

**MINUTES**  
**JACKSON COUNTY ZONING & LAND INFORMATION COMMITTEE**  
January 18, 2016

**January 18, 2016:                    Committee Site Visits, Committee Meeting and Public Hearing.**

**Meeting called to order** at 8:00 a.m. by Chairman Gaylord Olson. Committee members in attendance are Gaylord Olson, Ray Ransom, Hoyt Strandberg, John Chrest and Norm Stoker. Others present were April Schoolcraft, GIS Specialist; Tim Jeatran, County Surveyor; Beth Storlie, Administrative Assistant; Dustin McCune, Zoning Technician; and Terry Schmidt, Zoning Administrator.

**A Motion by Ray Ransom, to approve the minutes of December 21, 2015, seconded by John Chrest. Motion carried.**

**A Motion by Hoyt Strandberg, to approve the vouchers for payment, seconded by Norm Stoker. Motion carried.**

**PERSONNEL:** The GIS Technician position was approved by the County Board in December. In order to begin the hiring process as quickly as possible, Diane Peterson, Personnel Director informed Tim that verbal authorization from the committee chairman to begin the hiring process was all that was needed for her to start the application process. She requires full committee action at the January meeting to authorize the advertising and hiring of the position. To date, 35 applications have been submitted. Tim, April and Personnel have narrowed that down to 5 candidates for interviews, which are scheduled for next Monday.

**A Motion by Ray Ransom, to authorize the advertising and hiring of the GIS Technician position, seconded by John Chrest. Motion carried.**

**SURVEYOR'S REPORT, see report:**

- Tim would like to hire an LTE Survey Technician for the summer. This would be the position that Ralph Eswein previously held. He would like to target college students who are interested in survey. Similar to the GIS Technician position, verbal authorization to begin the process was granted by Chairman Olson with formal committee action to occur in February. Tim would like to hire the position in early spring, so once the spring semester is complete, the student can begin quickly.
- The DOA approved the WLIP grants for 2016. They have reviewed the Modernization Plan and it has been sent to two counties for peer review. We are reviewing two other counties plans as well.
- Fieldwork for the county boundary survey is mostly done. Only the line along the west remains to be completed. Trempealeau County has set most of the monuments, but we need to get GPS points on them and bring them into our coordinate system. A few

corners along the south line remained until the marshes were frozen. Ethan is drawing the tie sheets for all the work he did last summer and fall.

- Several private surveyors have corners that they need assistance with and Tim will work on this over the next month or two.
- Job evaluations are due by March 31<sup>st</sup>. We will have this on the committee meeting agenda next month.
- Society of Land Surveyors Conference is next week in Wisconsin Dells. Tim and Ethan will be attending as they are able to obtain their continue education credits by attending the conference.

### **GIS REPORT:**

- The new imagery and elevation contour data is now available on WG Xtreme webmapping. Will do a demo for the County Board later this spring.
- Assisting staff with using the new ortho and contour data in their CAD software.
- By statute, we are required to submit Ward data to the state's Legislative Technology Services Bureau semi-annually. Worked with Kyle Deno on the data and it has been submitted.
- Squeezed in mapping services and projects for individuals between things.
- Working on 2015 splits and subdivision mapping in preparation of the 2016 assessor work rolls.
- Will be traveling with the Sheriff's Department on February 3 & 4, 2016 to Sheboygan County to review their Spillman software applications.
- WLIA Conference is set for February 10-12, 2016 in Elkhart Lake.
- Continue working with the Amazon Cloud project; Amazon staff are updating the document of instructions for clients that details the instructions for downloading our data. Prepared one back-up copy of the Orthophotography and LiDAR data. It's a very lengthy process to download the entire record. The ortho's took 16 hours to load onto the external hard drive and the LiDAR was another 20 hours.

### **ZONING REPORT:**

- The McCullough case went to trial two weeks ago. The business is a service repair shop and he has been accumulating vehicles and junk for over four years. We cited him for that and he plead not guilty. Had a pre-trial conference, could not come to a resolution so it went to trial. We won the case as the Judge sided with us on the

decision and said even though you are running a business there is no reason to have vehicles there for years. The vehicles come in for service and should be leaving upon completion of the work and no sitting on the property. She found him guilty. Mr. McCullough's attorney questioned is there a length of time for the vehicles to remain on site, the number of vehicles allowed and this should be written into the ordinance. The problem with this is monitoring that. The Judge said that the Zoning Administrator or staff doesn't need to continually monitor sites such as this and trying to document this. She established a May 1<sup>st</sup> deadline for them to reach compliance. Terry will meet with Mr. McCullough and his attorney at the site and determine the course of action required for compliance.

- A suit was brought forward against us regarding the handling of potential appeals. Terry has held the opinion and it's backed by the statute handbook that a decision of the Zoning Committee, or County Board make a legislative decision the only place that appeal could be heard is at the circuit court level. We had a disagreement with a local attorney that felt those should be going to the Board of Adjustment. This suit went before the Judge last week and the Judge sided with us and said that we are handling it correctly. If there is an appeal to a legislative decision, that decision has to go to the circuit court and it is not heard by the Board of Adjustment. If it's an administrative appeal based on a decision that Terry makes as administrator or a conditional use permit decision made by the Zoning Committee that can go before the Board of Adjustment.
- A little recycling change has occurred with the City of Black River Falls. They purchased a new garbage truck and refurbished their old garbage truck to pick up recyclables instead of the truck and trailer system they used in the past and hauling the material directly to Sparta. We are not getting the city collection of material at the Recycling Center every two weeks, so our trip charges will drop significantly. The recycling markets are horrible right now and in many cases we are having a problem even getting rid of the material. Terry suspects that we may see an increase in the processing fee. Currently we pay \$30.00 per ton for processing and this has not changed since we began working with Modern Disposal Systems. Terry will be meeting with Jerry Martel to work out the details with this change in service. It will be interesting to see if the decreased trip charges offsets the increase in processing fees. It certainly helps our facility not getting buried in material every two weeks, as it will be easier for Lois to keep up with baling. We will continue to get the City's total weights for the grant process but we don't have to deal with it at the Recycling Center. It will be handled similar to the Town of Brockway weights. We are still the responsible unit for the City of Black River Falls.
- We changed the Tire Round-Up dates and eliminated the winter dates. We will be having collections in April, June, August and October.
- Tonight at County Board you will be acting and voting on the Larchmont Holdings request from December.

- Wisconsin Fund application numbers are way down, only have three eligible applications. Years ago we would see 30 – 40 applications. This is primarily due to the age restrictions, which require the system to be installed prior to 1978. Systems that were done in 1981 or 1982 are not eligible.
- Terry has the model ordinance from the WI-DNR for the Shoreland regulations. We can't be more restrictive than the state and we have to write the ordinance to the state standards. This is primarily addressing non-conforming structures, impervious surfaces and vegetation requirements. One thing that we are able to maintain is our minimum lot size regulations as they are part of a Zoning and Subdivision Ordinances. The minimum lot size of 1.5 acres can be maintained with the shoreland regulations. We are able to maintain the consistency of the Zoning Ordinance, Subdivision Ordinance and Shoreland Ordinance. It will really change what can be done within the shoreland areas. We will begin working on re-writing it as it must be completed by October 1, 2016. Representative Jarco from La Crosse is the one really pushing these bills, he really pushes for individual landowner rights.

### **PUBLIC HEARINGS**

- **ZONE CHANGE PETITION # 2016-01** as requested by Garland P Alldredge on property located in the NE1/4-SW1/4, Section 9, T20N, R4W, Town of Manchester, Jackson County, WI. The request is to change the Official Zoning Map as follows:
  1. 5 acres from the A-1 (Agriculture) District to the R-6 (Rural Residential) District.
  2. 35 acres from the A-1 (Agriculture) District to the A-2 (Forestry and Limited Agriculture) District.

This will allow for the construction of a single family home at the site.

Township supports the request.

### **A Motion by Ray Ransom to approve zone change petition # 2016-01 for Garland P Alldredge, seconded John Chrest. Motion carried.**

- **ZONE CHANGE PETITION # 2016-02** as requested by Debbie Jowett on property known as Lot 2 of CSM 2298 located in the NE1/4-NW1/4, Section 7, T24N, R5W, Town of Cleveland, Jackson County, WI. The request is to change 6.19 acres of the Official Zoning Map from the R-2 (Residential) District to the R-6 (Rural Residential) District to allow for the keeping and maintaining of livestock and horses at the site.

Township supports the request. Letter was read into the minutes in support of the request.

Gaylord Olson II stated that he met with Ms. Jowett in 2014 regarding the small stream that is a tributary to the Buffalo River and the placement of structures. She has obtained their license and that he recommends that no further encroachment occur to the tributary.

**A Motion by John Chrest, to approve zone change petition # 2016-02 for Debbie Jowett with the stipulation that all Land Conservation Department standards and license are met, seconded by Norm Stoker. Motion carried.**

- **CONDITIONAL USE PERMIT PETITION # 2016-03** as requested by Bruce Pertzsch on property known as Lot 1 of Palchik's Subdivision being part of the NE1/4-SW1/4, Section 3, T22N, R3W, Town of Adams, Jackson County, WI. The request is to allow for short term rental of the existing cabin within the R-1 (Residential) District.

Township supports the request with the stipulation that garbage at the property is the owner's responsibility. Terry added that it is a short term rental and the owner has to work with Health and Human Services to obtain their license.

**A Motion by John Chrest, to approve conditional use permit petition # 2016-03 for Bruce Pertzsch with the stipulation of the garbage collection is the owner's responsibility and that the Health and Human Services rental license is obtained and a copy filed with the Jackson County Zoning Department, seconded by Norm Stoker. Motion carried.**

- **ZONE CHANGE PETITION # 2016-04** as requested by KJH Properties, owner and Kurt Hagen, agent on property located in the NW1/4-NW1/4, Section 28, T20N, R3W, Town of Manchester, Jackson County, WI. The request is to change 6.5 acres of the Official Zoning Map from the A-2 (Forestry and Limited Agriculture) District to the R-3 (Cottage/Cabin) District to allow for the construction of a cabin.

Township supports the request.

**A Motion by Ray Ransom, to approve zone change petition # 2016-04 for KJH Properties, Kurt Hagen, seconded by Norm Stoker. Motion carried.**

Chairman Olson explained the procedure on how these next two requests will be handled for the public hearing to ensure everyone who wants to testify has the opportunity. Terry Schmidt added if you are testifying on behalf of both requests please state so for the record to prevent you from having to come up twice.

- **CONDITIONAL USE PERMIT PETITION # 2016-05** as requested by Claire, Lois and John Bahnbub, owners on property located in the SW1/4-NW1/4, and the NW1/4-NW1/4, Section 18, T22N, R3W, Town of Adams, Jackson County, WI. The request is to allow for filling and grading work within the shoreland area of Halls Creek for the construction of railroad tracks.

For Conditional Use Permit Petition # 2016-05 and 2016-06, the Township supports the request.

John Behling, Weld, Riley, Prenn & Ricci, representing Terra Core gave a brief summary on the proposed project. Others present representing the request are Mike Adams,

Vice President of Terra Core; Gary Stone, General Manager, Terra Core; Dan Hedrington, SEH; and Claire, Lois and John Bahhub.

Dan Hedrington shared a couple of diagrams which explained the rail loop configuration. About a year ago, they began working with the DNR and Army Corp of Engineers to determine the wetlands and their quality. It was determined that there are several that are high quality and need to be protected. He stated that this loop concept is the least impactful on wetlands. The configuration does go within the shoreland area in several of locations but the closest point is 150 feet to the ordinary high water mark. It is anticipated that one to two unit trains will be on the site per week, each unit train consists of 100+ rail cars. The only activity to occur on this site, is rail car storage and movement of the cars through to the processing area, which is located in the Town of Alma.

Public comment was received in support. Public comment was received in opposition. Letters were read into the minutes in opposition.

On rebuttal, John Behling and Dan Hedrington addressed the questions raised by the public comment. Loop track is the best for wetland avoidance, safety and noise management. They are doubling the “best management practices” required by the DNR for stormwater management and erosion control for worst case scenario, the line of sight would be the vegetation along the banks of Halls Creek, reclamation plan has been approved by Jackson County and requested that it be part of the record, and presented Addendum A for the conditional use with the list of conditions for approval offered by Terra Core. Addendum A was read into the minutes and presented for the file.

Chairman Olson closed public testimony. Mr. Lister requested additional rebuttal, Chairman Olson stated the public testimony and comment period is closed.

Committee discussion and deliberation began. Kerry Sullivan-Flock, acting Corporation Counsel for the Zoning Committee, explained the criteria that must met be met through the Zoning Ordinance (a copy provided to the committee members) for consideration of the conditional use permit. Additionally, she detailed what options are available for committee action, approve, deny, table (undetermined date) or lay on the table (a specific date) the request. As a board, you are not bound by any township board decision. You are able to make an independent decision.

Chairman Olson opened it up for committee decision and questions. The committee asked the following questions:

- John Chrest: What will actually happen within the shoreland areas and where?  
Dan Hedrington, SEH, stated that there are four primary areas within the 300 feet shoreland setback, closest being 150 feet to the ordinary high water mark. These areas were identified for the committee on the site diagrams.
  1. Access road to handle conveyor system and its maintenance.
  2. Rail operation and rail cars.

3. Stormwater retention pond.
  4. Grading and fill for stormwater retention pond construction. This includes bringing in fill to level areas noted above. Berms will be constructed to protect and shield stormwater retention ponds and rail loop.
- Hoyt Strandberg: How much dirt will be moved?  
Dan Hedrington said that they don't want to move a lot of dirt. It's expensive and it causes more concerns for erosion. They need to make sure that the rail is flat so there will be a little bit of fill, but primarily it is for the construction of the stormwater retention system. They are trying to minimize the disturbance by using the natural grade because they want as little of impact as possible.
  - John Chrest: At the public hearing for the zone change, a concern was noise protection for the residents of the subdivision to the north, what's being done?  
Dan Hedrington added that the construction of screening berms is something they can do but it may require additional work within a shoreland area and it removes vegetation. They are trying to limit the amount of disturbance and maintain the existing vegetation to serve as the buffer. So it's a matter of how much berming verses removal of vegetation, what's acceptable. Additionally, the rail lubricator will be installed to reduce the noise from car movement.
  - John Chrest: There has been a lot of comments made on the rail layout and what the DNR prefers, is okay with it or recommends. What did the DNR recommend for the rail layout?  
Dan Hedrington said that the DNR wants the least amount of impact; minimal impact. We are trying to work with them to minimize the impact through the DNR permitting process. Once we came to this site, we had to show in multiple configurations why this layout would be the least amount of impact in order to obtain their required permits. The loop configuration is the best method of accomplishing this for minimal impact with the most protections for wetlands and Halls Creek. This will take several months for the DNR review this information before the approval and issuance of their permit.
  - John Chrest: What will the hours of operation, will it be 24/7?  
Mike Adams, Terra Core, Jerry Schmidt's comments are partially correct. We can do operations anytime during the week, 24 hours a day, 7 days a week. Each unit train takes approximately 24 hours to load. It would be a continuous operation during loading process. They anticipate one to two trains per week so there will be a significant amount of down time with no activity.
  - John Chrest: I want as much information as I can get, I'm interested in hearing what Mr. Lister has to say. Would you, allow Tom Lister to present additional information?

Tom Lister said that one area that needs to be considered is dust. A transload facility such as the one in Augusta is a good example of how these facilities work. When the

silo gets full, large mounds of sand will accumulate, this produces dust. They have a lawsuit pending against Terra Core. The dust produced from the mine and the transload facility contains fine particulate matter. This particle matter (PM) or PM 2.5 is so fine, you can't see it. Their expert witness, Dr. Crispin Pierce, UW-EC has published a study regarding PM 2.5. According to this study, it can travel a distance of 1.2 miles. It has been related to several diseases. He stated that prevailing winds would carry it this dust at least a mile and impact many residents.

- Ray Ransom: When we are talking trains, what are we talking with the number of cars in a unit train?  
Dan Hedringon said 100 cars.

Additionally, Ray Ransom commented on the creosol situation. Halls Creek has at least four rail crossings near this area and have been in existence all his life. We have heard a number of things against this board and another board. He hopes the majority of you have an understanding that the Zoning Committee is not the Land Conservation Committee. There are a number of accusations either right or wrong, what happens, happens but there are far greater experts than us. We have Army Corp of Engineers, we have DNR experts backing up decisions that we have to make. Does he think we need another rail site anywhere near us, that's a matter of opinion. There is always two sides to every issue. I have submitted the names of individuals that called him both in favor and against. He told them that he would be submitting their names for the record.

Chairman Olson asked if any additional questions were requested. Terry Schmidt stated he had none. No response from the committee.

Mr. Behling requested a rebuttal to Mr. Lister's additional testimony after public comment was closed. Chairman Olson stated that he was asked to come back by a committee member.

- Hoyt Strandberg: I would like to hear a rebuttal to Mr. Lister's comments?  
Gary Stone, General Manager, Terra Core stated he'd like to address the issue of 2.5 and that he has been a part of the sand mining industry for about twenty years now. He's very familiar with what Mr. Lister is commenting about and as it is part of the permitting process with the DNR. They are required to obtain the Air Permit, which requires the monitoring of PM 10. The DNR has been studying PM 10 from several mines already in Wisconsin and their results are public record and available on their website. Under the permit requirements, they cannot exceed 150 micrograms per cubic meter of air. Of the 1400 - 1700 test results on their website, the average is less than 15. There were two, one was 105 and one was 70 something. One was a result of a farmer that was working the fields next to a plant and the other was the result of truck traffic with a water truck that was broken. We are required as part of the permit to control dust. We have dust collectors on all transfer points. When cars are being loaded, a scarf comes down sealing the car and that is the best system to seal it and control the dust. We are aware of the



health risks and rely on the DNR to guide the control of those risks.

John Behling added in addition to the DNR studies, the most recent study that's been done is on this topic was completed by the Wisconsin Health Institute for Buffalo County. Buffalo County specifically looked at the DNR reports and Dr. Pierce's science. The report found the DNR studies and WHI study done by Dr. Richards exactly matched what they found for test results and that Dr. Pierce's study lacked the appropriate scientific method of collecting air.

Chairman Olson called for a motion.

**A Motion by Gaylord Olson, to approve conditional use permit petition # 2016-05 for Claire, Lois and John Bahhub,**

Called for a second several times. Kerry Sullivan-Flock stated we need a second for the motion to get to the floor for further discussion. Motion failed due to the lack of a second.

Chairman Olson called for any other motion.

**A Motion by John Chrest, to table conditional use permit petition # 2016-05 for Claire, Lois and John Bahhub to ask that a detailed plan to be submitted showing the shoreland areas to be disturbed, why this was chosen, hours of operation, noise control and how dust will be dealt with, seconded by Hoyt Strandberg.**

Kerry Sullivan-Flock clarified that if the item is just tabled it won't be brought forward on a date certain but can be placed on an agenda when the information is submitted. Additional discussion, Chairman Olson felt that this evades the issue and would consider a motion with these restrictions in it but he doesn't agree with this. Ray Ransom would prefer that it lay on the table with a specific date.

**Motion carried 3 -2 with John Chrest, Norm Stoker and Hoyt Strandberg being in favor. Gaylord Olson and Ray Ransom opposed.**

Kerry Sullivan-Flock stated the matter will be placed back on the agenda when these items you've asked to be addressed have the information turned into the Zoning Department. She would ask the Zoning Administrator that when this information is obtained, and we don't have a date certain, that it is placed back on a regular Zoning Committee meeting agenda.

To clarify, we do each of these individually as they are separate permits.

- **CONDITIONAL USE PERMIT PETITION # 2016-06** as requested by Claire, Lois and John Bahhub, owners on property located in the SW1/4-NW1/4, and the NW1/4-NW1/4, Section 18, T22N, R3W, Town of Adams, Jackson County, WI. The request is to allow for a rail system for a railway transload facility within the M-2 (Industrial Extractive) District.

As noted earlier, the township supports the request. Public comment and testimony given earlier in conjunction with Conditional Use Permit Petition # 2016-05.

**A Motion by John Chrest, to table conditional use permit petition # 2016-06 for Claire, Lois and John Bahhub to ask that a detailed plan to be submitted showing the shoreland areas to be disturbed, why this was chosen, hours of operation, noise control and how dust will be dealt with, seconded by Hoyt Strandberg. Motion carried 3 -2 with John Chrest, Norm Stoker and Hoyt Strandberg being in favor. Gaylord Olson and Ray Ransom opposed.**

Kerry Sullivan-Flock added that we have the same result as the previous request, it will be placed back on the agenda when these items you've asked to be addressed have the information turned into the Zoning Department. We do not have a date certain.

She clarified that this will be taken up at a regular committee meeting as the public hearing has been closed.

Mr. Lister questioned if public comment will be received at the regular meeting as he wants the right to rebuttal of the information to be submitted. Kerry Sullivan-Flock stated she is reserving the right to consider this and will make a determination of procedure at a later date.

**A Motion by Ray Ransom, to adjourn the meeting, seconded by Norm Stoker. Motion carried. Meeting adjourned at 2:00 p.m.**