

**Lincoln County Land Services Committee
Minutes of Thursday, October 8, 2015, 1:00 pm
Lincoln County Service Center, Room #257**

Members Present: Julie Allen, Loretta Baughan, Hans Breitenmoser, R. Wayne Plant & Curtis Powell. Visitors: Matthew Bremer; Land Services Administrator, June Winters; Zoning Program Assistant and Jeremy Irish. Supervisor Rusch was excused from the tours but will be here for the public hearings. Supervisor Hetfeld was excused from today's meeting & hearings.

1. Call Meeting order - Meeting was called to order by Chairman Powell at 1:00 p.m.
2. Approval of the September 30, 2015 Land Services Committee Minutes – M/S Plant/Baughan to approve the minutes. Motion carried 5-0.
3. Agency Updates – Jeremy Irish (APHIS-WS) – 2016 Wildlife Damage Program Budget – Jeremy Irish was present to explain the 2016 Budget. Approval of this budget requires Committee approval. He reviewed the increases/decreases from previous years and the process of the program. Breitenmoser had a question about damage that is being done by Sandhill cranes in the county. Irish said that currently they are not included because they are not a species of animal that is hunted. There was discussion.

M/S Baughan/Allen to approve the proposed budget. Motion carried 5-0. Chairman Powell signed the documents for Irish.
4. Public Comment – There was no public comment.
5. Tour sites in the towns of Bradley, Russell & Schley that will be subjects of the 3:30 p.m. public hearing - At 1:09 p.m. the Committee & Bremer left to tour the sites. They returned at 3:21 p.m. and reconvened the meeting.

REGISTER OF DEEDS

6. Monthly Munis Report – Sarah Koss was attending the WRDA 2015 Fall Conference so the reports were just put on file.
7. Monthly Written Report –

At 3:23 p.m. Chairman Powell called for a brief break until time to start the public hearings.

LAND SERVICES DEPARTMENT

8. 3:30 p.m. Public Hearing – Public Hearing was called to order at 3:30 p.m. Members present: Julie Allen, Loretta Baughan, Hans Breitenmoser, R. Wayne Plant, Curtis Powell & Greta Rusch. Visitors: Matthew Bremer; Land Services Administrator, June Winters; Zoning Program Assistant & 26 others. Supervisor Hetfeld was excused.

Hearings were held on the items listed in the notice. Chairman Powell explained the rules of conduct for public hearings and introduced the Committee members. He called the first hearing.

Because items 1 & 2 are for the same property Powell explained that testimony will be taken for both concurrently.

COMPREHENSIVE PLAN AMENDMENT

1. A request by Bill Smith to amend the Lincoln County Comprehensive Plan Map from Rural Single Family Residential to Crossroads Mixed Use for tax parcel 04.033506.001.003.01.02, comprising approximately 4.5 acres. The property is located in the NE¼NE¼ of Section 03,T35N-R6E, in the Town of Bradley, with an address of N12012 County Road L.

PETITION FOR REZONING

2. A request by Bill Smith to rezone approximately 4.5 acres from Rural Residential 1 to a Crossroads Mixed Use zoning district for tax parcel 04.033506.001.003.01.02. The property is located in the NE¼NE¼ of Section 03,T35N-R6E, in the Town of Bradley, with an address of N12012 County Road L.

Chairman Powell asked for proponents of the request. Bill Smith was present to explain the request. He said he recently purchased the property & that when he turned in a permit previously to do an addition to his building he was informed that the property had never actually been authorized as a business even though there had been a shop there for at least 25 years. Allen asked what the nature of the business was and Smith said that he operates a drywall business. Smith said that this property would be mainly used for equipment & vehicles. No customer traffic. He has 4 employees. He purchased the property because he currently owns & lives at the property directly to the east of this parcel.

Harry Gladwin, Town of Bradley Plan Commission Chair, was present. At their 9/28/15 meeting the Plan Commission recommended approval to the town board. Gladwin stated that Smith has already done some clean up on the property. On 10/12/15 the Town Board will meet to decide whether to have a public hearing for the Comprehensive Plan change. The Town Board will then meet 11/9/15 to make a final decision. Powell wanted to make it part of the record that this Committee typically does not act before Town recommendation but could make their decision contingent upon town approval.

Chairman Powell asked for opponents of the request. There were none present but Powell referenced a letter of opposition received from Gerald Luedke, an adjoining neighbor, and asked that it be put on record. In the letter Luedke cited that the traffic is congested in this stretch of road already with entrances to a number of residences & businesses. With a 55 mph speed limit & passing allowed in both directions, it makes this a very dangerous stretch of road. He suggested that if the request is granted that the town/county consider lowering the speed limit on County Rd L from US Highway 8 to the Oneida County line to 45 mph. Mr. Luedtke thanked the Committee & a previous applicant that constructed mini-storage units in this same area for maintaining a "buffer" of trees between his building and both County Rd L & the Hiawatha Trail. He hoped that any new type of business would be developed in a similar fashion and with respect for the privacy and view of the adjacent residential properties.

Chairman Powell closed the public hearing for the Comprehensive Plan Amendment & Petition for Rezoning requests.

M/S Rusch/Plant to APPROVE the Comprehensive Plan Map from Rural Single Family Residential & the Rezone from Rural Residential 1 to Crossroads Mixed Use contingent on approval of the Town of Bradley Town Board. If approved, it will then be forwarded to the Lincoln County Board for approval at the November 10, 2015 meeting. Motion carried 6-0.

PETITION FOR REZONING

3. A request by Mark and Karin Leopold to rezone approximately 40 acres from Agricultural to a Rural Lands 4 zoning district for tax parcel 22.133207.016.000.00.00. The property is located in SE¼ SE¼ of Section 13, T32N – R7E in the Town of Schley with an address of N3731 County Road G.

Powell called for proponents of the request and Mark Leopold was present to explain the request. He explained that he would like to break off 5 acres with the house to sell to his daughter but under Agriculture zoning that wasn't allowed. Allen clarified that his intent was not to build additional homes and Leopold said it was not.

Earl Welker, Town of Schley Plan Commission Chair, was present and shared that the Leopolds had come to the Town with their request. The Plan Commission met on 9/17/15 and recommended approval and there was a resolution of support for the rezone from the Town of Schley's 10/6/15 Board meeting. Leopold had attended both meetings. Powell noted that both of the documents of approval had been received. Chairman Powell called for opponents. There were none.

Chairman Powell closed the public hearing for the Petition for Rezoning request.

M/S Baughan/Rusch to APPROVE the Rezone from Agriculture to Rural Lands 4. The Rezone request will be forwarded to the Lincoln County Board for approval on their October 20, 2015 meeting. Motion carried 6-0.

CONDITIONAL USE REQUEST

4. A request by Todd and Cynthia Mattson to allow for farm machinery and parts retail sales as an expanded home occupation in an Agricultural district on approximately 40 acres having a tax parcel 20.213308.011.000.00.00. The property is located in SW¼SW¼ of Section 21, T33N-R8E, in the Town of Russell, having an address of W1672 Basel Ln, Gleason, WI. The request is being heard under section 17.3.09(8) of Lincoln County Ordinances.

Powell asked for proponents of the request. Todd Mattson was present and explained they have had this business on their property for quite some time. A Conditional Use is required to allow for continued operation of their expanded home occupation in the current zoning because they recently put up another structure being utilized for the business.

Chairman Powell called for any opponents of the request. There were none. Chairman Powell closed the public hearing for the Conditional Use request. Chairman Powell read the Town of Russell Town Board recommendation as being approved on August 11, 2015.

Plant questioned the contradiction of the equipment sales on the property and the staff report stating that they could that they could not actually sell the equipment at this site. The home occupation allows for no "outdoor sales" and they do have another site where the equipment is sold but the office for their business is on the site under this Conditional Use request.

M/S Allen/Breitenmoser to APPROVE the request with recommendations as listed in the staff report. Motion carried 6-0.
Conditions:

1. This property is used as administrative in nature for an outdoor sales business at an alternate location.
2. No physical equipment sales allowed at this site.
3. No further expansion of home/office structure

CONDITIONAL USE REQUEST

5. A request by Howard Wagner to allow for a convenience store and fueling station in a Planned Business district on approximately 4.129 acres having a tax parcel 04.013506.016.003.02.01. The property is located in SE¼SE¼ of Section 01, T35N-R6E, in the Town of Bradley, near the intersection of US Highway 8 and US Highway 51, Tomahawk, WI. The request is being heard under section 17.3.04(3)&(6) of Lincoln County Ordinances.

Chairman Powell called for any proponents of the request. Tom Radenz, with REI Engineering and representing Wagner Oil, was present to explain the request and answer any questions. Radenz stated that they had been working with Wagner Oil and the Town of Bradley for over a year on this project. They have recently obtained town approval contingent on other approvals. Radenz gave a little history of the site saying that it had been rezoned to Commercial in the 1990s. Until now it has never been developed. He explained the situation with Klade Rd. He reviewed the background work that has already taken place in hoping to move forward with this Committee's approval. The facility is proposed to fit in with the "northwoods" look. No "fast-food" restaurant planned but some "convenience store" food will be available. He explained the location of the fueling banks. Holding tanks are proposed instead of a septic field for POWTS.

Plant had questions about fuel storage tank size. Ken Lassa, with REI Engineering, was present and he and Radenz answered Plant's question. Breitenmoser had questions about lighting. Radenz said that they had provided a "lighting plan" indicating that the lighting will be directed downwards and would also not be on 24/7. After hours you may still fill with gas but only the canopy lighting will be on if the store is closed.

Harry Gladwin, Town of Bradley Plan Commission Chair, was present to review the town recommendation. He said that the Plan Commission recommended approval on conditions at their 8/24/15 meeting on a 4-1 vote with 1 abstaining & 1 absent. Town Board gave their approval on condition at their 9/14/15 meeting on a 4-0 vote. Conditions listed were the same as 2, 3 & 4 in the staff report. Gladwin had one concern that he wanted to be on the record as mentioning and wanted the Committee to be aware of. This is a water re-charge area for both Muskellunge Lake to the south & Bridge Lake to the north. He said that these lakes are both dependent for water draining from this area and the Lake District associations for both of them are concerned. He just wanted the Committee to be aware of a potential future issue.

Powell questioned Gladwin's source of information. Gladwin said that Bob Young, with the WDNR, some 30 years ago had discussed this with him. Powell wanted clarification that the DNR had a problem noting that there is nothing in the documents the Committee was given about this concern. Gladwin said that John Simonson & Melissa Yarrington, with WDNR, had both commented to Gladwin that with this development there MAY be a potential concern that it will affect the 2 lakes referenced. Powell noted that there was nothing brought up at the Town level and no written documents stating that this is a concern. Plant asked if there was any effect to these 2 bodies of water from the Highway 51 project. Gladwin cited that he personally had noted some effects on the immediate area but he did not know if the 2 lakes had been affected. He said that the Muskellunge Lake District group had given the Town of Bradley as letter with concerns (*nothing has been received at the county*). Gladwin referenced some computer generated maps that had been given to Matt Bremer in the Land Services Department.

Chairman Powell called for any opponents of the request.

Chairman Powell closed the public hearing for the Conditional Use request. Powell reviewed the town approval.

M/S Baughan/Plant to APPROVE the request with recommendations as listed in the staff report.

Conditions:

- 1) At a minimum, all standards and regulations as described in 17.3.04 (3) and (6) must be met.
- 2) No construction may begin until a WISDOT Highway Connection permit is issued to REI/Wagner Oil and a copy received by the Town of Bradley and Lincoln County Land Services Department for the proposed Convenience Store/Fueling Station on the SW corner of USH 8 and USH 51 intersection.
- 3) No construction may begin until a WDNR Construction Site permit is issued to REI/Wagner Oil and a copy received by the Town of Bradley and Lincoln County Land Services Department for the proposed Convenience Store/Fueling Station on the SW corner of USH 8 and USH 51 intersection.
- 4) Reconstruction of S Klade Rd (as utilized) must meet the following specifications, be inspected, and approved by the Road Dept of the Town of Bradley during reconstruction:
 - a) Twenty-four (24) foot lanes, remove grass shoulders and replace with three (3) foot paved shoulders to create a total paved surface of thirty (30) feet
 - b) Add four (4) inches of gravel prior to pulverizing old road material and two (2) inches of gravel prior to paving for strength and shaping. Pave with a minimum of four (4) inches of bituminous asphalt.
 - c) Entrance shall meet minimum commercial standards per WI Facilities Development Manual

Bremer clarified that the WISDOT permit listed in condition #2 may supersede #4 as the DOT may have more stringent conditions than our actual Condition #4. The stricter conditions would need to be met. Motion carried 6-0.

CONDITIONAL USE REQUEST

6. A request by Ron and Darlene Beyer and Northeast Asphalt Inc. to allow for continued operation of an existing conditional use permit for a non-metallic mine with the same parameters and conditions as currently granted. The property is in a Rural Lands 4 zoning district and is located in the NW¼SE¼ of Section 33, T32N-R8E, in the Town of Schley, on Trout Road. The tax parcel number is 22.333208.014.000.00.00 and comprises approximately 40 acres. The request is being heard under section 17.8.30 (12) of Lincoln County Ordinances.

Chairman Powell called for any proponents of the request. Matthew Matuszak, from Northeast Asphalt (NEA), was present to explain the request. They are asking for an extension of the existing 2004 Conditional Use Permit. They have met with both the Schley Plan Commission & Town Board. They are just asking to continue operating as Duffek Sand & Gravel had previously been granted. It apparently expires in September of 2016 so they are asking to extend it to 5 years beyond that date. He reviewed the concerns brought up at the Town of Schley meetings. 1) A formal complaint in July of this year regarding a number of loads removed in one day being exceeded. He said it was a miscommunication. A condition that the town recommends is that there are handouts stating conditions available on site to truckers hauling from this facility to prevent this from occurring in the future. 2) The "sunset" date for the pit. NEA/Beyer is asking to not have a final sunset date but they are only applying for a 5 year extension at this time. 3) NEA requests that if there are any complaints in the future that they please contact the county & the landowner & follow-up with NEA also.

NEA is planning on putting their best foot forward to make this work. Powell asked how much aggregate has been removed in the last 6 months. Matuszak said only a few thousand ton but that changes according to demand. They just want to leave the availability open. Powell asked for an estimate of material. Matuszak said probably a couple hundred thousand ton of material.

Earl Welker, Schley Plan Commission, was present. He said that the request was approved at both Plan Commission & Town Board meetings with certain conditions. The conditions were generated from questions from the public at their meetings. 1) Handout with conditions; 2) Strict Compliance with each of the conditions; 3) Bond for the Town Road Maintenance; and 4) Clarification of the expiration date. Welker said that 2 of the conditions have already been taken care of. The vote at the Town Board 10/6/15 meeting was 3-0 for approval. Allen questioned if the neighbors had been notified of the Town meetings. Welker said that they were notified of this public hearing but several were in attendance at the town meetings.

Ronald Beyer, the landowner, was present and wanted to clarify the circumstances of the violation in July of this year. He took responsibility for the lack of communication regarding the number of loads to be taken that day. He also said that the biggest problem has been dust complaints and he said there are working on a solution for that.

Powell referenced a letter of support received from Al Fox and asked that it be put on record. Summary of the letter stated that the existing gravel pit has had no adverse effect in regards to dust, erosions & wildlife for the property that he and his wife own adjacent to the pit. He believes that with the continued good management and operation of the pit it should have no adverse effect in the future and is in favor of the extension being granted.

Chairman Powell called for any opponents of the request.

John Rapp, an adjoining landowner, was present. He said that this issue started for them in 2004. He said that haven't come near to extracting the amount of aggregate the amount as they had originally planned to in the last 11 years. Dust has been a major concern for the 20 residences affected. Baughan wanted clarification that he was not opposed to the extension and Rapp said that they can tolerate the pit as long as ALL of the conditions are followed and there is no asphalt plant included. Rapp said in the beginning the expectation was for this pit to have a very short life. It has not progressed at the rate originally anticipated.

Larry Ormosen, an adjoining landowner, was present in opposition to the request. His wife has health issues and due to the dust she is affected by the truck traffic. He was hoping that the road could be watered when there was truck traffic to cut down on the dust.

Anne-Herda Rapp, an adjoining landowner, was present to ask the Committee to support the conditions as recommended by the Town & the staff report. The conditions are what have made the gravel pit manageable to have for a neighbor. She also spoke about the complaint from July of this year. Rapp asked for clarification on the conditions from the 2007 hearing. She said that FULL compliance was the responsibility of the owner. The neighbors had been asked at that time to report any issues. She said that as the time the violations are taking place, contacting the county may not be the most efficient way to get something taken care of. She wants clarification to get immediate attention for a problem. Powell stated that with staffing issues & office hours, maybe it would be best to contact NEA and/or possibly the Town Chair. The county needs to be made aware of a violation but they may not be able to get to it immediately. Herda-Rapp reminded them that Mr. Beyer was supposed have posted the conditions in 2007 for any haulers using the pit to see.

Lea Ratajczyk, an adjoining landowner, was present to say that they are now 11 years into the pit being open and they would really like to see an end date set for the pit. NEA has stated that they wish there not to be a final sunset to the pit. She would like this Committee to assure the neighbors that this is the last extension. Powell said that is something that cannot be promised.

DeeDe Grund, an adjoining landowner, was present and she first of all wanted to thank the Committee for not granting the asphalt plant last year and ask that they please keep existing conditions 1-5.

Jane Severt was present to speak on the request. She said that everyone realizes the need for good roads but needs to be balanced with respect for property rights of surrounding property owners. It is a delicate balance. She agrees Ratajczyk

that there should be a sunset date in place. It is not fair for the neighbors to not know how much longer they may have to live with the inconvenience.

Powell referenced a letter of opposition received from John Walley, a landowner to the south of the existing pit, and asked that it be put on record. The letter stated that when the pit was originally permitted it was for a timeframe of 7 years total. That timeframe has been extended twice and he feels that if there has not been the demand for the crushed gravel within that period of time there should be no extension granted. He noted that the additional request that they had made for the asphalt plant had been denied.

Chairman Powell closed the public hearing for the Conditional Use request.

M/S Baughan/Powell to APPROVE the request for a 5 year extension with recommendations as listed in the revised staff report.

Conditions:

1. That all current conditions remain in effect * (from 2004 & 2010).
2. The Town of Schley and the applicant(s) shall inspect the truck route(s). Mutually agreed upon financial assurance shall be submitted to the Town of Schley by the applicant(s) to cover potential road damages.

Powell led a discussion regarding how important it is that the conditions be followed because if they are not it is a reality that the permit may be revoked. Baughan said that NEA has been the operator a short time in this pit and she said that they need to be given the benefit of the doubt providing that the conditions are followed. Breitenmoser agreed with Baughan and said that the neighbors need to be given assurance that NEA will operate in a manner that does not put undue burden on the neighborhood because they have been inconvenienced for a lot of years already. Allen encouraged the company and the landowner to make this the last request.

*Bremer clarified that in his staff report, in the last paragraph regarding his recommendation, the wording "specific road" should be struck. He also said that one of the 2004 conditions, (#11) that requires the permit to be evaluated by the Committee for a 36 month review, would not apply. Bremer also said as a reminder in the 2004 conditions, #2 said that "a call from the Town Chairman shall necessitate the installation of more dust control by the pit operators".

Baughan/Powell asked that the motion be amended as discussed above. The motion, amended as discussed, carried on a vote of 6-0.

9. Department Report - Financial report was put on file. Bremer shared with the Committee that the Land Information Manager & staff are currently working with I.T. on trying to eliminate mapping bugs and things are progressing. He also shared that he has a meeting with Marathon County to discuss the Grazing initiative.
10. Confirm next meeting/public hearing date – November 12, 2015 – Date confirmed. Time to be announced.
11. Adjourn – M/S Allen/Plant to adjourn at 5:04 p.m. Motion carried all ayes.

Minutes prepared by June Winters