

TOWN OF GREEN BAY PLANNING COMMISSION MINUTES

DATE: 1/16/18 **TIME:** 7:01 p.m.

PRESENT: Dawn Goodman, John Metzler, Brad DeChamps, Jason Miller, Dylan Mercier, Gary Jonet.
ABSENT: Mike Gilson due to prior commitment.

OTHERS PRESENT: Robert and Juliana Loritz

APPROVAL OF LAST MEETING'S MINUTES: John Metzler opened the meeting and asked if the meeting notice was properly posted in 3 places. Dawn Goodman confirmed it was. The 12/19/17 meeting minutes were reviewed.

MOTION MADE BY: Jason Miller to accept the minutes as presented. **MOTION 2NDED BY:** Dylan Mercier **AYES:** 6 **NAYS:** 0 **MOTION CARRIED.**

ISSUE #1: Robert J. & Juliana D. Loritz request a Zoning Amendment #1073-J to rezone part of Parcel GB-156 from A-1 Agriculture to E-R Estate Residential. This also includes a review of the proposed new CSM for the rezoned parcel. (7:02 pm to 7:12 pm). Robert and Juliana appeared before the Planning Commission (without their surveyor). They stated on their rezoning request that they want to sell the buildings and the house as they are elderly and it is very difficult to take care of everything. Dawn Goodman verified with them and Zoning Administrator Gary Jonet what the current and future rezoning would entail: it is currently A1-Exclusive Agriculture and will be changed to ER-Estate Residential.

John Metzler questioned if the the septic mound is too close to the lot line. The Loritz's did not have an answer for that. Gary Jonet said the Town does not have anything in the ordinances about septic system proximity to lot lines. Gary Jonet asked the Loritz's if they know the actual footage from the septic mound to the lot line. They did not know. Dawn Goodman stated she believed that is decided on by Brown County—both in the system's placement and the CSM approval. Juliana Loritz stated that she believed the CSM has been sent in to the County. Gary Jonet stated that the Loritzs should make sure they obtain the original CSM from their surveyor for the February public hearing. The Planning Commission advised the Loritzs that it would be best to have their surveyor attend the February Public Hearing and appear before the Town Board.

****It was noted that the Surveyor's wording on the Preliminary CSM description mistakenly says (on page 2), that it was "subject for approval in the Town of Eaton..." The Loritzs were told this needs to be corrected!***

MOTION MADE BY Jason Miller to recommend to the Town Board the acceptance of the Zoning Amendment #1073-J to Re-zone **Part of** Parcel GB-156 from A-1 Exclusive Agriculture to E-R Estate Residential in order to separate the parcel's structures and home from the farmland; and accept the **Preliminary** CSM for the rezoned parcel. **MOTION 2NDED BY** Gary Jonet. **AYES:** 6 **NAYS:** 0 **MOTION CARRIED.** **A Public Hearing was scheduled for Tuesday February 13, 2018 at 6:45 pm and Dawn Goodman left a notification for the Town Clerk to add it to the Town's Agenda for 2/13/18.**

Old Business:

A.Continued work on the Special Events Permit Application and Ordinance based on recommendations from the Town's Attorney, James M. Kalny (7:15 pm to 8:15 pm).

Dawn Goodman passed out the revised draft of the Ordinance and Application and a copy of the e-mails she exchanged and received with the Town's Attorney for the Planning Commission to review.

John Metzler asked if the churches have to pay in other municipalities. Dawn Goodman stated it was her belief

that they do. She stated that in addition, even Block Parties have to get special permits in most municipalities and that would actually be a separate permit that the Town may want to develop in the future as it gets bigger and they start to occur.

There was discussion about large private parties that are held and if they need to get a Special Event Permit. It was noted that in the past, some of the large parties in the community have had cars parked up and down both sides of the roadways.

Jason Miller questioned if the Town Constable would be enforcing the ordinance. Dawn Goodman stated he would. Dawn Goodman referred to the ordinance (see “7. *Notice to Town and Other Officials*”) and stated that the Constable actually needs to be notified by the Town Clerk upon issuance of the permit. John Metzler asked who has to be notified. Dawn Goodman stated the Town Clerk would be notifying the Town Board members, the Town Constable and the New Franken Fire Department. Gary Jonet stated that he feels sorry for the Town Clerk because the ordinance is going to be a lot more work than we realized. Dawn Goodman agreed it will require extra work but that it is really not different than the enforcement of any other ordinance.

Dawn also noted that there is an area in the ordinance that allows the Town Board to place Special Conditions on any permit as deemed necessary or appropriate by the majority vote of the Board. And she also noted there could be charges for additional services (e.g. use of Town equipment, inspections, law enforcement, barricades, fire protection).

Dawn noted that there could be more additions and changes required from the Town Attorney because he stated in the latest e-mail that: “*there is still a ways to go before this ordinance will be clear enough to use*”.

Gary Jonet stated that if the Town Clerk does put in Special Condition stipulations, or if the Town Board does so, then there would have to be a public hearing, and due to rules requiring publication of such meetings, it could take more than the 60 days currently required in the latest Ordinance draft. It was also noted that if there is a denial, going through the Board of Appeals would also take more than 60 days due to publication time required for such meetings. Jason Miller noted that most events are planned well ahead, and suggested that 90 days should not make a difference. Gary Jonet stated that there are also people who come for a building permit the day before they start building. After more discussion, it was agreed that 90 days would be the standard. (Dawn Goodman stated she would change the ordinance wording and the application).

There was discussion about if the Town Clerk should have the sole power to impose Special Conditions and decide on the issuance of the permit. Dawn Goodman stated that the Town Clerk and Zoning Administrator routinely approve permits and licenses for other situations, based on the ordinances and regulations already set forth by the Town. She stated the Town’s attorney had said that it would help the Clerk if there would be standards in the ordinance for her to refer to. Dawn showed the Planning Commission members how she had revised the permit based on the suggestion of the attorney and the model she was following to include:

“(4) Standards for Issuance” which included a section entitled “A) Approval or denial of permit” which stated: *I. The clerk shall issue the permit when, from a consideration of the application, consultation with the Town Board, the Zoning Administrator, the Town Constable, the New Franken Fire Department Chief, the Brown County Highway Department and the Brown County Sherriff, as necessary, and from such other information as may otherwise be obtained, it appears that: (there are items 1-11).*

There was discussion about how often the Town has had to come out for an event to close the roadways and/or put up signs in that regard, and whose responsibility that is. Gary Jonet stated the Town Chairman has often done it, but that he has assisted when needed. John Metzler asked about what if costs are incurred doing that. Dawn Goodman noted that stipulations for the cost of such service are spelled out in: (4) *Standards for Issuance B) Special Conditions. II Charges for additional services.*

John Metzler stated that no matter what the Planning Commission comes up with, no mater what it does, that it could be contested and/or we will learn some part of it may not work. Dawn Goodman stated that was normal with any new legislation and things may need amending eventually. John Metzler stated it would be a “live and learn” situation.

Gary Jonet questioned why the ordinance can’t define what special events are. Dawn Goodman pointed out that already is done in the Definition area. Gary Jonet then stated it could say that “Any and all parties--public and

private--are responsible for, and totally liable for, any event they hold on their property.” He stated that the Town would then be off the hook and stay out of it. He stated that he was concerned something will be missed and then the Town could be held responsible for it. John Metzler questioned if the statement concerning “hold harmless” would cover that. Dawn Goodman pointed out that it is already covered in the ordinance under “Permit Requirements C). Insurance II” concerning the Statement of Indemnification and Hold Harmless. Gary Jonet stated he believed “all of the other rules and regulations can’t cover everything.”

Dawn Goodman stated that there was no way the Planning Commission could put the ordinance out the simplified original way it was at first (without the changes the attorney advised) because the attorney had advised that the more simplified version did not have enough information for it to work. She stated the ordinance could not be “dumbed down”. She pointed out that even the Application itself did not have enough information on it, according to the attorney.

Dylan asked for clarification on what Gary Jonet was suggesting: “So there wouldn’t be a need for an application?” Gary Jonet stated “No application. You wouldn’t need it or a permit. Any and all events held in the Town--public and private--it would be the total liability of the parties involved.”

Dawn Goodman then asked Gary Jonet, “So you want to throw away all that we just did--the entire ordinance and all we have worked on all these months?!”

Gary Jonet stated “Yes.” And then went on to explain that all groups who have an event would already be responsible if an issue occurred. *They* would have to get the sheriff if there’s an issue”.

John Metzler speculated, “So the town would be off the hook.”

Dawn Goodman stated “I don’t think so because then the town would not know if something is going on, or be able to notify the fire department or EMTs. That’s one of the reasons even one of the Town Supervisors wanted us to have a permit--so we would know what is going on and could plan accordingly.”

There was discussion about various scenarios that could result in the town being sued. Dawn Goodman stated she believed the Town could be sued if it did not notify Town residents of an event taking place and there might not be adequate fire or police protection in place if some emergency within the Town occurred.”

Gary Jonet stated “the Town could be sued quicker for these rules and regulations”. He went on to say that notifying the residents was not the Town’s responsibility. Dawn Goodman stated she thought it was the Town’s responsibility.

Jason Miller questioned, “What if there is a large event, say 20,000 attendees, that uses all of the Town’s available fire services, etc? Gary Jonet stated that the event organizer would have to notify all of the responsible providers to meet their needs and that other Towns, departments or even Counties would be called in to help.

Jason Miller reminded the Planning Commission that Town Supervisor Ryan DeBroux was concerned that an event could have 15,000 people scheduled to come in and the Town would not have anything in place that would allow us to know about such an event, let alone plan for it.” He then continued: “Right now, we’ve been fortunate enough to have the big event holders letting us know their plans, but that may not always be the case as some of the venues grow in their outreach and number of events. The Shrine was cited as an example: you could have 20,000 elderly people on a 90 degree day attending an outside event...there may be a strain on the services--or not enough services.

Gary Jonet said that in that case, with that many people in trouble, the Town’s fire department would not be able to handle it even if it did know about it. Jason Miller stated “No one would have a heads up if there was not notification of the event. Then everyone would be scrambling to provide services. Would they be able to help in time?”

Dylan Mercier questioned if it really was then town’s responsibility.

Dawn Goodman stated vehemently “That’s OUR JOB!” And she reminded the Planning commission: “We have a big place down the road (the Shrine) that is not going away.”

Jason Miller stated “I don’t think we’re protecting the rest of the Town. That’s our responsibility. This (the

Shrine) is a prime spot for someone to come in and do something. There are already undercover people walking around. It's a prime spot to put the whole township in jeopardy if someone wants to come in and do something. Right now, they are graciously notifying us. I feel we should have something in place. Dylan Mercier questioned what the State laws are regarding this all. No one was sure exactly what they were.

Brad DeChamps said "I'm not against the notification thing, but it's sure a lot of paperwork for something that seems just common sense."

Dawn Goodman stated "That is how it is now. If you have an ordinance, then it involves all of the other things that go with it—the wording and paperwork. We already tried 'dumbing it down' and found out from the lawyer that is not acceptable. It doesn't fly and we could be sued if we do not do it correctly. That's why we need our lawyer to look it over and advise us on it. That's just reality. Everything we do now has to be spelled out correctly and clearly."

John Metzler questioned if there is an event out at the Shrine that has 20,000 people and they start having issues, even though they're on the Shrine's property, could the Town be sued? Dawn Goodman stated she thought the Town could be sued. John Metzler then stated: "Obviously even with the indemnification and insurance, there could be a lawsuit because that's what people do now, they sue."

Gary Jonet stated "If we have a permit, we're accepting responsibility." He then asked, "How could they sue the Town for the New Franken Fire Department not being big enough to take care of that many people?"

Jason Miller stated, "I think it's the whole notification thing. No matter what we do, whether we write something or not. I think it's solely about if we don't know what is going on." He then gave the example: "A big running event could come out here right now and hold an event without telling us, blocking every road in our town without any penalty whatsoever and now we've got 1,000 town's people here at the Town Hall holding us accountable as to why they were not notified this was going to happen."

Gary Jonet stated that the County takes care of that and does not allow the roads to be blocked. "The event organizers are responsible for their events. The organizers already have to notify everyone: police, fire, etc."

Jason Miller then questioned: "Then why do all the other municipalities have ordinances for this? There's got to be a reason *why* they have it, because they're not making money off of a \$100 fee!" Gary Jonet interjected: "We would be losing money." Jason asked again, "But why do other towns do it? There has to be a particular reason?"

Gary Jonet said "I don't know why and I don't see why we have to do this."

Dawn Goodman asked "Do you want us to have the lawyer come out and explain the reason to us?"

Gary Jonet stated "A lawyer will do anything you want them to do because they get paid."

Dylan Mercier stated: "Why don't we get him to come out, pay him. We're getting paid for our time here too, every time. Why don't we get this settled."

John Metzler stated we need the Town's permission for that.

Gary Jonet stated, "He's going to say what you want to hear and they get paid the big dollars."

Jason Miller stated, "Or we can 'kick it back' to the Town Board for their input again and tell us how to move forward."

John Metzler said, "A few of us go to the Town meetings. We can tell them the pros & cons of what we're getting at and ask if it's advisable to have the lawyer here."

Jason Miller stated "And ask the lawyer, what would happen if we do **not** have anything."

Brad DeChamps expressed concern that the lawyer would "write up a whole bunch of stuff because he gets paid by the hour."

Dawn Goodman stressed “The Planning Commission, has already done most of the writing and now the lawyer is making additions and commentary. We are almost done.”

There was a brief review of what was done so far in the process. Initially Town Chairman, Lee DeChamps, thought there should be a fee charged for events in the town due to an increase in activities being held in the town—he wanted to make money for the town. The lawyer advised that was not permissible and that what Chairman DeChamps wanted was actually a tax. He advised that it would entail a referendum to pass a tax. It was decided that would not be pursued. There was a public hearing about the initial version of the ordinance and it was not received well for various reasons (confusion as to who it applied to, opposition about the suggested fees, unclear wording in the ordinance). The Town Board did give the go-ahead to do an ordinance for the purpose of the Town knowing when and what any special events would involve. The fee decided upon was set only to cover administrative costs. Revisions were made and sent to the Town’s attorney.

Jason Miller stated “What makes this difficult is that the Town does not own anything except the Town Hall property and some of the roadways, where as any other town has parks and properties they own.” Dawn Goodman pointed out that Bay Shore County Park is in the Town also. Jason stated that it was not owned by the Town. Dawn Goodman stated that it still mattered because public events are held there. Some agreed with the conversation. Brad DeChamps pointed out that some events do involve parking on the Town roads and lot. Gary Jonet stated that the Town could post no parking signs in the Town parking lot but that it might not go over well.

John Metzler finally stated that there was no point in further discussion because there was not going to be agreement. Jason Miller stated he thought it needed to be sent back to the Town Board.

Dawn Goodman asked the group what they want to do and that it sounded to her as if the Planning Commission did not want the ordinance any longer. John Metzler said “yes to some extent, and no. I wouldn’t state it that way.” Jason Miller said “We need to have something.”

Brad DeChamps said “We need a point blank answer from the lawyer: **are we liable right now if something happens?** It doesn’t matter what the situation is. Are we liable?”

Gary Jonet speculated, “So if something happens on *my* property, is the Town liable? It’s the same as being on the Shrine’s property.” Brad DeChamps stated, “No.” Then he stated, “I think we need answers from the lawyer and that will steer us in the direction to go. **If we create this permit, is the Town then liable?** Yes or No?”

Jason Miller stated, “In reality, they would not need to get a permit because it is private property. It’s not on Town property.” Dylan Mercier speculated, “So right now they could still have 20,000 people there without getting a permit.”

Jason Miller stated that “a few pieces of language could fix a lot of what we are trying to figure out here.”

Dawn Goodman expressed that she was extremely frustrated with the group at this point because of how long they have spent working on this process (a couple years) and the amount of times the wording has been changed. She reminded them that:

- the revised ordinance wording and application were approved already;
- that it was fine-tuned by the lawyer
- and that the lawyer approved most of the wording, with some suggested changes and that he thought it was appropriate.

She then said very heatedly: “We were all ok with it. And now you want to throw it all away or change it again!”

John Metzler said “Yes and No. We’re all sitting here trying to make sure we’ve done this right.”

Dawn Goodman stressed “We *have* done this right. We already voted (at a Planning Commission Meeting) that we were doing it right. And now you want to change it again! Let’s get the lawyer. That’s what I say. Then you can at least ask him, and then decide!”

Dawn Goodman what they wanted to ask the lawyer:

Are we liable now without a permit? John Metzler added **“Or with one?”**

There was then a question if it could be only a permit and not an ordinance. Dawn Goodman stated that both are needed and that you cannot have one without the other.

Jason Miller stated that “Anyone can sue you at anytime. That’s what the lawyer’s going to say”.

Dawn Goodman stated, “There’s a reason other towns have this. We’re a municipality and we need it. We’re not getting smaller. We’re growing. We have more and more people coming to live here and more events happening. It’s short-sighted not to have this. That’s my thought. If you want to wait til something happens, then we’re under the gun, then we start all over again. Fine. I’m only one person, but please remember: **We have been working on this a long time and have gone to great length and a lot of work to find the right information and wording, We’ve been talking to numerous people, and researching it. I’ve read through many other ordinances for us and presented what various municipalities in our area have to you all and then we narrowed it down.**

Jason Miller stated “I personally thinks this document itself is ok. **We need the true definition of Special Event.** And **where it takes place** is what we are hung up on. The first two words in the definition say “*Any public*”, so we know it’s *anything open to the public...*so what if I bring in Tim McGraw to sing in my backyard and open it up to the public?”

Dawn Goodman agreed that stuff like that happens and sited a personal example of going to a Green Bay private political event that featured singer Carole King that was unexpectedly opened up to the public, resulting in a large crowd in a small neighborhood.

Jason Miller stated, “It may not have happened here in the past 80 years, and maybe it won’t happen for 10 years yet, but when it does, **what is the town going to do about it?**” Jason went on to say, “When you read through this, it makes sense. **We’re stuck on our liability if we issue this, and it’s on our books, if something happens, can we get sued?** We could get sued either way--whether this is on file or not. Whether we have or don’t have something written up--18 pages or 1 page, a lawyer could find a way to sue the Town.” He then said, “The question is, what if I have it on my private property? I’m not going to go to the trouble of getting a permit because it states there (in the definition) that it’s for events that are public.”

Dawn Goodman agreed, saying the second word, “public” is what clarifies it.

Gary Jonet then stated, “But you have still not clarified the question about what to do for the church picnic.” There was lengthy discussion about it being opened up to the public. Other public events run by private groups in the town were also sited. **Would they need permits if they are run by private groups on their private properties but opened to the public?** Someone stated that **if they impede on the public right of way or the usual flow of traffic, then they would need to get a permit**, based on the current wording.

Brad DeChamps stopped the discussion and asked, **“If this is passed today, who needs to get a permit in the town currently?”** Gary Jonet stated that the church picnics would. Someone asked if auctions would need one? Someone stated yes if they park on the roadways. Someone asked would the Shrine? No because they have off the road parking. Other examples were cited.

All agreed things are not always clear cut and need to be discussed.

John Metzler stated he would talk to the Town of Scott to see what they require while he is there for a meeting he will attend.

Dawn Goodman asked what the PC wants to do--Ask the lawyer and/or talk to the Town Board?

Jason Miller stated again that **there is a reason everyone has permits for these.**

Dawn Goodman suggested that the Town may actually want to do what Chairman DeChamps is thinking of: a fee/tax. She pointed out that it seems to be a new trend being used by municipalities and that Brown County had recently decided to do so. John Metzler pointed out that it was being contested by the Brown County Taxpayers

group.

Jason Miller reminded the group that during initial discussions, it was suggested that **it might be more appropriate to look into an “Impact Fee”** and that even Town Clerk Debbie Mercier thought it might be the way to go. Dawn Goodman stated she thought there would need to be a public vote/election if that were pursued. Some Planning Members expressed concern about how much time and work it could be to come up with that policy.

Dylan Mercier asked to see the copies of the other ordinances from other municipalities in the packet Dawn Goodman had in her files. She showed them to him.

Dawn Goodman asked how to proceed. All agreed: to **Table the matter until the following questions are addressed by the Town Board and/or the Lawyer:**

1. **Are we liable now WITHOUT an ordinance?**
2. **Are we liable WITH an ordinance?**
3. **How should we define a true Public event?**
4. **Why do they have these permits/ordinances in other towns?**
5. **Would it be more appropriate to have an Impact Fee?**

B. Other Business:

1. Dawn Goodman handed out the special information from the Town’s Attorney which he gave the Town Clerk for the Planning Commission to read and be aware of: State of Wisconsin 2017 Assembly Bill 479, relating to: limiting the authority of local governments to regulate development on substandard lots and require the merging of lots; requiring a political subdivision to issue a conditional use permit under certain circumstances; standards for granting certain zoning variances; local ordinances related to repair, rebuilding, and maintenance of certain nonconforming structures; and the right to display the flag of the United States.
2. Gary Jonet stated that if everything goes well, he will not be at the April Planning meeting due to a trip.
3. Jason Miller stated he may not be able to attend the Town or Planning meeting in April, due to educational training he will be attending.

Date & Time of Next Planning Commission Meeting were set: *Wednesday, February 21, 2018 at 7:00 pm (**Note the day was changed to Wednesday due to Election at the Town Hall that day*), ***if it is found necessary to have a meeting.***

Motion to Adjourn Made by: Jason Miller; Brad DeChamps **2nded. AYES: 6 NAYS: 0.**

Motion Carried. Adjournment time: 8:18 pm.

Planning Commission Chairperson

Planning Commission Secretary