

PURCHASE OF DEVELOPMENT RIGHTS TASK FORCE

December 13, 2005 – 7:00 p.m.
Room 3224, Public Agency Center

TASKFORCE MEMBERS PRESENT:

Daniel Stoffel, Chairperson
Perry Lindquist, Vice Chairperson
Paul Bautzmann
Shawn Graff
Bill Neureuther
Jon Etta
Mary Krumbiegel
Kathy Muth
Helmut Wagner

NOT PRESENT:

Tony Warren
Scott Lofy
Ike Roell
Kevin Dittmar

STAFF:

Herbert Wolf
Paul Sebo
Sue Millin
Kevin Struck
Joanne Wagner

TECHNICAL ADVISORS PRESENT:

Deb Sielski
Blaine Delzer
Angela Curtes

OTHERS PRESENT:

Attorney John Lhost
Maurice Strupp
Scott Mathe, Metropolitan Builders

The meeting was called to order at 7:00 p.m. by Chairperson Stoffel.

Review of agenda. Motion to approve agenda by Bill Neureuther, seconded by Mary Krumbiegel to approve the agenda. Motion carried.

FIRST ORDER OF BUSINESS: Introduction of Guests

New Task Force member: Kathy Muth introduced and welcomed.

Guest: Haley Leinss, student from West Bend High School - here to observe tonight's proceedings. Stoffel welcomed Ms. Leinss.

SECOND ORDER OF BUSINESS: Approve minutes of November 22, 2005

Motion by Jon Etta, seconded by Bill Neureuther to approve minutes as submitted with no additions or corrections. Motion carried.

THIRD ORDER OF BUSINESS: Property Rights-Taking Issues (County Attorney Kim Nass and Ozaukee-Washington Land Trust Attorney John Lhost)

Present: Atty. John Lhost. Not present: Kim Nass. Attorney Nass was on Family Medical Leave of Absence. Will be here at a later date, prior to this going to County Board. Stoffel then turned this portion over to Attorney Lhost. Attorney Lhost stated that his impressions would be quite general as far as the takings issue is concerned and deferred that item to Attorney Nass. This agenda item will therefore be held until Attorney Nass is available.

FOURTH ORDER OF BUSINESS: Conservation Easement-Longevity and escape clauses
(County Attorney Kim Nass and Ozaukee-Washington
Land Trust Attorney John Lhost)

Attorney Lhost stated that he has served as Counsel to the Ozaukee/Washington Land Trust for over a dozen years now, and gave an overview of his background in conservation easements and related information. Stated that he can provide a brief description regarding what conservation easement is if the Task Force does not already know. Attorney Lhost asked about the amount of knowledge the Task Force has regarding what conservation easements are and how they fit into a Purchase of Development Rights program before he began his presentation. Stoffel requested a presentation at a fairly basic level. At this point, Attorney Lhost described the exact nature of a conservation easement. Questions and answers were presented following his explanation. Discussion ensued regarding the benefit of this within a governmental entity as far as Purchase of Development Rights is concerned.

Stoffel stated that this committee will need to grapple with what their policy will be on this issue as far as the language used in the easement. Graff inquired about a third party in monitoring an easement. Rather than the County or a municipality having to hire someone to do this, the Land Trust or someone who does this on a regular basis could be quite beneficial. Lindquist asked Attorney Lhost for a sample of an escape clause that he thought was a good one, and one that would serve our purposes. Lindquist asked if Attorney Lhost could present this to the Task Force at some point in the future. Graff stated that he and Angie Curtes do this on a regular basis and offered to draft a sample of an escape clause. After Attorney Lhost reviews it, they could present it to the Task Force. Lindquist stated that this seems to come up in our discussions a lot, and will no doubt come up in the presentation to the County Board as well, so we may as well have something that we can put out there as an example. Millin stated that many other successful programs around the country have escape clauses. Dakota County (the county we are using as a model at this time) has an escape clause, and are also getting a lot of the funding we are discussing. Suggested using their escape clause format. No further questions at this time.

FIFTH ORDER OF BUSINESS: Review livestock siting per Department of Agriculture,
Trade and Consumer Protection, ATCP 51 (Herb Wolf)

Wolf stated this is an item that needs to be brought to the forefront. He and Blaine Delzer met with Richard Castelnuovo from DATCP and discussed this topic related to Purchase of Development Rights. Mr. Castelnuovo agreed that it could have implications with Purchase of Development Rights in Washington County. This rule (if it passes), would allow operators to have up to 1000 animal units on a particular operation. We are not anticipating that happening in Washington County, however there are certain possibilities that it could happen. Local ordinances can have some restrictions, but are very limited in scope. With a sizeable operation, this issue could evolve over time. Lindquist stated that this preempts the local zoning authority from regulating where a livestock operation can be located. There would be no limit on how many animals are brought in. With the growth in Washington County, this could happen. It could evolve over time. We need to be aware of this as a possible issue. Lindquist stated that this rule takes away a lot of authority in regulating livestock operations. Wolf stated that this is why the County should try to incorporate this into the program at the time the program is initiated. Attorney Lhost stated agreement with the comments that were made, stating that "you should probably anticipate this, even though it may or may not happen." What isn't anticipated to come up often does come up. Muth stated that this would possibly be an issue within the next 20 years for the younger generation of progressive farm families to determine the future they will have in farming operations. This needs to be looked at from that standpoint.

SIXTH ORDER OF BUSINESS: Finalize draft of Mission Statement/Goals and Objectives, review enclosed handout from last meeting (Kevin Struck)

Kevin Struck referred to the handout (attached). Stated that this is basically everything we have worked on at the past two meetings on one piece of paper. Stated that everything should be complete except for the information for item #6, for which we were waiting for information from Deb Sielski once target areas are defined. Now we have that, and we would like to be able to fill that in with some rigid numbers. At this time, Struck asked if there were any thoughts or suggestions about this from the past meeting regarding the wording. Present: Scott Mathe from Metropolitan Builders. Mathe asked a question about item #3 (target areas outside sewer service areas). Discussion ensued. Agreement was reached to change the statement to say "limit program to areas outside of planned sewer service areas." Discussion ensued regarding item #2. No changes were made. Wolf stated that with item #6, it is still premature to fill in the number until we do a little more research. Stoffel stated that there is a problem yet with item #8. Feels we are inviting defeat with the way this is worded. Stated that he isn't saying that we don't need escape clauses, but feels that it is counter productive for the first set of draft mission goals to acknowledge that escape clauses are that much of an issue. Further stated that he feels that number eight would be just fine without the associated bullet. Mathe says he doesn't know whether he agrees or disagrees with that. Stated concern that the escape clause could get lost if we don't keep it there. Millin stated agreement with this, and stated the idea that we should just take these issues and put them in a "parking lot" and Struck could just hold them for us and bring them back when we get deeper into this plan. Discussion ensued regarding whether or not the escape clause should be kept in our initial goals. Wolf stated agreement with what Chairman Stoffel and several others here have said. Further stated that the people they met with both in Minnesota and American Farmland Trust also told them that we do not want to be advocating escape clauses in any way. It exists, as Attorney Lhost just talked about, but it could be included without being shown or highlighted at this point. Wolf stated that he advocates strongly for removal of that bullet and substituting something of a positive affirmation below the #8 item. Stoffel stated that individuals should come into this with only the idea that this is a perpetual easement and not having the idea that there is a "way out" by thinking about the escape clause. Sielski stated that she would like to suggest creating a "positive" to this, and that the Task Force hasn't really identified ways of working with the landowner in this process. Should try to work with the landowner to create the most beneficial easement for all parties involved or something to that effect. This could be a two-party or three-party easement - whatever is decided. Struck suggested the three-party easement as a way to handle this. **Motion by Graff, seconded by Wagner to eliminate the bulleted item under what is currently #8, and not replace it.** Paul Sebo suggested an amendment to the numbering of the items. Stoffel recapped the changes. We are eliminating the bullet under #6, changing #8 to #7 and eliminating the bullet under the new #7. Also, change #9 to #8. **Motion by Mathe to refuse the amendment and not eliminate the escape clause, but just change it to "consider". No second to the motion. At this time, Stoffel called for a vote regarding the changes we have had so far. All in favor of the amendments as listed above say aye. Motion carried to keep the amendments as originally presented with eight voting aye and Mathe voting no. Motion by Bill Neureuther, seconded by Graff to leave the 5% as well as the target year out of item #6 at this time. Motion carried.**

Motion by Paul Bautzmann, seconded by Helmut Wagner to accept the mission statement as finalized tonight. Motion carried.

Stoffel stated that Struck will go back to the drawing board once more, and we will have a final product by next month.

SEVENTH ORDER OF BUSINESS: Report concerning Dakota County visit (Herb Wolf and other attendees)

Wolf stated the visit was very insightful. They were able to spend time with the Dakota County Staff at the site. Wolf handed out several pages of material (attached). This encapsulates what was presented at the meeting. Reviewed the information from the handouts. Krumbiegel and Strupp both presented topics discussed during their visit. Discussion ensued regarding having individuals from Dakota County be present to do the presentation for the County Board.

EIGHTH ORDER OF BUSINESS: Report concerning American Farmland Trust Presentation (Sue Millin)

Millin was not able to make it to this meeting. Deferred to Lindquist to summarize this meeting. Lindquist stated that this went on for over four hours. This included a very broad overview of various programs in different areas, with diverse information being shared. Lindquist further stated that the question and answer session was phenomenal. Stated that he felt that fully reviewing details of all issues covered is not necessary tonight, but these items will no doubt be coming up in future discussions. The presenter will be willing to come to address future meetings of this task force at a later date. Lindquist suggested asking him to come and do the presentation to the County Board. Stoffel stated support in asking Chairman Miller about scheduling a timely appearance by this presenter at the County Board.

Stoffel referred the Task Force to the last page of the Dakota County handout where it discussed bottom line costs to the County for their project. Curtes stated that part of this presentation was urban growth boundaries, and it was very interesting. Suggested exploring urban growth boundaries more as an asset to our program. Sielski corrected Curtes in that Everett discussed Urban Growth Areas - different than what we refer to as Urban Growth Boundaries and that this is also of interest to her in the Smart Growth Comprehensive Planning program. Sielski intends to follow up and get further information about this.

NINTH ORDER OF BUSINESS: Discuss potential scope and coverage of farmland target areas and potential costs (Dan Stoffel)

Wolf reviewed the maps on a PowerPoint presentation, created by the GIS Division (see attached). Reviewed various maps of prime agriculture land and existing proposed protected open space, etc. . At this point, Wolf asked for any questions on this. Discussion ensued regarding the types of area to include in the potential PDR rating activity. Discussion followed regarding not being in the business of drawing lines and determining how far towns or villages can grow. This is about determining criteria for farmland areas to include in this program. Lindquist stated concern about not determining both criteria and eligibility based on the area of the property. Stated this should be a two-step process, not just based on criteria regardless of where the property is located. Further discussion ensued regarding this process. Lindquist asked if we were going to determine target areas or not. We need a map outlining the target areas, because that is what the County Board expects. Krumbiegel asked to open this up for public input at this time.

TENTH ORDER OF BUSINESS: Public Comments

Present: Art Filber, Town of Wayne. Stated that he supports the PDR project. He lives on Theresa Marsh, and further stated that farmland is being destroyed by the minute. Stated that 75% of our fruits and vegetables are imported and they could be destroyed by terrorists. We need to protect our basic roots which is farmland. Stated it is very sad to see farmland being destroyed by development. We need to think about 20 years in the future and how we will produce food.

Present: Elles Kahn, Town of Kewaskum. Stated if teeth are put into it that he sells his farm and

gives up the rights, what happens to the next guy? Will there be teeth in the program to guarantee that the land will be farmed and not developed? Stoffel stated that it will be guaranteed that it will not be developed, but not guaranteed that it will be farmed. Kahn stated that he doesn't hear anything about continued farming into the future. Millin stated that this is at least a holding point for future generations and hopefully it will be farmed in the future. We can't force someone to farm the land, but it will prevent commercial development. Present: Chris Elbe – stated he had a question about the escape clause. Stated that there is no escape plan and doesn't know why we would want that. Further stated that the easement is on the buildings, also. Said he didn't know why we wouldn't want to include buildings on the easement, as they are all part of the program. Millin stated that according to Dakota County, Minnesota, it is a monitoring issue. We do not want to have to monitor the homestead on the site. Sielski stated that in Comprehensive Planning, they are doing a countywide survey. These surveys ask questions in regard to various issues. The Comprehensive Planning Survey of 1200 residents will be implemented in February, 2006. If the Task Force feels strongly about wanting a voice from the county about this, perhaps they would like to include a question or two on the survey. Gave them the opportunity to consider this. Graff asked Wolf for copies of all the maps that were displayed tonight. Wolf will provide copies for everyone present for their records.

Stoffel reviewed upcoming agenda items for next meeting on January 10, 2006.

Krumbiegel will not be here for the January 10 meeting.

Stoffel entertained a motion to adjourn. **Motion by Neureuther, seconded by Krumbiegel to adjourn. Motion carried. Meeting adjourned at 10:00 p.m.**

Daniel Stoffel, Chairperson

DWS/jw