

**WAUPACA COUNTY PLANNING & ZONING COMMITTEE MEETING
MINUTES – APRIL 23, 2015**

ON-SITE INSPECTIONS: The Committee made on-site inspections starting at 8:15 a.m. on the Joseph J. & Gloria J. Swedsky property, Town of Mukwa and the David & Mary Drath property, Town of Mukwa.

Chm. Penney called the meeting to order at 9:45 a.m. with the following members present: J. Penney, D. Kussmann, T. Murphy, W. Wilfuer and D. Federwitz, all present.

D. Federwitz moved and W. Wilfuer seconded the motion to approve the agenda as presented. The motion was carried.

D. Federwitz moved and W. Wilfuer seconded the motion to approve the minutes from the March 5, 2015 and the March 9, 2015 meetings. The motion was carried.

Public Comment: There was none.

PUBLIC HEARINGS:

The first public hearing was called to order at 9:46 a.m. by Chm. Penney. Roll call was taken with the following members present: J. Penney, D. Kussmann, T. Murphy, W. Wilfuer and D. Federwitz, all present. Deb Giuffre read the names of persons notified of the hearing for **Joseph J. & Gloria J. Swedsky**: Located in part of the NW ¼ of the SW ¼ and part of the SW ¼ of the SW ¼ and also being in part of Government Lot 5 of Sec. 32, Town of Mukwa, lying along Big Cut Lane, Fire Number N2600, Waupaca County, Wisconsin; for a Conditional Use Permit application for the replacement of a structure to be used for human habitation that doesn't meet the 22 foot minimum width requirement in an SR (Sewered Residential) District on approximately .46 acres. The Committee, Ryan Brown, Planning & Zoning Director, and Jean Gliniecki, Zoning Administrator, made an on-site inspection of the property. Vice-Chm. Kussmann read the general procedure and Chm. Penney declared it a legal hearing.

Gloria Swedsky was sworn in to testify. Ms. Swedsky said she would like to replace the existing mobile home that the insurance company totaled out because of water damage. Ms. Swedsky said the old mobile home will be removed prior to the installation of the new mobile home.

Chm. Penney called three times for any testimony in favor to the application. There was none.

Chm. Penney called three times for any testimony in opposition to the application. There was none.

Deb Giuffre read two (2) letters, one (1) from the Town of Mukwa recommending approval of the application and one (1) from a neighboring property owner opposed to the application.

Jean Gliniecki, Zoning Administrator, said the Planning & Zoning Office recommends approval with a sanitary evaluation and the proper permits.

W. Wilfuer moved and T. Murphy seconded the motion to **GRANT** the application for Conditional Use Permit due to the following: The Town Board of Mukwa has recommended approval of this request and it is consistent with the Town Comprehensive Plan. The following conditions **MUST** be met:

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The applicant must have the existing sanitary system evaluated to make sure that it is functioning properly. (Contact the Planning & Zoning Office.) The applicant must obtain a Shoreland Permit from the Planning & Zoning Office prior to the placement of the manufactured home on the property. The applicant must check with the local Building Inspector to see if a Building Permit is necessary for the manufactured home. Roll call vote was taken: J. Penney—yes; D. Kussmann—yes; W. Wilfuer—yes; D. Federwitz—yes and T. Murphy—yes, unanimous vote to grant the permit. D. Kussmann moved and D. Federwitz seconded the motion to close the hearing at 9:56 a.m. The motion was carried.

The second public hearing was called to order at 9:57 a.m. by Chm. Penney. Roll call was taken with the following members present: J. Penney, D. Kussmann, T. Murphy, W. Wilfuer and D. Federwitz, all present. Deb Giuffre read the names of persons notified of the hearing for **David & Mary Drath:** Located in part of Government Lot 1 of Sec. 31, Town of Mukwa, lying along Cut Off Road, Fire Number E7614, Waupaca County, Wisconsin; for a Conditional Use Permit application for the replacement of a recreational vehicle intended for temporary living purposes in excess of 30 days in an SR (Sewered Residential) District. The Committee, Ryan Brown, Planning & Zoning Director, and Jean Gliniecki, Zoning Administrator, made an on-site inspection of the property. Vice-Chm. Kussmann read the general procedure and Chm. Penney declared it a legal hearing.

David Drath was sworn in to testify. Mr. Drath said he would like to place a recreational vehicle on the property to be used for recreational use. Mr. Drath said he will store the recreational vehicle in the pole shed for winter.

Chm. Penney called three times for any testimony in favor to the application. There was none

Chm. Penney called three times for any testimony in opposition to the application. There was none.

Deb Giuffre read one (1) from the Town of Mukwa recommending approval of the application.

Jean Gliniecki, Zoning Administrator, said the Planning & Zoning Office recommends approval with the conditions that the camping unit located in the Floodplain District shall not occupy any site for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours and a County approved sanitary system.

D. Federwitz moved and W. Wilfuer seconded the motion to **GRANT** the application for Conditional Use Permit due to the following: The Town Board of Mukwa recommended approval of this request and it is consistent with the Town Comprehensive Plan. The following conditions **MUST** be met: The applicant must have a County approved sanitary system on the property. (Contact the Planning & Zoning Office.) The placement of a camping unit located in the Floodplain District shall not occupy any site for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours. Roll call vote was taken: J. Penney—yes; D. Kussmann—yes; W. Wilfuer—yes; D. Federwitz—yes and T. Murphy—yes, unanimous vote to grant the permit. D. Kussmann moved and W. Wilfuer seconded the motion to close the hearing at 10:03 a.m. The motion was carried.

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The third public hearing was called to order at 10:04 a.m. by Chm. Penney. Roll call was taken with the following members present: J. Penney, D. Kussmann, T. Murphy, W. Wilfuer and D. Federwitz, all present. Deb Giuffre read the names of persons notified of the hearing for the **Creation of Chapter 38, Waupaca County Non-Metallic Mining Ordinance, Waupaca County Code of Ordinances**. Vice-Chm. Kussmann read the general procedure and Chm. Penney declared it a legal hearing.

Ryan Brown, Planning & Zoning Director, said that the adjustments made to the Non-Metallic Mining Ordinance were not substantive but changes to interplay with existing ordinances. Mr. Brown said the adjustments were made with time allowing for review.

Attorney Andy Phillips gave a summary of the process for the Creation of Chapter 38, Waupaca County Non-Metallic Mining Ordinance. Attorney Phillips went through Attorney Westerberg's letter and gave his perspective.

Attorney Christa Westerberg said she is an attorney from McGillivray, Westerberg and Bender representing some of the individuals who have been concerned about this Ordinance, Deanna Hannigan and Marcy Wentworth. Attorney Westerberg said some of the concerns have been addressed in the next draft. She said the overriding concern is the separate Conditional Use Permit application for the Non-Metallic Mining criteria and it being a standalone ordinance. She recommends that changes be incorporated within Chapter 34, Waupaca County Zoning Ordinance, and Chapter 38, Non-Metallic Mining Ordinance not be created as a standalone ordinance.

Attorney Andy Phillips clarified the process of the adoption for the Non-Metallic Mining Ordinance. Attorney Phillips said at the May 7, 2015 Planning & Zoning Committee meeting the Committee will either approve or not approve, Chapter 38, Non Metallic Mining Ordinance amended draft.

Ryan Brown, Planning & Zoning Director explained the creation of Chapter 38, Non-Metallic Mining Ordinance.

Terrance Gerlach was sworn in to testify. Mr. Gerlach said he is a Geologist and recommends a scientific strategic analysis process be implemented for frac sand mining. Mr. Gerlach proposes that the current draft ordinance be revised to apply to new sand and gravel pit mines but not to frac sand mines until the strategic analysis process is implemented.

Tania Wadzinski was sworn in to testify. Ms. Wadzinski feels that not all areas were discussed such as the health aspects related to the mines. She said a standalone ordinance will set precedence for other standalone ordinances.

Les Prochnow was sworn in to testify. Mr. Prochnow said he is the Town Chairman for the Town of Lebanon and the Town of Lebanon has several existing mines operating. He asked how the existing mines will be affected.

Ryan Brown, Planning & Zoning Director said the existing mines would be legal nonconforming and would be on the existing reclamation plan through the Department of Natural Resources. Mr. Brown said if an existing mine were to expand, then it would fall under the new Non-Metallic Mining Ordinance.

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Jane Haasch was sworn in to testify. Ms. Haasch said she is the Supervisor for the Town of Dayton and the Township would like know what they can do to be stricter beyond this ordinance with roads, distance from residences, and health concerns. She said the Town would also like to have their own Non-Metallic licensing ordinance.

Attorney Andy Phillips suggested that the Town of Dayton consult with their Attorney and that there is a process that the Town can go through to exercise Village powers and have their own zoning code. Attorney Phillips said the Towns have independent authority regarding Town road agreements.

Ryan Brown, Planning & Zoning Director said if a Town is under County Zoning the Town cannot circumvent the ordinance but could go beyond any other provisions not provided by Waupaca County.

Kay Ellis was sworn in to testify. Ms. Ellis suggested that a property value guarantee to offer protection to property owners near a mine be added to the ordinance. Ms. Ellis asked what the procedure was for the Committee to discuss public comments. She had recommendations to clarify Sections 16.2, 16.6, 19.7 regarding berms, 21.4 regarding ground water monitoring and Part VI, VII fees and financial assurance.

Attorney Andy Phillips said the Committee is not required to take action on the comments they receive, it is up to the Committee.

Patricia Craig was sworn in to testify. Ms. Craig asked to clarify the letters from the Townships of Little Wolf, Scandinavia and Caledonia and was wondering if the Committee was going to have a discussion relating to the letters. Ms. Craig also submitted comments and corrections to the ordinance.

Ryan Brown, Planning & Zoning Director, went through the recommendations and corrections that were submitted.

Brad Milliken was sworn in to testify. Mr. Milliken said he has continued concerns of the financial impact to property values with setbacks to the mines.

Jane Haasch asked if an existing inactive mine is grandfathered in to the ordinance.

Ryan Brown, Planning & Zoning Director said an inactive mine is considered legal nonconforming.

Attorney Christa Westerberg responded to the comment regarding Townships being more stringent through their Comprehensive Plan and the Towns add provisions that may not be considered in draft 38. Attorney Westerberg commented on Chapter 38, Non-Metallic Mining Ordinance as a standalone ordinance.

Chm. Penney called three times for any testimony in favor to the application. There was none

Chm. Penney called three times for any testimony in opposition to the application. There was none.

Deb Giuffre read two letters, one (1) from the Town of Little Wolf recommending adoption of the ordinance with a recommendation, and one (1) from a Town of Dayton resident recommending adoption of the ordinance.

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D. Kussmann moved and D. Federwitz seconded the motion to close the hearing at 11:07 a.m. The motion was carried.

DISCUSSION & POSSIBLE ACTION:

- The Planning & Zoning Committee discussed the request for an extension on the Conditional Use Permit (CP-027-14) for John D. & Patricia L. Huebner located in Sec. 36, Town of Farmington for an Outdoor Institutional (outdoor education and interpretive center) in an RR (Rural Residential) District on approximately 5.85 acres. D. Kussmann moved and W. Wilfuer seconded the motion to grant a twelve (12) month extension. The motion was carried.

D. Kussmann moved and D. Federwitz seconded the motion to adjourn the meeting at 11:09 a.m. The motion was carried.

Debra L. Giuffre
Recording Secretary

cc: County Clerk