

**Walworth County Special Joint Committee Meeting of
Land Conservation Committee and County Zoning Agency**

MINUTES

Monday, May 10, 2010 at 1:30 p.m.

DRAFT

Walworth County Board Room, Government Center
100 West Walworth Street
Elkhorn, WI 53121

The meeting was called to order by County Zoning Agency Chair Stacey and Land Conservation Committee Chair Kilkenny at 1:31 p.m.

Roll call – CZA Committee members present included: Supervisors Stacey, Weber, Brandl, Redenius, Wardle and Citizen Member Holden. Citizen Member Kuhnke, Sr. was absent. LCC Committee members present included: Supervisors Kilkenny, Grant, Hawkins, Citizen Member Burwell, and USDA/FSA Representative Henningfeld. A quorum was declared.

County staff present – David Bretl, County Administrator; Michael Cotter, Director of Land Use & Resource Management (LURM), Louise Olson, Deputy Director, LURM, Neal Frauenfelder, Senior Planner, LURM; Matthew Weidensee, Associate Planner, LURM; Fay Amerson, Urban Manager, LURM; and Joann Douglas, Recording Secretary.

Also in attendance – Nancy Russell, Walworth County Board Chair; and Kathy Ingersoll, Walworth County Board Supervisor

Approval of Agenda - Supervisors Weber and Grant moved and seconded approval of the agenda.
Motion carried 11-0.

Summary of Working Lands Initiative – Louise Olson explained that the Farmland Preservation Program and the Farmland Tax Credit Program will be eliminated on January 1, 2011. Both programs have been expanded and modernized under new statutory requirements under Ch 91. The state statute states that every county shall adopt a farmland preservation plan that is consistent with their 2035 Comprehensive Land Use Plan and current Land Use and Resource Management Plan. The zoning components related to farmland preservation may be adopted to be in compliance with S.S. 59.69. The conversion fee has thus far been the most controversial portion and is a zoning issue. All A-1 land is prime agricultural land. Landowners changing A-1 land to another zoning district are required to pay a fee of 3 times the current agricultural assessed value. Those townships not under county authority and handling their own zoning will be calculating their own fee when A-1 land is converted. Landowners are required to pay the conversion fee whether or not they have participated in the Farmland Preservation or Farmland Tax Credit Programs.

Background of Events and Timetable - Several informational Working Lands Initiative meetings have already been held including the February 15, 2010 Public Meeting sponsored by the LCC. Key points were:

- The deadline for adoption of Walworth County's Farmland Preservation Plan is December 31, 2011;
- Farmland Preservation Plan, Comprehensive Plan and Land and Water Resource Management Plan must be in compliance with one another;
- Counties may adopt and administer a farmland preservation zoning ordinance which is due December 31, 2012;
- Townships such as Bloomfield with their own zoning will have their farmland preservation plan done by the county;
- A political subdivision with a certified farmland preservation zoning ordinance may rezone land out of a farmland preservation zoning district without paying a conversion fee (effective January 1, 2010);
- Person who requests the rezoning pays to the political subdivision for each acre rezoned;

- All participants claiming tax credits must have a soil and water conservation plan that is being implemented. The Department of Revenue would be aware if no farm plan exists through information provided by the county and participants would not be able to claim a tax credit.

There was brief discussion as to whether to proceed with the Joint CZA/LCC Committee in the future. Mr. Bretl suggested due to supervisor's time constraints, and in fairness to supervisors not present, that the LCC proceed on its own and periodically update the County Board. **Supervisors Weber and Grant moved and seconded to direct the LCC to proceed with preparation of the Farmland Preservation Plan and periodically appraise the Committee as a whole. Motion carried 11-0**

Results from Questionnaire and Public Hearing Comments - Comments were summarized to help direct the LCC to make informed decisions and reflect the thoughts of the people attending the meetings. The question of assessed value for agricultural land was addressed. Ms Olson explained that value changes by township, but the average is \$600/\$900 per acre of A-1 land throughout the state. The Department of Revenue sets the values. Bloomfield, for example, is \$286/acre, while Lafayette is \$304/acre. The conversion fee is based on 3 times the assessed value of land rezoned out of A-1 and monies are not kept by Walworth County. It is a pass through to the state to fund the working lands program. Mr. Cotter said an additional administrative fee could be added by the County to the conversion fee and could be considered in next year's budget. Ms Olson said the administrative fee is allowed in Ch 91.50. If the municipality decides A-1 was an incorrect designation for the land, then a rezone would not trigger a conversion fee. Also, it is possible that the conversion fee may be changed at the state level in the future. If land is annexed there is no conversion fee, but municipalities should be following their Comprehensive Land Use Plan.

Technical Advisory Responsibilities and Public Participation – Fay Amerson explained that a technical advisory committee (TAC) is not mandatory for the Farmland Preservation Plan that must be certified by December 31, 2011. It is a very short plan because it complies with the recently completed Comprehensive Land Use Plan. A copy of the handouts is placed on file, listing the Farmland Preservation Plan elements and requirements. Chapters of the Farmland Preservation Plan will also be put on the county web site.

Required Elements of The Farmland Preservation Plan – Ms Amerson said all of the required elements are in the Comprehensive Land Use Plan and we will be using them in the Farmland Preservation Plan (FPP). We are identifying and mapping infrastructure and agri-business in the county. An example of infrastructure is Agrilink in Darien and Kikkoman Foods in Walworth. Ms Amerson showed the map being developed with all current sites in the county and encouraged the Committee to give the staff suggestions of current businesses or possible types of businesses to include in the elements of the Farmland Preservation Plan. Ms. Olson added that this is the zoning element and we will be looking at what farm-related programs will be allowed on A-1 land in the Farmland Preservation Plan. The zoning may have to be adjusted if not correct to be compatible. Matt Weidensee added an example of a commercial horse stable which currently must be zoned A-2; if it is part of a farm enterprise they are required to rezone from A-1 to A-2 and pay the conversion fee of \$900/acre. We may, when doing the Farmland Preservation Plan, amend the zoning code to allow for a conditional use for commercial stables in an A-1 zone district, which would require a zoning code amendment but which is consistent with statutes for Farmland Preservation. Previously, horse farms were not considered agriculture, but that is changed. Another example was hunt clubs, as long as the headquarters are not in the A-2 zoning district. The fields could remain as A-1. Also, slurry tanks and manure digesters may be put into the plan. Dan Kilkenny asked about limitations to what is allowed. Mr. Weidensee said the whole zoning/agricultural enterprise area issue will be to what extent various agricultural industries/uses will be allowed on the farm and still be considered agricultural and the breaking point for usage. Changes would be covered by a conditional use. He said the focus would be on the family type farmer. A slaughterhouse for animals grown on the farm operation would be an example of something that would possibly be allowed while a commercial slaughterhouse bringing in animals from the outside

may not be. The AEA is not well defined by the state, and staff will be looking at it with DATCP. Ms Olson added that when she asked DATCP if they had a model ordinance or plan she was told we are one of the first plans to be submitted and it may be the model for other counties to follow. Discussion followed regarding rezones, which must be supported by the town and are looked at on a monthly basis by LURM. Dorothy Burwell asked how the farm separations that remained in A-1 from earlier years would fit in regarding the conversion fee if one of the houses or buildings were to be used for an agricultural enterprise or a non-agricultural use like a duplex or boat storage. Mr. Weidensee said it would depend if there were less than 2 non-farm employees for boat storage, it could be done with a conditional use as a farm family business. If there were more than 2 employees a rezone/conversion fee would be needed. Staff will be revisiting it further with DATCP. Fay Amerson added that use of agricultural land for non-metallic mining also creates the need for a rezone and needs to be addressed in the Farmland Preservation Plan. If the mining site is on A-1 land, it then goes back to A-1 after mining is completed without a conversion fee. There is the need to have an explanation consistent with the comprehensive plan process or make a change.

USDA/FSA Representative Henningfeld left the meeting at 2:30 p.m.

Brief Background on the County's Land Use Comprehensive Plan, 2035 – Neal Frauenfelder, Sr. Planner gave the key elements of the plan and gave observations from the public:

- Farmland Preservation Plan legislation is still a work in process and to expect changes from the state which is now promulgating rules to clarify.
- When the 2035 Comprehensive Plan was prepared, the general public felt that farmland preservation was extremely important and prime farmland should be protected.
- The standard 35 acre minimum lot size should be kept for A-1 land.
- The 3 classes of soils should be kept, which still leaves ample room for growth
- What should be allowed in A-1 land was discussed with a checklist of standards to evaluate rezones.
- Expanding conditional uses was also discussed; some townships may not be in favor of some types of expansion. If we do comprehensive plan or rezone amendments that come out of the Farmland Preservation Plan update, the majority of the towns must support it.
- Mineral extractions conditional use – allowing non-metallic mining without a rezone. There could possibly be a state law change to allow veto authority by towns for conditional uses
- Non-farm residences without a rezone (1 unit/20 acres) was discussed; towns would have to back any change
- PACE Program – negative aspect is forced conversion fee; positive aspect, purchase easement supported in the plan
- Standards spelled out in the Comprehensive Land Use Plan where a rezone out of A-1 land would be allowed and not in conflict with the plan.
- One anomaly in the planning process and what is shown as prime farmland is Lafayette Township. In the early 70's Lafayette did not adopt the comprehensive zoning ordinance, did their own zoning map, and incorporated a lot of woodlands in A-1, in particular the Sugar Creek valley which is heavily wooded and not cropped.
- Even though the Comprehensive Land Use Plan is a county plan, it came about from a compilation of county plans with their input and approval.
- Rezones must be consistent with the Comprehensive Land Use Plan. Once a year the towns can entertain an amendment to the plan with a wholesale review of all properties needing review.
- It is not recommended doing large amendments on an annual basis, but rather waiting until the 10-year plan cycle since it affects population estimates, social, and economic elements.

Rick Stacey asked what the ramifications were of a rezone for a farm business such as a tree farm parking

lot rezone dropping the remaining A-1 land below the 35 acre minimum. Mr. Frauenfelder said that may trigger a rezone on the balance. Mr. Stacey said he felt it was unfair to have landowners who have been out of farmland preservation for many years have to pay a conversion fee. Ms Olson said the use value assessment for farmland was dropped and that already gives farmers an advantage of lower taxes. Also, it is a new credit program regardless of income. Mr. Kilkenny asked if, under the new directive to allow more uses under A-1, would it be possible a tree farm parking lot could remain under A-1. Mr. Weidensee said we could create more conditional uses to allow a retail aspect along with the wholesale aspect of the tree farm. Currently, if you plant trees on a farm they are sold wholesale. When customers come to the farm and park their car to buy an individual tree, then A-4 zoning is needed. It may be possible to set up a scale where a limited amount of sales would be allowed. Ms Olson said that's what this committee will be facing when they do their zoning ordinance. These are ideas we need to think about when doing the zoning. Right now, we are doing the plan. Mr. Frauenfelder added that at some time the towns will have to be involved to gauge their support and get their input. At this point it would be best to keep to a few large central issues. We have until December, 2012 to do our zoning ordinance. In the next planning cycle when the comprehensive plan is updated in 2017, would be a good time to incorporate the other farmland preservation issues.

Resolution 25-5/10 Assigning County Conservationist as Authorized Representative in the Administration of DNR Targeted Runoff Management Grant Program (TRM) – Louise Olson said the County Conservationist is a designated position of the county conservation program. The technical staff finds areas most in need of conservation practices where conservation dollars can be best spent. The DNR now requires an authorized representative for the targeted runoff program. We also receive approximately \$50,000 to \$60,000/year from DATCP to implement conservation practices, and the targeted runoff program is over and above that amount. The representative would sign off on the grant to obtain the additional funds, and authority should be broad based and be able to complete all necessary DNR paperwork. If we are granted dollars for the TRM grants program, Ms Olson will be coming before the Walworth County Board and LCC to talk about the specific project(s) and dollars available to implement conservation practices and address water quality concerns. These grants are zero net appropriation dollars to the conservation budget. Presently, Ms. Olson's position has been authorized to sign through a conservation agreement between the county and the state. **Citizen Member Burwell and Supervisor Grant moved and seconded to recommend approval of Resolution 25-5/10 assigning the County Conservationist as authorized representative in the administration of the DNR Target Runoff Management Grant Program.** The motion was voted on only by the LCC. **Motion carried 4-0**

Next Meeting Date – The LCC will not meet again in May. (June 14 if necessary)

Adjournment - **On motion and second by Supervisor Weber and Brandl, Chair Kilkenny adjourned the meeting at approximately 3:21 p.m. Motion carried 10-0.**

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