

DISPUTE RESOLUTION FORUM SUBCOMMITTEE
MINUTES OF SEPTEMBER 4, 2007

The meeting was called to order by Heiser at 6:00 p.m. at the Washington County Public Agency Center in Room 3224. Those present included:

Subcommittee Members Present:

Mathew Heiser, Chairperson	Village of Kewaskum
Daniel Knodl, Vice-Chairperson	Washington County Board Supervisor
Ron Hefter	Town of Addison
Jim Bennett	Town of Hartford
Leander Herriges	Town of Wayne Citizen
Chris Kuehn	HUED Work Group Chairperson
David Nixon	UWWC
Barb Renkas	Town of West Bend Citizen
Brian Bausch	Washington County Board Supervisor
Justin Drew	City of Hartford Representative

Staff

Deb Sielski Assistant Administrator for Planning
Washington County Planning and Parks Department

Kim Nass County Attorney
Washington County

Robbie Robinson Planner
Southeastern Wisconsin Regional Planning Commission

Joshua Glass Planner
Washington County Planning and Parks Department

Kelly Hahm Administrative Secretary
Washington County Planning and Parks Department

Others in Attendance:

Ellis Kahn – Town of Kewaskum
Dan Kufahl
Everett Russell

FIRST ORDER OF BUSINESS: Call Meeting to Order/Review Agenda

Heiser introduced Justin Drew from the City of Hartford. Heiser added that Washington County Attorney Kim Nass would be joining the meeting late.

SECOND ORDER OF BUSINESS: Approval of August 7, 2007

Motion by Bennett, seconded by Kuehn to approve the minutes of August 7, 2007. Motion carried unanimously.

THIRD ORDER OF BUSINESS: Update on Presentations to Local Governments

Heiser presented the Dispute Resolution Process to the Village and Town of Kewaskum. Heiser stated that the reception was favorable on both sides. The Town showed a real appreciation in regards to having someone present the information and to know they have a voice in the process. Heiser stated that they asked if this process could be used if there was a dispute with a community outside of Washington County.

Bausch gave a presentation to the Town of Farmington Plan Commission on August 28th. Bausch stated that the Town appreciated the presentation.

Nixon gave presentations to the Village and Town of Jackson. Nixon explained that they asked when they would receive the mailing information and also questioned why the panel would be 6 people instead of 7.

Sielski presented the script that is being used at the municipal meetings. (See Attached). Sielski explained that the Town of Polk and the City of West Bend Plan Commissions meet on the same date and added that Chris Kuehn would be doing the presentation with the City on October 2nd. Sielski asked for a volunteer to do the presentation at the Town of Polk meeting on October 2nd. Knodl volunteered and Heiser volunteered as an alternate if there is a conflict with the meeting date.

FOURTH ORDER OF BUSINESS: Review Dispute Resolution Issues Discussed at August Meeting

Sielski stated she has done a lot of research on the dispute resolution process and, due to the complexity of the issues, the county Attorney's office has agreed to take the lead in drafting the bylaws. Sielski added that she spoke to Brian Ohm (University of Wisconsin), who is interested in being a part of this process, but his role has not been determined.

Sielski presented Ch.802.12 of the Wisconsin State Statutes. (See Attached). Sielski emphasized the need for all of the municipalities to be involved in this process in order for it to be effective. Sielski explained that she is looking to receive some consensus on the questions that were discussed at last month's meeting to help determine what kind of role the panel should have. Sielski distributed the questions handout. (See Attached). Brief discussion ensued on a six-member panel. Kuehn explained the benefits to having a six-member panel.

Heiser asked Sielski if the resolution stated what County resources would be used for this process. Sielski stated that no details were in the resolution. Sielski stated that the County would likely be taking an administrative role in the process. Sielski stated that although at the last meeting, this subcommittee indicated that the role of the panel should be as mediator, typically mediators are trained individuals. Sielski stated that mediation and providing non-binding advisory opinions are very different roles. Sielski added that the role of the panel needs to be determined in order to move forward. Sielski presented the "Dispute Resolution Ladder". (See Attached). Nass explained the formal mediation process.

Motion by Bennett, seconded by Herriges to define the forum as a six-person panel that works as "mediation".

Discussion ensued regarding anticipated outcomes of the dispute. Kuehn stated this panel would be looking for a common sense approach to reach a "win-win" solution to the dispute and therefore stay out of the court system. Bennett suggested requesting a leader for the six-person panel. Nass explained a possible process is to have each party answer questions that identifies the dispute and then all parties come in the room with the six-member panel to discuss the issues. The panel would then discuss possible solutions. Heiser asked Bennett and Herriges to withdraw the motion. Bennett stated that he was going to leave the motion on the table. Sielski summarized the subcommittee's discussion by stating that there will be a six-person panel, and each party will have an opportunity to present their issue. Then this panel will start discussing and negotiating the dispute openly with both parties to reach a "win-win" solution. Nixon stated we aren't even talking about mediation, but instead about providing neutral "good offices". Sielski suggested calling the forum "facilitated negotiation". Nass clarified that the group is looking to have something in the nature of mediation and not a body that sits as a judge. The subcommittee agreed.

Motion by Bennett, seconded by Herriges to amend the above motion to call the process "facilitated negotiation" instead of "mediation". Motion carried unanimously.

Sielski began going through the questions handout. Questions 1. A – E were discussed above.

1. How will the dispute resolution (DR) process be conducted? (f-k)

Kuehn suggested letting each party give a presentation for a specific time frame. Heiser stated that the application could ask if the parties would have any experts attending (ie. attorneys). The subcommittee agreed that experts and attorneys would be allowed but not preferred. The subcommittee agreed that some type of support staff be available to take minutes.

Discussion ensued regarding the open discussion process. Nass stated that she reviewed the closed session law and everything the panel is doing should be open. Nass added that the panel could request the parties to step out of the room, so the panel could talk in open discussion. The subcommittee agreed that the panel discussion would be open to the public and should allow for the panel to discuss the issues among themselves if needed.

The subcommittee agreed that the negotiated outcome would be in writing. This should be signed and dated by the disputing parties and will serve as a “road-map” as to what was negotiated. The subcommittee agreed to allow parties to discuss the final opinion of the panel.

2. What disputes should/should not go before the Dispute Resolution Board DRB?

Sielski stated that this was discussed at last months meeting and it was agreed that the role would be limited to conflicts related to the comprehensive plan.

3. Define type and extent of authority of DRB –

Sielski stated that this forum should not interfere with any municipality’s authority. Nass suggested that it needs to be very clear that this process will not overlap municipality’s authority.

4. Dispute Resolution Board/Panel Representatives

As discussed at last months meeting, the subcommittee confirmed that representatives should be elected officials from cities, villages, towns, and the county and serving on this Board should be made part of the elected official’s role.

As discussed at last months meeting, the subcommittee confirmed that each disputing party selects the panel members for the other party. For example, in a dispute between a Village and Town, the Town selects the 3 Village panel representatives and the Village selects the 3 Town panel representatives.

The subcommittee agreed that after each election, UW-Extension should hold a training seminar on the dispute resolution forum process and provide bylaws.

As discussed at last months meeting, the subcommittee confirmed that a resolution by each local government (LG) to support this process and identify this as part of elected official’s role will be necessary.

The subcommittee agreed that the bylaws need to ensure there is no conflict of interest and to absolve panel members from personal or professional liability.

5. Determine application process/point of contact to start process/screening process

As discussed at last months meeting, the subcommittee confirmed the possible use of the Planning and Parks Department staff for the first point of contact and to administer the process.

The subcommittee agreed with having a “joint application” filled out by both parties in hopes that some disputes would be resolved before starting the dispute resolution process. Sielski stated the application process still needs to be completed, but should include concise statements of each party’s position with supporting documentation for panel review. The application process will be discussed at a later meeting.

6. Fee for DR?

The subcommittee agreed that the disputing parties bear 100% of the cost of the dispute resolution process and that the panel members send invoices to the disputing parties and the disputing parties reimburse the panel directly. Per diems and travel expenses would need to be included in the fees.

The subcommittee agreed that the panel should select a minute taker from a pool of individuals. Each local government could select a minute taker for the pool. Bausch asked if the local municipal Clerk's could serve as minute takers. Kuehn suggested that the minute takers be picked just like the panel if the clerks agree.

7. When and how can a party terminate the dispute resolution process?

The subcommittee agreed that formal notification should be required from the parties if they terminate the dispute resolution process and ideally with at least a 48 hour notice. The disputing parties would bear all costs incurred to that point.

8. If dispute resolution process fails, what are the next steps?

Sielski stated that the overall dispute resolution process will be outlined in the Intergovernmental Cooperation Element.

9. What if one party fails to appear?

The subcommittee agreed that if a party fails to appear, the dispute resolution process would be terminated and the other party should be notified at least 48 hours prior.

10. Confidentiality vs. Open Meetings Law

This was discussed as part of question 1.

11. Who can use the process?

The subcommittee agreed that disputes between a local municipality in Washington County and an adjoining municipality in another County could use this dispute resolution process. The subcommittee agreed that disputes between a local municipality and other taxing entities, such as school districts, could use this dispute resolution process.

12. How and when will these bylaws/procedures be looked at and updated?

Sielski stated after the first dispute resolution process is complete, that the bylaws/procedure should be reviewed and then possibly annually after that. Kuehn added that if it is not used annually, at a minimum, it should be reviewed each time the comprehensive plan is updated. Hefter asked who would review it. Sielski stated that staff would review it to determine the need to form a multi-jurisdictional subcommittee to oversee major changes.

Glass asked how it would be handled if there is an ill or absent panel member. Kuehn suggested having a quorum format. For example, if 4 members are present, you have a quorum to go ahead or you have the option to reschedule.

FIFTH ORDER OF BUSINESS: Review of Draft Bylaws

Sielski stated that this has been postponed until the next meeting.

SIXTH ORDER OF BUSINESS: Public Comment

Kahn suggested the subcommittee identify what kind of clerk is needed for taking minutes and the type of minutes. Their specific role should be defined. Knodl suggested that the panel pick their minute taker or a stenographer or put a tape recorder out and transcribe the tape. The costs would be paid by the disputing parties.

SEVENTH ORDER OF BUSINESS: Discussion Regarding Upcoming Meetings

Sielski presented "Items to Complete" handout. (See Attached). The subcommittee scheduled the next meeting for Thursday, October 11, 2007 at 6:00 P.M.

EIGHTH ORDER OF BUSINESS: Adjournment

Motion by Bennett, seconded by Knodl to adjourn. Dan Knodl will update the Advisory Committee. Motion carried unanimously. Meeting adjourned at 8:15 p.m.

Respectfully Submitted,

Debora Sielski
Assistant Administrator for Planning

Approved by _____
Mathew Heiser, Chairperson

Date _____