

Minutes: Washington County Zoning Commission

Thursday, October 1, 2009, 6:00 pm

Washington County Conservation Education Center, Marr Park
Ainsworth, Iowa

Members Present: Layne Twinam, Steve Swaffer, Ray Yutzy, Larry Thomann, Harold Frakes, Don Kline, and Shaun Greiner

Members Absent: None.

Also Present: Jacob Thorius, James Graham, Les Zickefoose, Joelyn Zickefoose, Ron Andersen, Veronica Dunbar, Greg Dunbar, Linda Wenger, Carl McCall, Thomas Stacy, Adam Mangold, Mary Zielinski, Dennis Altehofen, Chris Graber, Burdean Graber, Jim Miksch, Melvin Liska, Wanda Liska, William Wagaman, Mary Wagaman, Rick Marlara, Kevin Peiffer, John N., James Dunbar, Jean Dunbar, John Lynn, David Lynn, Wendy Lynn, Riella Rich, Wes Rich, Marcela Sarza, Steve Davis, Rob Keverly, Brian Bean, Jim Schlabaugh, Kurt Dallmeyer, Dave Skubal, Brian Hora, Jeffrey McGee, Stan Meader, Myron Rees, Jason King, Jared Miller, Larry L., Alex Varuli, Marlin Gingerich, Carl Prybil, Jim Rosien, Shirleen Huber, John Huber, Stan Potratz, Jean Potratz, Ron Barnes, Larry Christenson, Dale Gonterman, Dennis Stalder, Donald Schantz, Deb Simmering, Fritz Engel, Maurice Pacha, Peg Roberts, Jim Dunn, Margaret Dunn, Bruce Campbell, Sonja Campbell, Jim Stephens, Peg Stephens, Charles Rawson, Belinda Peiffer, Don Gingerich, Sterling Schweitzer, Dwight Miller, Bonnie Applegate, Robert Applegate, Mary Leedy, Katie Graber, Doug Enfield, James Graber, Kevin Dice, Lori Dice, Bethany Dice, Stephen Dice, Andrew Hora, Tye Rinner, Margaret Colthurst, George Colthurst, Marcus Fedler, John Berdo, DeLyle Winkel, Gary Sheetz, Kay Sheetz, Bill Fredrick, Julie Mangold, Terry Mangold, Chad Ellis, David Patterson, Gary Lozano, Lynn Miller, Nathan Miller, Charlie Conrad, Brett Sweeting, John Evans.

Meeting called to order at 6:06 pm by Layne Twinam.

1. Tentative agenda was reviewed. Motion to amend the agenda to add 2.5 for review and to approve the agenda as amended was made by Steve Swaffer, seconded by Don Kline. A voice vote was conducted on the approval of amending the agenda and approving the agenda with all voting aye and motion carried.

2. Minutes of the August 31, 2009 meeting were reviewed. A motion to approve the minutes was made by Shaun Greiner, seconded by Larry Thomann. A voice vote was conducted on the approval of the minutes with all voting aye and motion carried.

2.5. Layne Twinam gave a review of the process that led to the public hearing. This all happening because the county updated their Comprehensive Plan (Comp Plan), which is a snapshot in time and road map of where the County would like to go. Washington County has been in reactive mode because they have not been following a plan. The Supervisors are trying to take a proactive approach to implement the Comp Plan and make sure the county grows and that services can be provided in an economical manner. A diverse Zoning Commission was appointed by BOS to ensure all view points were represented. These members have been working with Gary Lozano to develop a plan following guidance from the Comp Plan. Layne highlighted items from the Comp Plan, and went over the top 5 or 6 strengths and weaknesses of

the County and items from the Land Use Section, which identified zoning as a tool to help maintain strengths and correct the weaknesses of the county. He went over some reasons why the commission has been working on the plan and that it has been a difficult task to tailor to the needs of the County based on their opinions and input from the public. Layne emphasized the Zoning Commission doesn't decide on zoning, that will be put up for a vote by the BOS.

The Commission decided to limit public input to 5 min per person, each person allowed to speak once, then maybe if there is time somebody can speak again. The Commission wants everybody to speak that wants to. Shaun Greiner moved to open the public hearing, seconded by Steve Swaffer. A voice vote was conducted on the motion, all voted aye and the motion passed opening the hearing at 6:22pm.

The Zoning Commission introduced themselves to the public.

Les Zickefoose – Brighton: He would like to change page 69 dealing with outside storage; he thinks it is too restrictive to have everything covered. He stated the population in 1900 was 20,718 and it currently is 21,213, not much of a change. He gave stats on Iowa showing that people move from rural areas to the cities. We don't need zoning and thinks it will drive the population out. Controlled expansion, if overlay zoning map with where current growth is happening, you have the same thing, why zone. He does not think rural homes causing all the troubles and believes a zoning ordinance will create conflicts. He stated that this won't be the end of restrictions; it is a living document and who is to say that it will be what it is now in the future. The ordinance doesn't affect 4 of the commission members because they are farmers or live in the city. He believes you should keep all freedoms equal for everyone.

Kevin Peiffer – Crawfordsville: Most of the ordinance doesn't affect him, he described his property. Where it is zoned ag, it totally restricts what he is doing. His property is currently used for monthly rental property. Doesn't believe his situation is addressed by the ordinance – nothing covers multiple single family homes on one property. He is concerned about future expansion and what he can do in the future if the ordinance passes. Sees inconsistencies with frontage requirements. On page 102 it talks about adding on to non-conforming buildings, and page 104 says can't. Why 35 acres, where does that come from? Why tell somebody they can't live in a mobile home?

Gary Lozano explained how the zoning districts were developed.

Mel Liska – Riverside – When towns decided where they can expand, how are we going to address more people coming to towns to grow? Are we just going to shut down their growth and build new town somewhere?

James Graham – Kalona: Commended the Commission that they cut down the length of the ordinance. He is not sure why we worry about where somebody builds and that you cannot legislate good neighborhood. Believes this is a blunt tool that needs to be used if going to grow properly, but government cannot decide what size lots for us to use. He is appalled at the boldness of the ordinance and thinks we are losing our freedom to profit from our property, and then required to pay some sort of fee to try and profit. This is more government bureaucracy and

rules that can be changed at any time. Wonders what the ordinance will look like in future if already have several pages regulating fences. Believes numerous businesses will be found to be in noncompliance and cannot be sold or changed and this ordinance will do little to inhibit his ability to enjoy his property. He stands strongly opposed to the ordinance

Rick Marlar – Wayland – Complained it takes too long to get his driver license and the ordinance will be too restrictive. He is concerned about what will happen in the future with control.

Brian Hora – Ainsworth – The new neighbor doesn't care about what happens unless there is some regulation telling him what he can do. This needs to be a long specific document to make sure there is no varying opinion in how to interpret something. Only way to implement land use section of comp plan is through zoning, everything else can be implemented some other way. No plan can foresee every issue in the future and the plan should be used as a guide for the overall vision of the community. The plan works, has detail but does allow for flexibility to deal with things on an individual basis. He encouraged the recommendation on and adoption of the ordinance.

Dave Skubal – Ainsworth – Each year the U.S. loses 2 acres/minute to urban sprawl. He wants to preserve the good ground in the county, because it feeds the world. The ordinance preserves everyone's rights, and keeps growth in an area where can be serviced. He encouraged the idea of sharing an administrator of the ordinance.

Veronica Dunbar – Keota – Stated nothing in the ordinance to regulate farmers and that is not right.

Stan Meader – Grace Hill – He is concerned about the ordinance; he likes living where he lives, and doesn't want to see rules that hurt some and not others, not sure if these rules will help everyone live peacefully together. He recommends not passing the ordinance.

Dale Gonterman – Washington – Doesn't think we need more government at this time.

Jared Miller – Wellman – Purchased some old rough ground near Wellman, thinks it is frustrating to not be able to live in Johnson County unless you have a lot of land or money. He understands the reasons for this ordinance, but frustrated that some will work to get around the rules to develop something that was told not able to be developed. Hate to not be able to live on 28 acres of rough ground in Washington County. Thinks this is a horrible idea.

Peg Stephens – Washington – Her family has a century farm near Grace Hill and finds it horrible that her daughter can't live on a couple of acres on their ground in the country. All roads are paid for by all tax payers, not just farmers. The small farmers suffer as equally as city folk. Thinks the restriction of business in county is wrong, thinks it is necessary to have business. Need more industrial and commercial area and relaxation on the rules for businesses.

Dwight Miller – Ainsworth – He talked with Louisa County; they dropped to 2 acre requirement to build on and figures it saves 1600 acres a year from being developed/taken out of production.

Stan Potratz – Washington – Thanked all for coming. Since his full page add has learned that his business is not affected by the ordinance, but still wonders if this is good for the County. 1. The Comp Plan is not the 10 commandments, you can change it. 2. Don't need to go this fast to achieve those goals. The ordinance is not going to solve the gravel road problems. Johnson County Supervisor says 40 acre rule eats up more ground, and he thinks that needs changed. Will it preserve farm land? This will help farmers compete with non-farmers at land sales, however farmers are given all kinds of subsidies – \$32,000 avg to the top 300 farmers in the County. Not a bad idea to preserve farmland, but can't make it too much tilted in the farmers favor. Support the work, but need to look at everything closely before going forward.

Steven Dice – Washington – Why are you so worried about somebody buying a few acres to put up a home when someone takes out a whole bean field for Wal-Mart?

Charlie Conrad – Crawfordsville – He has done a lot of flood relief disaster work over the last several years and is concerned about stopping somebody from rebuilding because of location. He also wonders how much these rules are going to get in the way from people being able to recover from natural disasters.

Ron Barnes – Washington – Some ordinances are necessary, but they need to be reasonable, they cannot be overly oppressive or nobody will pay attention. Wonders if one can put a house alongside his home on several acres? Concerned about what we are saying about ancestral land? Are we going to restrict every developer to build only one home on 35 acres in the county no matter where they are at?

Marcus Fedler – Ainsworth – Government is run by those who show up. He is asking that this board not do zoning. Thinks the way the ordinance is written is conflict of interest for anybody to vote on if they have ag/farming interests. Need to stop thinking on local level, need to look at bigger picture and how rights of those in the county are being handed over to the state and the feds. Our laws have to be more stringent than state or feds for us to really have control over what happens. Don't need an ordinance to control where we do what, need people to sue those who did them wrong. Laws don't stop stupid people from doing stupid things.

Greg Dunbar – Keota – Concerned about owning 7 acres and being a hobby farmer. Would like to have his kids take over the farm someday, thinks kids won't be able to build on their farm because assessed as residential. Thinks people are going to be moving out of the County and that the ground being bought up will be converted to ag property, which will reduce taxes to both the County and schools. Need to take in to consideration the small farmer and that they need to start out small, zoning ordinance may force them out of County.

Lori Dice – Grace Hill – Wondered if anybody knows why the zoning ordinance is not available for public vote [Gary Lozano explained why.] Somebody in her family has been to nearly every meeting, and there has been an overwhelming majority of people at those meetings against zoning. She is confused why they are still planning a zoning ordinance if everyone doesn't want it. Would like the Commission and BOS to take that into consideration.

Mary Leedy – Kalona – Cannot figure out why we cannot vote on this, but can gather signatures of those who are against zoning and share them with the BOS. Every day she sees loss of freedoms in this Country. What started out as preserving farmland has degenerated to the number of animals and number of garage sales allowed. Does not think farmers would be as eager for this as non-farmers if everything applied to them also. Only reasoned moved back here was to give children a quality of life growing up in a rural area like she had wants to be able to preserve that. She strongly encourages this zoning ordinance not go forward. Think it's interesting that BOS are republicans and are supposed to be for less govt.

Jim Miksch – Washington – Explained research from the County Attorney why no vote allowed.

Ron Andersen – Washington – Owns a family in-home business, as a real estate appraiser, has seen the affects of wet basements, small roads, sewage flowing on to neighbors, and affects of too many wells. Think those problems need to be addressed and that the subdivision ordinance does that. Not going to have any problems for his own personal business, but concerned about his wife's business [crafts]. In section 6.09 article 6, 1.c. – no accessory structures exceeding 480 sq ft, so they couldn't put up large shed for storage. Regarding employees – he is concerned about the restriction of how many allowed and would restrict growth of business. 5.b. – Prohibits deliveries which restricts business. Vehicles – the DOT determined their camper was commercial. Garage sales, too restrictive. Article 3, f. why seven days – too restrictive. Think need some kind of ordinance is needed, just less restrictive.

Shirleen Huber – Wellman – Family farm operation in favor to produce the best use of the land for food protection. Feels the rules make sure the best use of land is needed especially since people come and go all the time. Concerned about food production in the future.

Chris Graber – Noble – Lives on century farm. Zoning does not give rights, God gives them and government takes them away. Does not want zoning no matter what. Do not need good rules to deal with neighbors, follow the “golden rule” from the Bible and everything will be fine.

Layne clarified that the garage sales section was eliminated at the last meeting.

Tom Stacy – Brighton – Veteran that has given everyone the right to do what they want. Sees discrimination in this ordinance.

Andy Hora – Riverside – Heard lots of people refer to Johnson County's zoning ordinance thinks that has created our problems. Worked with development of subdivision ordinance and thinks didn't do enough at that time after seeing what has happened the last few years. 2/3 of the county's residents live under zoning, why not do forward planning to deal with a city's worth amount of population that has been moving out to country. Don't want more restrictions, but see that this is needed to protect his rights as well as his neighbors. This ordinance needs to be forward looking for any future industry growth that may happen that could cause an influx of people into the county. This is a way to help plan for anything, maybe there should be no building in ag land period.

Brett Sweeting – Ainsworth – Didn't agree with Comp Plan map, but thanked the board from keeping this from being a witch hunt to allow everyone to speak. Things are what they are because we haven't developed a regulation to say no to a problem that may develop. Hard for a small farmer to start up on ag land that is being sold as residential land that is over- priced.

Carl McCall – Washington – Farmer, but kids don't want to be farmers. Are they exempt from being able to build a home on their family farm? Everyone's dream is to live in the country. Most homes not built on prime farm ground; they want a pond and shouldn't need 35 acres.

Jean Potratz – Washington – The more difficult we make it to come back to live the more we increase the population drain on the County. Why are we discussing this, what is the real purpose of this ordinance? Not addressing the lack of industry, youth drain or high taxes. Recommend the Commission not pass this on, doesn't think it is doing what should be done.

Katie Graber – Grace Hill – Knows of 5 families that would like to grow up in the country with their family. Anyone can change the ordinance after it goes through. Would hate to lose the way of life she grew up with. Cannot afford 35 acres to build on. Don't think it is necessary, it is not our responsibility to feed everyone, and they need to be able to do some of their own.

John Evans – Coppock – Thinks it is morally wrong to tell somebody they can't buy ground to put a house on or to put a number of acres required to build on. Sees both sides of the fence, but feel like this ordinance is wrong.

Gary went over the acreage requirement in the different districts.

Jim Stephens – Washington – Has tremendous respect for farmers, wants to thank the Commission for their work. Does not agree with the ordinance. Strong public opinion will always be for/against this type of ordinance. This represents a horrible loss of freedoms and nobody gets that. The ordinance is grossly discriminatory, not right that some regulations apply to some and not others. Farmers should not be given a leg up on everybody else. Does not think the Commission should rely on Gary for answers, if you do you do not know the ordinance.

Fritz Engel – Grace Hill – Have seen what happens to ground that is not favorable for farming that gets farmed. CRP ground has a job, taking it out from the government payment creates buildable lots that give money back to the local economy. Think this ordinance takes freedoms away. Agrees with some of the ordinance, but think need to look over it to make sure everything is right.

Charlie Rawson – Washington – been looking for land to build on when retires for several years. Thinks if ordinance passes he won't be able to build on some ground he owns. Understands the plight of the farmer and importance of ag land to this Country, but still room for those who want to live in the country and raise a family; would hate to see that be taken away. Would like some adjustments be made to the ordinance, to allow a farmer to sell off 10 acres that may not be doing him any good.

Layne explained any preexisting lot is buildable.

Larry Thomann moved to close the public hearing, seconded by Don Kline. A voice vote was conducted on the motion with all voting aye, motion carried and the public hearing closed at 8:07 pm.

Layne stated they would take a 10-15 minute recess.

Meeting reconvened at 8:41.

The Commission addressed some of the questions from the hearing.

Ray Yutzy addressed concern about home occupation and that it only applies in Residential Subdivisions. Outside storage for residential uses only applies in residential subdivisions and anywhere within 300' of another residence. Gary explained that the commission made changes to only apply within residential subdivisions and areas that are like a subdivision with a lot of houses but not platted as such, that is where 300' rule applies.

Steve Swaffer wants to know on page 69 what "unused" applies to. Gary said it only applies to "goods".

Harold Frakes wondered what "lot area" is and where the measurement does comes from. Gary said you go to the area in the lot where the storage is going to occur and then you look for a home within 300' and then you either apply the rules or don't (which would be to screen or move the storage area further away.)

Gary clarified the concern about the 7 acre farm. If the land is less than 35 acres, it could still be a farm, but the ordinance will want to make sure that is the case – if this is indeed true, then they can be exempt from the regulations. Other individuals who have talked about family coming back to build, but not engaged in farming, would have to follow the zoning district regulations.

Ray Yutzy voiced concern about where 6.02.C.2 applies; he thought this was taken out. Gary explained again that this only applies to areas in Ag Residential or VR districts that consist of residential subdivisions. **Ray Yutzy made the motion to remove #2 in 6.02.C, seconded by Steve Swaffer. Discussion followed, Don Kline thinks this is valuable part of the ordinance to protect those in residential subdivisions. Yutzy wondered why can't the subdivision covenants cover this? Kline said it was so you have one regulation that covers them all and Gary noted covenants don't typically last forever and this would. A voice vote was conducted on the motion, with Frakes, Thomann, Yutzy, Swaffer and Twinam voting aye and Klein & Greiner voting nay, motion carried.**

Layne Twinam stated that he liked the comment about trying to share administration with others.

Gary clarified existing lots of record and requirements, and indicated that any existing lot of record is allowed to be used for any use, a home, under the current regulation.

Ray Yutzy explained that the garage sale restriction was removed.

Steve Swaffer, would like to change the storage of “unused” to apply to everything in 6.10.B, something unused is more of a concern. **Steve Swaffer made the motion to make “unused” apply to everything in the list in 6.10.B, seconded by Ray Yutzy. A voice vote was conducted on the motion with all voting aye, motion carried.**

Layne Twinam and Gary clarified to the group that mobile homes are permitted to be used as a home with a special permit for a maximum of 4 years, otherwise they need to be in Mobile Home Park. Most people regulate these because they are not taxed like permanent homes.

Ray Yutzy complimented the public for understanding the work that has gone into this ordinance. He realized at the beginning not everybody was going to be happy and wishes there was a way to do that. He is bothered by the 35 acres, not convinced that is going to work, but willing to give it some time and see what it does. Would like to have everyone adjust and make the ordinance work if it passes.

Harold Frakes made the motion that this Commission recommends to the Board of Supervisors that they table this ordinance, seconded by Ray Yutzy. Discussion followed Frakes read on Page 41, description of what Ag district is and encroaching residential uses in agricultural area; nothing in the ordinance from stopping owner from filing nuisance suit against a farmer. Does not see any problems being solved, sees lots of problems created. He was hoping to see some ordinance protect Lake Darling and the good land of timber and prairie ground. Thinks we have gone too far with this. Try and figure out a way to protect growth from happening up north. More discussion ensued on if the Commission had the authority to make that motion. Harold Frakes then moved to amend his original motion to this Commission table the ordinance (instead of the BOS), seconded by Steve Swaffer. Discussion followed, Layne Twinam thinks that would be going against the directive of the BOS. Swaffer does not think this is the right ordinance, and he does not have time to continue, but he cannot in good conscious vote for something that will not solve the problems. He thinks farmers have done good job protecting farm ground by putting it in to CRP faster than being developed. A lot of it would make good building sites, free market does better job at controlling growth. Question was called on the amendment to the motion and a show of hands was taken for the vote, with Frakes & Swaffer voting Aye and Greiner, Thomann, Kline and Twinam voting Nay on the motion, Yutzy abstained, the motion failed. Discussion followed on what authority the commission had on the BOS. It was determined that the BOS will make their own choice; the Zoning Commission is just making a recommendation. Question was called on the original motion and voice vote was conducted with Frakes, Yutzy, and Swaffer voting Aye and Kline, Greiner, Thomann and Twinam voting Nay, motion failed.

Ray Yutzy moved to present the draft Zoning Ordinance document has have to the BOS, seconded by Shaun Greiner. Discussion followed; Don Kline sees this document in a different light, sees this helping to protect both ag land and outdoor spaces as spelled out in the Comp Plan. Kline stated that they have torn apart the “cookie cutter” stuff from Gary’s original presentations; the amended document has addressed many of the concerns heard at the last several meetings. The 5 acre provision separates neighbors to help preserve the rural life and allows people to build in the County and helps keep the existing habitat/land use. Gravel road issue of rural residences costing more for services than the taxes they provided, the cumulative

effect of those homes creates the problem of providing the needed services. Not sure if the 35 acre restriction is right or not, but need time to see what happens. He stated that they did leave all those existing parcels to be developed even if they don't meet the zoning district requirements. He urged that the ordinance be passed on to BOS and that they approve. Shaun Greiner made the motion to amend the motion to take the document as amended and give it to the BOS, seconded by Done Kline, all vote aye, motion carried. Layne thinks it is time to hand the ordinance off to the BOS; this commission has done their job in developing an ordinance. The question was called, a voice vote was conducted on the motion with Thomann, Greiner, Twinam, Yutzy and Kline voting Aye and Swaffer and Frakes voting Nay, motion carried.

Since there was no other business, Shaun Greiner moved to adjourn the meeting, seconded by Harold Frakes. A voice vote was conducted on the motion with all voting aye, motion carried. Meeting adjourned at 9:37pm.

Respectfully Submitted,

Jacob Thorius, Zoning Commission Secretary