GREEN LAKE COUNTY
LAND USE PLANNING AND ZONING COMMITTEE
Business Meeting Minutes – January 15, 2008 – 6:00 p.m.

CALL TO ORDER
Committee Chair Sue McConnell called the meeting of the Land Use Planning and Zoning Committee to order at 5:03 p.m. in the Green Lake County Courthouse, County Board Room, Green Lake, Wisconsin. The requirements of the open meeting law were certified as being met.

Present: **Sue McConnell, Gus Mueller, Howard Sell, Wallace Williams**
Absent: **Orville Biesenthal**
Also Present: **Al Shute,** County Surveyor/Land Development Director
Carole DeCramer, Committee Secretary
Orrin Helmer, County Board Chairman
Jeff Haase, Assistant Corporation Counsel

APPROVAL OF AGENDA
Motion by Williams/Sell, unanimously carried, to approve the agenda. Motion carried.

WORKSHOP ON THE FOLLOWING PROPOSED ORDINANCE AMENDMENTS
Chapter 350 Zoning Ordinance, Article X Violations and Penalties & Chapter 338 Shoreland Protection Ordinance, Article XII Enforcement

McConnell – Explained that Al (Shute) will give a summary of the proposed ordinance amendments to Section 350 of the Zoning Ordinance and Section 338 of the Shoreland Protection Ordinance. Discussion is welcome and the committee will take note of all questions, concerns, and comments.

Shute – In the first section, 350.68 Zoning Code, I'll highlight the terms *building or structure* that are being taken out and the wording *hereafter erected, enlarged, altered, repaired or moved* is being replaced with the word *development*. In our ordinance, we have a definition for the word development. That refers to those items – buildings, structures, and altering structures, enlarging structures. Development, which we use in our office, any man-made changes to improve or unimproved real estate including but not limited to construction of buildings, structures or accessory structures, the construction of additions or substantial alterations to buildings, the placement of mobile homes, and then we get into development like ditching, lagooning, dredging, filling, grading, paving, excavating, drilling operations, and deposition or extraction of earth and materials. That definition pretty well covers everything that was in that first paragraph and some others that we use. That is one of the changes that we made to that paragraph; we took out *building and structures* and put in *development* for which we have a definition.

Then we gave some clarification. The department will investigate all alleged violations. We will determine if there is a violation and will pursue compliance. That is, basically, pretty much our standard operating procedure now. If someone calls in a violation, we investigate, we come back and analyze it. If it is a violation, we pursue compliance. This is lending clarification to what we are already doing. That is the extent of proposed changes to 350-68.

Mike Jankowski – When you say that you will pursue compliance, meaning that the item has to be corrected, how are you going to pursue that actually?

Shute – It would be by working with the person that has created the violation and, if it's a setback issue, it could be amending the building. It could be variance options, with the Board of Adjustment all the way up to the judge looking at it. There is a variety of different ways to gain compliance. Citations with fines is another way.

Jankowski – A fine doesn't mean it's in compliance.

Shute - No, and that's a discussion that I've had with Corporation Counsel.

Al Walker – If you can fine somebody and not make them come into compliance, then you're going to have people that say that's the cost of doing business, go ahead and do it. That puts us in a bad spot.

Shute – That puts me in a bad spot.

Al Walker – If you're working for a homeowner that wants you to do something that you know, and I think everyone sitting back here has been in that position, when you say it's against codes, they say go ahead and do it anyway. If we get a fine, we'll pay the fine. That's the cost of doing business. I think it's very important that sooner or later somebody is going to have to say instead of fining, they'll have to tear it down and comply with what it is supposed to be and make it right and not just paying a fine.

Shute – I think that's why our department philosophy, with me as department head, has strongly chosen the course of compliance, and compliance, meaning modifying the structure, rather than paying a fine and saying all is well.

Attorney Jeff Haase – Fining is the last option. We do want compliance. We may say a fine and compliance if we're not getting any cooperation. Compliance is the ultimate goal here.

Attorney Jenna Walker – I have a brief concern. In the characterization of taking out the word building or structure, in reading the definition of development, although I think that building and structure are included within development, I think it's fair for us to point out that you're going a lot further when you're including things like dredging and excavating and those kinds of things that weren't contemplated by the ordinance necessarily as it's written now. I think just to piggy back with what you're saying, I think it's important for everyone to realize that it's a little bit broader than building or structure with these proposed changes.

Shute – Correct, but that's a definition and a definition covers what we intend to cover within the standards. For our purpose, we want it broad in case it's the part of the ordinance that the definition deals with. The zoning ordinance could deal with more than just a structure or a building. Again, a structure being a non-building – a fence is a structure, it's not a building. Buildings are things with walls, support columns, a roof over it, enclosed. That's why they distinguish between the two terms. We have enforcement and administration over filling and grading issues. That's just a more modern term that's been introduced into land use to capture all those things within the ordinance. We can look at it and see if it really needs changing. There is really no negative to changing it to development. It covers all the things we deal with.

Attorney Jenna Walker – Right. You presented it as not changing much, but really it is expanding a lot compared to building and structure.

Arnold Knight – Does the new term, development, mean a permit is required to grade a driveway?

Shute – No.

Attorney Jenna Walker – It doesn't specify. It says grading so that would mean driveway. It just says grading.

Shute – Filling and grading for development purposes on a large scale. We don't require driveway permits now. This isn't intended to go beyond what we have now. It's to cover what we do now. We're not looking to expand beyond.

Attorney Jenna Walker – I'm just concerned that what you're saying and what the definition of development is are two different things. I want to point out to everyone what the definition is and what changing that will mean in practice. It refers to grading generally; it doesn't refer to development scale. None of that is defined so therefore it would cover things like that if you got picky about it. There is nothing in the ordinance to protect you against that level of scrutiny.

Shute – If it was written in the ordinance that we should regulate those things, then it would be covered. The definition doesn't force us to cover it. Definitions don't create standards. If our ordinance has an area that says we administer and enforce locations or filling and grading of driveways, then that would fall under the definition of development.

Attorney Steven Sorenson – For clarification, when does excavating fall into your department's administrative control?

Shute – We don't require a permit for just digging a hole.

Sorenson – I'm looking at this, for example, for the definition of lagoons. If I dug a hole for a lagoon, it would control?

Shute – This definition is the same as the one for the shoreland ordinance. Since definitions don't create standards, whatever is in this definition that applies to zoning would cover.

Sorenson – What about landscaping?

Shute – Unless the landscape has a component, that would be a structure. A rock sitting in a yard, I don't consider a structure. I don't know what past administrations have done. When you put a bunch of rocks together, it could make a structure that would be something that would be regulated and cause us to look at enforcement.

Sorenson – And, just for clarification, when would that be? That's one of the issues that is out there. When does moving dirt and rock into a pattern on a yard turn into a structure? I've heard the definition – if there is a rise of 18", then it's a structure?

Shute –There were some standards of some policy created within the department to try to deal with what was a structure, 18" or more than 18" if rise in a wall was looked at as a structure. We've done some of that policy enforcement to remain consistent, but we have nothing written as an ordinance requirement or a standard.

Sorenson – How would a developer or a homeowner know what the policy is?

Shute – Without discussing their project with us, some of those things they wouldn't. We've been in this very same place before and I don't know if what we're proposing tonight is suppose to deal with that or not.

Sorenson – Again, this is a workshop open forum.

Shute - It's a workshop about our enforcement and administration section. I'm not here to justify or to defend every decision we have or have not made. That sounds like where this is going.

Sorenson – No, not at all. I'm trying to represent the issues that are out there. You change the definition from what it said before as building and structure. Those are definitions. I can look up in the Wisconsin Statute the definition of building and structure. You have a new word now called development, which you defined in 350.77 which brings in the movement of land, excavating, which isn't in here. I know your department had control, but now we put it in the enforcement language.

Shute – No, we put it in the definition language.

Sorenson – By virtue of the definition, you brought it into the enforcement.

Shute – If it's addressed in the ordinance under the standards.

Sorenson – Correct, you brought it into them. And I'm just trying to say as a homeowner, when do I know when excavating becomes a permanent activity and when is it just simply OK? And you said it's based on policy, and the problem is policy can't be looked up.

Haase – Maybe they should just come in and ask Al (Shute) then.

Shute – That's 99% of our business.

Sorenson – You're going to create an ordinance that says that nobody can build or move dirt unless they ask Al?

Haase – If they have any question whether or not they need a permit or not, they should come in and ask.

Sorenson – How would you know? 90% of the areas that I work in, you have a definition of what it is, where the cutting point is. If you take a look at the state building code, it's very particular.

Haase – Are you saying that if somebody was concerned about moving dirt and that, if they had a concern enough to come in and look up the definition and they can't find it there, then wouldn't you think the next step would be to go and ask Al?

Sorenson – No. A guy goes out and mounds up the side of his house and puts rocks on it or stones on it just like his neighbors, and then somebody comes out with an enforcement action. He says how should I have known? The response is you should have asked?

Haase – Usually, in that particular case, we're looking for compliance. Couldn't they apply for a permit then? We give permits afterward sometimes.

Sorenson – Have you read your ordinance? You new ordinance doesn't permit that.

Haase – It doesn't exclude that.

Sorenson – No, but it says what you're going to do is begin violation prosecution.

Haase – What we're looking at is trying to get things in compliance. We're not out trying to penalize people. We want compliance.

Sorenson – The old ordinance use to have a procedure where you could chit chat about things. There is nothing in this ordinance that allows that.

Shute- There is nothing that we're changing with that procedure. If it was in the old ordinance, it must still be there. We're dealing with the enforcement and administration section.

Sorenson - As I said at the last meeting, you have some tremendous due process arguments in the way that it comes out. You've empowered the zoning office to stop a project with no due process of law. None. Zero. They simply have the right to go out and stop it. Nobody has a redress except the Board of Adjustment which could be 30, 60 days later. That's not due process of law. If I, as a police officer, issue a citation to somebody, he can still drive his car until he goes to court. Correct?

Haase – In most cases, yes.

Sorenson – And that's one of the issues that is here. The other thing is that this new ordinance prosecutes people that aren't even aware of a violation.

Haase – Not necessarily. It gives us the option to prosecute them.

Sorenson – That's the issue. Why should you have an option to prosecute someone who is not even aware of a violation?

Haase – How do we know who is around who is a more culpable person? You have to include the language to cover that.

Sorenson – So we're going to take a shot gun approach rather than the rightful approach?

Haase – What would you suggest, Steve, would be a better language?

Sorenson – I think you would definitely find out who the person is that did the violation then that person is given an opportunity to discuss it. If there can be no resolution, then you have a hearing. You establish an immediate hearing process and, until the hearing, the person works at their own risk. That's what we have now.

Haase – We did want the stop work order in there because of serious violations. Obviously, that's not something that we're looking to do on everything.

Attorney Jenna Walker – But, Jeff (Haase), you're sitting here now. Who's going to be sitting here a year from now? Who is going to be the director two years from now? And this language is there. You can say it's not our intent and we won't do that, but you can, based on the language as it's written. This workshop is to say what our concerns are and that is a huge concern that just because it's not this particular zoning office's philosophy, but legally you can still do it. That's a scary concept for people that may not know it's out here in this way. It could implicate them. Just because you're not going to do it doesn't mean that someone else may not. That's important to recognize this as you're writing this.

Haase – I understand your concern. We'll certainly look at that and any recommended wordings; provide us with that.

Shute – So if we've issued a permit and someone is working in violation of the permit, you're saying work at your own risk and then we'll just correspond back and forth until they decide it's a rain day so we'll come in and deal with this.

Sorenson – No. It's like a traffic citation. You give them a citation. I represent several towns. This is how we do it. We issue them a citation, there is a hearing date; the hearing date could be ten days away or eight days away. Until that hearing date, until they have due process of law, they do what they want to do. You've got a penalty provision in here that says you could charge them, the judge could find them guilty, and say that they've been guilty since the day they were notified, until the day of this hearing, $50 a day, $100 a day, we do it with junkyards all the time. You don't go make the guy clean up his junkyard that day.

Haase – So if it would be something like that, if we notice a violation, we send similar to a stop work order, but they continue to work until we have a hearing on it, that would address your concern more?

Sorenson – Yes, you'd issue a citation to the person saying that they have violated Section 432 and your hearing date is whatever.

Attorney Jenna Walker – I think the traffic citation is a real good analogy to use. You legally have due process right and you have to address those in this context as well as those other contexts.

Sorenson – What you do, when using that system, you suddenly are now getting on top of these violations before they become huge.

Haase – That's one of the things with the stop work order. What if you have something that is a major violation and you need to get it done before the court hearing? We don't want them to do anything more because of the potential damage that may be done.

Sorenson – If you write your citation correctly, the person getting the citation takes all the risk from that day forward. If I get a citation saying that I violated a setback, and I say that I'm going to keep going, that's fine, but recognize on that citation that the court can order you to pay $10-$5,000 a day. You're taking the risk and your hearing is maybe 10-12 days away. It's just an appearance thing. It does speed up the process. I don't want to leave the county out there with the due process argument that says that you have the ability, without the hearing, to take away my property rights, which is to build on my property. Somebody should be able to take that risk. But there should be a hearing time that is relatively soon and I think that's where the citation system really works well.

Haase – Do you know of any other counties that have a citation system?

Sorenson – Fond du Lac.

Shute – I think Winnebago still does. I didn't look up the history on how long we have had the stop work order, but that was a community and county board decision. It must have been some number of years ago because it was in the ordinance in 1998 at least that they wanted to deal with these issues through stop work orders.

Sorenson – Al, don't misunderstand. The purpose that I asked for this kind of thing the other night was because we need to talk all of this stuff out. I could have easily been sitting in Jeff's (Haase) chair as I am sitting in this chair. It's a whole lot easier to deal with rules that are very clear and concise. If you know the rule, and you have a way to enforce the rule in a relatively short period of time, because that's one of our problems, then we can all move on. We'll still get hired by people that are guilty as sin. We'll do our best. That's what the American system of justice is. That's nothing personal against you or the board. Everybody has a right to an attorney and a right to their day in court. I'm just trying to intercede in trying to make this a real workable system because we send a lot of time doing this and we don't like it when we're not getting along with your office. It makes our life really hard.

Shute – That's fine and that's why we're here. I agree. If the board and the community feel that the system we have in place isn't working with the stop work order, we're just the individuals that carry out the ordinance. When I took the job I was handed a stack of ordinances and was told to enforce them. We do the best job we can with that. If there is a change of feeling on how that should be handled, I don't take that personally.

Arnold Knight – A prior question was if I could grade my driveway without a permit. Next question is next spring I go out and plow my field and I start picking stones. Can I not pile them up more than 18" because you indicated that it would become a structure even though a neighbor would complain about it because we found out that many times neighbors come in and complain about things that happen and use our ordinances to enforce on their neighbors. Can I pile my stone pile up or my stone fence, is that considered part of the definition of development?

Shute – I would like to think not. I hope we don't have to go through a whole bunch of examples. I hope we can deal with the basic changes to the ordinance. People come in and we

discuss those things. I'm guessing that farmers have rock fence lines all over the place. I don't view those as structures or fences that are subject to us going out there and regulating them. If someone gets out mortar and starts building some kind of fence, I may tend to think of that as a structure. Someone picking up stones out of a field and dumping them along your property line I wouldn't say that would fall into a category where we would classify it as a structure.

Shute – Continue with 350-69. What we did there under *A*, we're just stating that the committee or department can refer violations to the corporation counsel if the department, after working with the violator, can't obtain compliance. This is not three days worth of working with a person that is violating the ordinance. Our documentation of correspondence, phone calls, and visits in the office, are, on the average, two months worth of going back and forth. We just don't say that you have three days and that's a drop dead date. I think we're pretty liberal with the time element in working with people that are violating the ordinance, to make a decision which way to go at least. If we say a month, and we don't even get a phone call, then we try to step it up and get some decision. If we can't with one more try, then that's usually when we refer it to the corporation counsel's office and see if we can get some response through our corporation counsel. Under *B*, we've indicated that each day is a separate violation and we've changed the maximum from $2,000 to $5,000. We don't set what the fine is. Jeff (Haase) indicated that we can make a recommendation, but the ones I've been involved in over the past 4 years that I've been the director, I've been in front of the judge on two, the judge asked about monetary and I said that I didn't want any, I wanted compliance. The judge imposed a minimal $50 fine. On another one, it was pretty blatant, the corporation counsel directed the department what the dollar amount was and asked us to determine how many days that the person was in violation and it was straight multiplication. The dollar amount came from the corporation counsel's office. We're not looking at this particular section as a revenue generator. I don't care if we never make a dollar on penalties through violations. I would rather see a county out there that has compliant buildings than a few extra dollars in our revenue fund. The last one talks about how a citation may be issued to obtain compliance. Those are the summary highlights of that section.

Sorenson – Under *A*, the last sentence says that the Land Use Planning and Zoning Department or Committee shall refer violations to corporation counsel. The in *C*, you're giving the Land Use Planning the authority to prepare their own citations. Those are inconsistent. You either have to do one or the other.

Haase – This would be referred to me and we would discuss how we would want to handle it, or whoever the corp counsel is.

Sorenson – When the law said that a designated staff member shall have the authority to fine consultation with the corporation counsel to prepare.

Haase – Yes, we can make it clearer. I understand what you're saying.

Sorenson – The only other question, Al, I have is the person who is going to be cited for the violation of the zoning code is the contractor or their agents. The definition of agent, I presume, is a statutory definition and that could include their attorney. I'm a little concerned with what was intended by the words or their agents, and which contractor is the one that you should issue the citation to.

Haase – That's one where we will talk it over. Obviously, you're going to have to have some individuals that don't know about the violation. We'll try to figure out who is the person who is the culpable one, if they knew about it. This will come up in conversations between the corporation counsel and the zoning department.

Sorenson – Then my question is, you'll issue a citation? The real violator is the homeowner, correct?

Haase – Correct.

Shute – I would interject that all of our notices of violation are homeowner based.

Sorenson – In consistency, I would say that the person that is liable, is the person who owns the property. I don't think that they can pass off the responsibility on their contractor. If they get sued, and they have to remove their property and they can prove that the contractor is the one that did it then let them go to civil court and prove that the contractor is the one that did it. I just think that what you want to do is send the message out there that the owner of the property or the developer of the property has got to be the person that is liable, not the agent or not the contractor because an agent, for example, Dan Egbert could come out working for Mike Jankowski who is working for Stan Arnetveit and the stakes are already out there and Boone (Dan Egbert) goes down and digs it up and leaves. Who's liable for the fact that he dug up too close to the lot line? Dan who followed the stakes? Mike who hired Dan? Stan how hired Mike? No, the bottom line is the guy who owns the property who hires the people. If they want to go to civil court down the line, that's their choice. You have to have a place where the buck stops here.

Shute – I don't disagree with any of that. Since I've been director and I've seen this in our ordinance, the only reason it's still here today is because I carried it forward from our current ordinance and if our legal counsel tells me that we're fine with taking it out, you'll not get an argument from me because everything we do in our department is landowner based.

Sorenson – The only exception you might see is developer or permit applicant. If they violate a permit, the guy or lady who applied for the permit should be the liable person. But I think using words like contractors or agents opens up great defenses for people like me. I do think that it's so much nicer if somebody calls me and I'll tell them that they might get sued in civil court, but it's the homeowner that is responsible, and guess what, he owes you a bunch of money and he's not going to pay you because you screwed up. And there's no reason for the county to be the policeman of the relationship between homeowners and contractors. I'm just recommending to the committee that I think that would be a good change and it makes it a lot easier for the contractors back here to know that suddenly they're not going to be liable. For example, Boone (Dan Egbert) doesn't have to go out with a surveyor each time to make sure that somebody else put the stakes in correctly. He can go for what's there and if it's wrong, it's the owner's fault.

Jim Hebbe, Green Lake County Land Conservation – I understand what he is saying but I guess the example that crosses my mind is that somebody puts in stakes and they tell them to go dig in the ground and if you think about how the Diggers' Hotline works, and hitting that type of thing, it still falls back on the responsibility of the contractor making sure that everything, for example that the utilities were contacted, and I use that same example even your contractor should check and make sure that it was done correctly.

Sorenson – Interestingly enough, Jim (Hebbe), if you cut a line, do you know who pays? Not the contractor, the landowner.

Hebbe – You're sure on that?

Sorenson – Oh, yes. Because the only way they can collect is they have the right to go back and put a lien on the property. The law reads that the contractor is suppose to contact, but if you damage the line, it's the homeowner that is going to pay. They may collect from the contractor or Power & Light may say that they did it, and because they know they did it, they just pay. It's easier for me to hit a line and pay for it than it is to take the time to wait for Diggers' Hotline to show up. For the county's benefit, I think you want to go back to the homeowner or the person who applies for the permit because you may get a big development.

Shute – Do you think we should leave it as a single reference in the ordinance or, rather than putting contractor, put landowner or permit applicant?

Sorenson – I think you could put in permit applicant. Because I think that is the person you had the face-to-face with.

Shute - Many times that's the contractor. The way our permits are structured, maybe we have to tweak those, is landowner and contractor.

Sorenson – I would tell my contractors, make sure the owner applies for that permit.

Shute – In a lot of cases, the ones that come past me, the landowner is listed, the contractor listed, and the contractor is signing.

Sorenson – Then they contractually assume responsibility. What I'm afraid of with this one is, or agent, you may be three stories down and this way, if I come in and apply for that permit and sign my name, then I'm responsible for that permit.

Shute – I can see permit applicant have the dual listing.

Sorenson – I agree with that. I think this word of agents or contractors leaves people that are maybe there one day.

Haase – I agree.

Sorenson – That's a great out for a homeowner who says not me, it's the contractor.

Shute – With the section we just reviewed, we're going to make some corrections to the part that references contractors or their agents. We'll make reference to landowner or permit applicant.

Sorenson – It's just a suggestion. If you look at your old ordinance, it was $200 and not $2,000. Did you mean to change it to $500 or $5,000?

Shute- We changed it to $5,000 consistent with two other ordinances we recently adopted. The floodplain changed to $5,000.

Knight – It seems excessive. Why is it necessary to change it to $5,000 a day?

Shute - It's just a number. It can be any number.

McConnell – There is a range there from $10 to $5,000 so it's not just $5,000.

Knight – Does that start the day the citation is issued or the day of the hearing?

Shute – I can only tell you what happened on one of the citations we issued. We were instructed to go back to the day the violation was recognized and then we had been working with the landowner and the contractor trying to gain compliance and we couldn't. We were instructed to go back to the day of violation, we knew when that was, and count the number of days the project was in violation and that was the one we were directed a dollar amount to apply per day. It doesn't have to start on the day of the citation, it started on the day of violation. Then the citation was issued at a later day.

Knight - $5,000 a day, if you don't have the hearing for 30 days, the county may own the property.

Sorenson – Let me say in defense of that, Arnie (Knight), some of the properties along Green Lake, $5,000 a day, they'd say what the heck. I think that's why you give discretion between $10 and $5,000 because that's up to the judge. There is a rule of law that, basically, says that whatever the judge does, it has to be reasonable under the facts and circumstances. That's why you need the range. A million dollar property in Green Lake may be a whole lot different than a property in the Town of St. Marie.

Attorney Mike Sias – Do you think you should have the violation mandatory? Because each day a violation exists shall constitute a separate offense so the minimum is going to be at least $10 a day for every day and if it takes you guys three months to find the violation, if you go back to when the violation existed, it's mandatory, if you have the word shall in here.

Shute – We don't retroactively go back on all violations.

Sias – Well, it says in your requirement that it goes to when it exists.

Haase – I think that's what Steve (Sorenson) was talking about. It probably should start when the citation is issued.

Sorenson – I think what Mike (Sias) is saying, and it is a rule of construction, that the judge has to have flexibility and the judge does have flexibility. Every Wisconsin statute says shall.

Haase – We could put may.

Sorenson – I think, when you write this, you have to be careful of the word shall. I think that's what Mike (Sias) is saying.

Haase – I know what you're saying, Mike. We'll look at that.

Shute – Under 350-70, there is an *A, B, C, D, and E*. We completely revised the 350-70 section. Item *A* deals with the violations that are reported into us. We note the violation, try to determine

what the extent is, what is going on, and then we will do our follow-ups and analysis to determine if, indeed, there is a violation out there. Item *A* is for reports that come into the office and issuing a stop work order for that situation. Item *B* is for violations that are either called in or are discovered as staff is driving around the county, we've issued a permit for something, staff stops at the site to do interim follow-up, there is work going on at the site that is beyond the scope of the permit. That's where we would like the ability to issue a stop work permit until we can get the parties involved into the office and get the appropriate permits issued, assuming they're building in a compliant location. It's not our intent to recognize those situations, hand out a $250 fine, and then go get the permit. We just want to get the permits, get the appropriate documentation, so that we know what the scope of the project is at that site. That would be another instance where we would issue a stop work order. Item *C* is a procedure added for clarification on situations where we issue stop work orders. This is where we talk about the builder again. This would be notifying the owner and here we have parties participating and we can modify that so that it will be consistent with contractors or their agents, but we'll notify the landowner of the stop work order. Item *D* again, is something new for clarification. We want to be able to post the card at the site so individuals are aware, adjoining properties, town chairmen, people looking at the site are aware that a stop work order has been issued. There shouldn't be any work going on at the site. That's what we do under the current situation when we issue a stop work order. We ask that the card be posted. The permit card isn't visible; the stop work order card is visible until we get the situation complied with. Item *E* talks about a situation where there is an appeal to the Board of Adjustment, either a decision of mine or a variance, the project stops during that time. If there is court action, the project has stopped during that time. Regarding Section 350.71, we've modernized the language and didn't change the intent.

Dan Egbert – I think there are a lot of people here that are disappointed that the county didn't put more effort in trying to clean up the vagueness in their code before coming after us with stricter enforcement. I think you have this thing backwards. You should have spent the last year straightening out this mess, this vagueness in this code when we go to the job sites and we wouldn't have as much enforcement to be done if we could get some of this very vague stuff when it comes to landscaping, structures, rock walls, and all of the problems are always the same, and it usually happens at a lake property, and I really hope that you'll take the time to focus on your code that has all kinds of vagueness. You know, we never had this problem with rock retaining walls until a code started talking so much about height of structures and then, when contractors were told that we now could only show 50% or less of an exposed basement, the excavator starts to backfill more around the house which creates more retaining walls and setbacks. A lot of these projects, if we could expose more of a foundation, it would allow the grade to be more level which would cut back on retaining walls that keep showing up in tight setbacks. But again, it's the code that determines where the problem comes from. I'm just hoping, as a whole, the next thing you do is look at some of these things. It's always the same issues. When is a rock in somebody's yard a landscape item? When is it a structure? When do six rocks become landscape, and when do eight rocks become structure? It's so vague and there's such a fine line there. First of all, I don't think retaining walls belong as a structure. I think you should put something in there that says any landscaping work that is done with natural materials, shouldn't be considered a structure. Remember 20 years ago, is when we got these ugly poured concrete walls, the railroad ties, all the junk of the 70's that was very poorly done for esthetics and everything. Landscaping has a come a long way. People spend between $50,000 and $100,000 on a lot of these expensive properties. People are spending big money to try to be very politically correct esthetically. I think landscaping needs to be determined as landscaping or less structure. Helping us with that would be huge. Thank you.

Sorenson – I think for consistency, if we went back to the use of citations rather than stop work orders, that's especially true, if you look at your 350.71 injunction, because your injunction becomes your due process stop work order. In other words, If you have somebody out there that you need to stop, you have the ability to have an injunction hearing and you can do those on 48 hours notice. I think that's a much better tool because you're protected, the committee is protected, and the property owner or permit holder will have the ability to appear in court.

Shute – 48 hours?

Sorenson – Yes, I think notice, under the statue for injunction, if you can prove that there is circumstance, you can do it in 48 hours.

Shute – That's why we, as a department, value the ability to go out and put up a stop work order because we were led to believe an injunction was a long process.

Sorenson – A permanent one is.

Attorney Jenna Walker – A temporary injunction is 48 hours.

Shute – For 48 hours, they're still building away.

Sorenson – Even if you put up a stop work order out there, what are you going to do, Al, shoot them?

Shute – The builders have been cooperative.

Sorenson – You can certainly put it in your citation that you're recommending that they quit working. My concern is due process because you don't want to be sitting here with a due process argument kicking out. You're going to get a due process argument if you stop work and the guy doesn't get to work for 60 days and he loses a sale, you've got an issue there because he never had an opportunity to have a hearing. Your 350.71 addresses that point. The other thing I would suggest is under *C* where you say the stop work order shall be mailed to the subject landowner's last know mailing address, I think you should put the permit holder also in there so it says the landowner and permit holder. This is a suggestion, use the addresses provided to the department on the permit application. Then you're protected. They'll be responsible then. Isn't that where you find the last known address most often anyway?

Haase – Correct.

Sorenson – Those are just suggestions in reviewing this. By the way, the reference in *A* where you reference *including but not limited to contractors or their agents*, that's a great place to include that because those are the people that are probably violating. In other words, they're the ones who are going to see someone doing something. Don't pull it out of there just because we've said it should come out of other places. The landowner is probably not the one out there doing something.

Shute – That's the end of what we're proposing for the zoning ordinance. We have one more ordinance and that's the shoreland protection. The document we created for zoning is proposed exactly the way it's written to be placed into the shoreland protection ordinance.

Sorenson – For our benefit from our office, our comments would be the same because they carry through.

Lynn Miller – Do we need a permit to erect any fence?

Shute – Fences are listed as structures in the ordinance. I suppose you're wondering about farm properties and fences?

Miller – There is a property down the road from us and they enclosed it with a fence.

Shute – I'm assuming it's some agricultural area and, typically, those fences go up between land owners. They're open fences, woven wire, barbed wire, and we don't seek permit applications for those.

Knight – The ordinance refers to all of the land in the zoned townships. It isn't just around Big Green Lake, it's all the land.

Shute – Absolutely.

Knight – So the complaints can come in the rural Town of Manchester.

Shute - Yes.

Wes Stibb – I strongly agree with Dan (Egbert). It's making it difficult to make a living. People are doing houses, spending money and they want to do things with houses. Some people don't want to come up any more and do those things. If Dan stacks up some rocks along a property line but they're over 18", he's not complying. If it's a natural product, and if someone like a farmer can do it, what is the difference? I would like to see some clarification.

Shute – I don't disagree with you or Dan that we need to address that issue in particular. That's one I inherited when I came on. I don't know how they arrived at that decision. We've done it as a matter of being consistent and we need to get at it. The committee is my boss and I bring sections of the ordinance that need to be worked on which, in my opinion, is every section. We can only afford to take a section at a time and try to make the thing fit together as we go. The way landscaping has been approached in the past, I agree it's an issue. I would comment that 18" on a 50' wide lot on Big Green Lake is different than 18" between two farmers that have 160 acres a piece. I need to get that direction from the committee.

Sorenson – To the committee, I would like to follow-up on both of those because these are the things that I really compliment you for opening this up. This is what we all like to do is allow you to know what the issues are. Al doesn't always want to be the conduit for all these ideas and you're the representatives of the people and a lot of people are afraid to speak up. They're afraid they'll get picked on. You can't take that away. That's human nature to be afraid. Inconsistencies, you have to be able to look at a farmer's fence and say that's OK and look at the neighbor's fence in a metropolitan area and say that's not OK. Until you write an ordinance that spells it out, those issues will occur and I hope you address them. We've talked to a lot of builders and a lot of people who aren't here. I think clarity is so important. I'm not trying to pick on individual issues. There are some things that you can do to tighten this up that I've suggested tonight that I think, from a legal point of view and from enforcement, looks a lot better. It makes our lives a lot easier when we can say that's the rule, that's the law and they can't say somebody else got away with it. Thank you.

Jankowski – I think it would be nice if the committee that writes the zoning laws would occasionally or once a year allow builders, realtors, and other interested people to get in front of them and ask why certain rules are written the way they are, such as the height restrictions on homes that we build. I have a real beef about that because it's hard to build a nice home with a 35' height rule. How was it measured and determined? I wonder if we could get a chance, as builders, to have input for that. I get plans drawn from guys in Appleton or Chicago and then I bring these plans in and I can't build my house. I can't get a permit to build the house because the houses are always too tall. There is some way to measure the height of the house and it seems to be done differently all over the country as well as the state and it's making it harder for us to build these nicer homes around the lake and stay within a 35' height rule. We're not measuring it from the first floor, you're measuring it half way down the basement or something based on existing geographical features which penalizes some people and makes it easier for others to build taller homes. There are other issues, too, but that's one that always seems to be a problem for me. I wish the committee would give us an opportunity to discuss this and maybe some of these could be changed or brought up to date.

Shute – The committee might have their own comment, but, historically, I think there was a belief that the spring gathering with our department and Land Conservation was a mechanism to do that. I understand what you're saying, you want to go beyond us. You want to talk to the people who say aye or nay to these ordinance rules and regulations. Maybe in addition to the gathering, we should have a night a couple of times a year where we discuss an ordinance and issues confronting you as builders. As representatives of the community, if those are beneficial to the community, because they shouldn't act only on what is beneficial to you as builders, but to the community as a whole. You raise a good point. To get that to these people, we hear it from you in passing, maybe the committee could do that a couple of times a year or more often. Our ordinance could stand a lot of discussion.

Jankowski – If the committee were to do that, is there a way to notify people beside read the small print about the meetings that happen?

Shute – I understand that there were around 100 mailings for this meeting. We could do that mailing if it was an agenda item. If they would share that list with us we would do that mailing if the committee determined they were going to do that. We'd make sure that we'd get that to you. I don't know if they would set the agenda or work with you on an agenda.

Orrin Helmer, County Board Chaiman – I would just like to say that on every meeting notice there is a place for *personal appearances* which you can do if you have anything you want to discuss and want to get on the agenda. Then once you're on as an appearance, the committee can go back and forth with you. If you speak under *public comment,* they really can't get involved. This could be on any meeting that they hold twice a month. Feel free to contact the office if you want to discuss something with the committee and get on as appearances.

Shute – Mike (Jankowski), maybe the way to do it would be to let us know you want to do it that way because that's the opportunity then for give and take on both sides. Give us some ideas of the points you want to discuss and I can bring that to the committee.

Jankowski – I can do that through you?

Shute – You can send that into our office, I can bring it to a committee meeting, and if they agree, we'll send a notice out.

Helmer – Under personal appearance, you put on the agenda what you want to discuss.

Shute – You can have several items listed as different topics and those would be placed on the agenda.

McConnell – Does anyone from the committee have comments?

Mueller – I would like to comment on the fine job that Al (Shute) and Jeff (Haase) did to get this done.

Helmer – Steve Sorenson and his office did a lot of work to get this group together and I would like to compliment them on doing that. I think we're airing some problems out that we would like to get straightened out so that everyone is not guessing what's going on.

Sorenson – Our office goal has always been the betterment of Green Lake County. That serves us a whole lot better than fighting all the time. Clarity and the give and take is important. We don't expect you to agree with everything, but the open dialogue is so good because then you get both sides of the issue. We're going to continue, Jenna and I, to inform the community, meaning the builders, etc.; we've got this nice mailing list now and we're not soliciting work in that sense, but the concept is very important for people to know what the rules are and that will cut down on the obnoxious things you have to deal with and that's really the goal. Thanks very much for doing this.

Helmer – As County Board Chair, I appreciate what is being done here and I look forward to working with everyone as in the past.

McConnell – I would add to that, I think this has been a real valuable discussion as well. I welcome the opportunity to maybe twice a year have this type of forum or, as Al was suggesting to Mike (Jankowski), let us know what's on your mind. A lot of the rules in place, we're not aware of. The committee doesn't work with these things day-to-day. You people are the ones in the field. They come to us written; we don't write them and we're not aware of problems that exist until we hear how things can become problematic. I think that we would be well served to have a meeting twice a year. If you can respond to Al, and he always gets us the information that we need to have, we're pretty agreeable to talk to people and hear the concerns. It would be great if Jenna (Attorney Walker) could get her list to Al so that we can stay in touch with you and we'll leave the door open for discussion and to work together. I think it's a great idea.

Shute – Mike (Jankowski), is that type of a meeting something that should lead into this building season?

Jankowksi – Yes.

Shute – Like in March?

Jankowski – I thought it would be nice if there was a meeting and there would be more builders there or realtors. They can all express their ideas. If the committee sees that there are more builders with the same issues, it might help bring change.

Shute – If you get on appearances as a group or an entity that wants to speak regarding ordinance issues or concerns, we wouldn't limit you to one speaker.

McConnell – We have a business meeting at the last part of the month. We can add the landscaping issue as well. This should be added to the list of things we need to work on. It would be valuable for all of us to be a part of this. Thank you all for coming and for your comments.

NEXT MEETINGS DATES

January 23, 2008 – Business Meeting - 6 pm
February 6, 2008 – Public Hearing - 6 pm

ADJOURN

Motion by Sell/Mueller, unanimously carried, to adjourn. Motion carried.

Time: 6:32 p.m.

Recorded by:
Carole DeCramer
Committee Secretary

APPROVED:
February 27, 2008