

**VILLAGE OF MARSHALL
PLAN COMMISSION MINUTES
JULY 27, 2011**

Chairperson Hensler called the Plan Commission meeting to order at 7:00 p.m. Members present: Arnold, Hlavaty, Krebs, Lowrey, Vick-Peck and Hensler. Kiefer was absent. Others Present: Joanne Cripps, Josh Bindl, Mark Shepler, Town of Medina representatives-Ron Jacobson and Sue Zingsheim, Town of York representatives-John Prosser and Dean Helwig, Amber Gerber-Courier, GRAEF–Meagan Ehlenz and Erin Ruth; Village Attorney Allen Reuter, Lonnie Benesch, Seth Robinson, Nichole Robinson, Pat LeMahieu, Carol Faren and Sue Peck-Clerk/Treasurer.

Pledge of Allegiance

1. Conduct a public hearing on the proposed amendments to the Village of Marshall master plan. **A motion was made by Arnold and seconded by Hlavaty to open the public hearing at 7:01 p.m. Motion carried unanimously.**

Mr. Hensler asked those present if there were any questions in regards to the proposed master plan amendments. No one provided comments.

GRAEF representative Meagan Ehlenz stated that many of the changes were grammatical.

- Page 32 which speaks to goals and policies had some changes.
 - Substantial changes are in the intergovernmental chapter – the Village desires to retain the small village character; focus planning within the village limits and keep the rural appeal for the surrounding areas.
 - A variety of cooperative planning processes with adjoining communities is encourage and addressed in the plan.
 - The biggest change is in the land use section (pgs 83-85); has to do with retaining more urban character and rural character of adjacent communities.
 - The land use map is proposed to be updated. The map looks at the Village's borders and what land uses the Village would like to see.
- A. Carol Faren-Langer Road. Ms. Faren asked if any respect has been given to Medina or York as far what they already have in place. Ms. Ehlenz said the land use plan does take that into consideration.
 - B. Vickie Vick-Peck. Ms. Vick-Peck said the old land use plan had new neighborhood areas on the east side and they were change to Ag preservation/environmental corridor which is consistent with Town of Medina. The Barth property was switched from new neighborhood to agricultural. Ms. Ehlenz said that property is currently outside of the urban service area so it was switched to Ag preservation and could be looked at for modification if the group desired.
 - C. Pat LeMahieu. Mr. LeMahieu questioned if the lot area policy had been changed since the last public hearing. Ms. Ehlenz said that isn't part of the master plan amendments.

Chairperson Hensler called for further testimony; after the third call for testimony and hearing none. **A motion was motion was made by Hlavaty and second by Lowrey to close the public hearing at 7:11 p.m. Motion carried unanimously.**

2. Consideration on a recommendation, to the Marshall Village Board, to amendment the Village's master plan as proposed. **A motion was made by Hlavaty, second by Arnold to recommend the Village Board adopted the proposed amendments to the master plan as presented in the**

document dated July 2011. Arnold-Yes, Krebs-Yes, Lowrey-yes, Hlavaty-yes, Vick-Peck-yes and Hensler-yes; motion carried unanimously.

3. Consideration on a recommendation, to the Village Board, on the amendment of municipal code Title 14, Articles C, D, and G for land divisions within the Village of Marshall Extraterritorial jurisdiction.

Attorney Reuter highlighted the proposed ordinance amendments.

- Section 1 is the same language from the original document.
- Sections 12, 13 & 14 are non code provisions. The ordinance takes affect after it is published.
- Section 13 creates a waiver provision; and a waiver for single lots.

Mr. Hensler said the Town of Medina and Village met and talked about some of the boundary issues. They have agreed to meet again on August 2nd. One concern of the Village is Bailey Farms and their expansion. Bailey Farm's application to the County is null and void from 2009. The two boards have agreed to sit down and go over the differences. 40 acres would not be in effect as long as there is cooperation between the Town boards and Village; that is why the waiver clause is being proposed. If talks don't lead to a solution than the 40 acres is in place. It won't take effect until such time negotiations cease. He doesn't see that happening.

John Prosser-Town of York. Mr. Prosser said this would shut down everything in Town of York; that is a waste of land. He said they currently would approve up to a two acre lot for every 75 acres they would split.

The proposed waiver applies to all areas within the 1.5 extraterritorial jurisdiction – it does allow for a single lot to be created by CSM with the waiver provision.

Dean Helwig, 7268 Deansville Road. Mr. Helwig said with respect to the 40 acre; waivers until discussions breakdown; what is the purpose of the 40 acres being hard and fast; in York they have a restriction to allow a smaller parcel and restrict the balance of the property. If you put something in ordinance to oversee all of us we are impacting individual properties. There are protections in the Town of York; the 40 acres create a detriment.

Attorney Reuter stated the primary reason for this proposal is a legal issue and a part that has to do with options for the Village. If the Village wants to change there is nothing the Village can do to stop Towns from changing their land use plans. Generally the County goes along with the Town and they can have residential subdivisions or development that impacts the Village borders. Village is limited to their legal recourse. Villages use to have a lot more power; they were able to treat residential different from commercial and have a say in the land use. It's like a tool box that you only have a sludge hammer left. Cooperative planning can fill your took box-can reach agreements; which are no longer available to one side or the other by acting alone. The ordinance is encouraging cooperative planning; generally there can be benefits on both sides versus acting alone. The proposal creates an incentive for the parties to do something. If the process works in general it is a benefit to all.

Carol Faren said she feels the deed restriction is doing what we want. Mr. Hlavaty said if zoning is changed the deed restrictions can go away. Attorney Reuter said the property owner can petition the County and Town to have deed restrictions removed. Mr. Jacobson said deed restrictions have to be approved by adjoining property owners. The zoning process is completely between the Town & County.

Mr. Hensler said the Village is opening up the discussions; if that involves deed restrictions. If Bailey Farms would double in size because of land division or deed restrictions; we want the opportunity to have an agreement. If an agreement can't come about; we are done. The Village has little they can do. There has to be honest communications to solve the problems. We just went through a process that didn't work out. He doesn't want that to happen again. The ETZ joint committee spent a lot of time and effort and the public weren't given the opportunity for a public hearing.

Carol Faren asked if the Towns knew about all of this prior to what is transpiring now. There was an Extraterritorial Zoning Joint Committee that was formed with three members from the Village Plan Commission and three members appointed from the Town of Medina. There were discussions for two years trying to create a plan. That didn't work. Mr. Hensler said he felt there is an opportunity for new discussions.

Mr. Arnold said we talked about the one dwelling for 75 acres rule for Town of York. He noted their rule wouldn't supersede the Village's rule.

A motion was made by Lowrey to recommend the Village Board accept the proposed amendments to municipal code Title 14 as presented in proposed Ordinance 2011-04.

Mr. Hlavaty said he would like a time provision on the negotiation; such as 180 days maximum. He feels it is important to have a time frame to work with so there is some resolution, we can't have this being on going. It was suggested that if talks are going well; put a provision in to extend if need be. If negotiations stopped sooner it would end also. Proposed section 13 could have language added that the waiver expires in 180 days unless some agreement is made between the Towns and Village. If things aren't going well you can amend the ordinance to remove the provision. One the same token it can be amended to extend the period of time also. Always have the ability to change your mind.

Mr. Lowrey amended his motion to include language to add to section 13 that the waiver provision would expire after 180 days; the motion was seconded by Hlavaty.

Discussion on amended motion: Attorney Reuter was asked to read the proposed waiver clause in section 13. Mr. Hensler said the waiver clause gives the opportunity for discussions.

Dean Helwig questioned what the extraterritorial jurisdiction from the Village's boundary line was. It is 1.5 miles for the Village's boundary lines. The proposed 40 acres requirement for land divisions would be required for all areas within the 1.5 mile jurisdiction unless there is an agreement (such as a boundary agreement) in place between the Towns and the Village.

John Prosser stated the ordinance is designed to waste land. They are trying to preserve land; this creates wastefulness. If they are looking to approve a small parcel they won't be able to.

Mr. Lowrey said this is the only tool we have to force communication. Mr. Helwig said there hasn't been communication with the Town of York yet.

Mr. Jacobson said it was mentioned at the meeting to have a moratorium on land divisions. He is looking to put a proposal together that anything within the ¾ mile area of the Village limits would

have to sign off until issues can be resolved. They will discuss if they will have a time restriction on it or not. The Town of York plans on addressing this at their next board meeting.

Carol Faren stated she was uncomfortable and that she was not being represented fairly. Others are telling them what they can do on their property.

Lonnie Benesch asked if landowners have been notified that they are in the Extraterritorial Jurisdiction. Attorney Reuter said Wisconsin State law puts them in the jurisdiction; not the Village.

Pat LeMahieu said at last month's meeting there were a lot of opinions expressed about the negative of the 40 acre rule. He is concerned – this is the only tool we have to have talks. He feels it is a mistake to tie a 40 acre division land rule to private property owners. Because of those implications; 40 acre rule does not satisfy in the previous. Mr. Hensler said he doesn't necessarily disagree but what else do you do to protect the Village citizens. We don't want to use unless we just positively have to; we won't have to if we continue to communicate.

Ron Jacobsen said he said he let everything go by in the ETZ process; the major reason he opposed the Village's unwillingness to come to a boundary agreement.

Mr. Lowrey said the ETZ would have let the Village and Town each have a say; this could have been addressed. A boundary agreement is a separate process. Mr. Jacobson asked why they weren't done at the same time. Mr. Hensler said it didn't work, can't live in the pass, it is time to make something work out.

Josh Bindl said without the cooperation aspect; as a property owner in the Village, anything can be built on the border and infringe on the Village. If Bailey Farms expands and the smell worsens property values decrease. Basically, if we don't want that to happen we have no choice but to impose this ordinance.

Mr. Arnold said we have to approve this and work with Town of Medina and Town of York to come to an agreement. It could be a rather fast process if everyone talks it over.

Mr. Hensler said he doesn't think the 180 days clause is necessary.

Roll call votes: Arnold-yes, Krebs-yes, Lowrey-yes, Hlavaty-yes, Vick-Peck-yes and Hensler-no. Motion carried 6-1.

IDENTIFICATION OF TOPICS FOR FUTURE DISCUSSION AND/OR ACTION

1. Next regular meeting 8/24/11.

Adjournment

Having no further business a motion was made by Arnold and seconded by Lowrey to adjourn at 8:11 p.m. Motion carried unanimously.

Respectfully submitted,

Sue Peck, Clerk/Treasurer