and December, be as proactive as possible, and come to a conclusion in December. over the best way to proceed with the working lands initiative and if not, to carry it forward into January. **A motion was made and seconded by Supervisors Weber and Hawkins to have separate LCC and separate CZA informational meetings for November 19. Motion carried 8-0.** (LCC Meeting, 12:30 p.m. and CZA Meeting 4:00 p.m.)

Adjournment – **On motion and seconded by Supervisor ~~Holtz~~ Holst and Weber, Chair Stacey adjourned the CZA Committee. Motion carried 4-0. On motion and seconded by Supervisor Hawkins and Citizen Member Burwell, Chair Kilkenny adjourned the LCC Committee at approximately 4:38 p.m. Motion carried 4-0.**

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Submitted by Joeann Douglas, Recording Secretary. Minutes are not considered final until approved by the committee at the next regularly scheduled meeting.