

**ETZ JOINT COMMITTEE MEETING
MINUTES
December 16, 2019**

Public Present: See attached sign-in sheet.

Call to Order: Mike Kudick called the meeting to order at 7:00pm.

Roll Call: Members present: Jeff Dorschner Jim Stradal
 Amy Grandaw Mike Kudick
 Stewart Swanson Andrew Rogers
 Kurt Kostuch

 Also present: Marilyn Padgett, Crivitz Clerk/Treasurer
 Dick Boren, Crivitz Attorney

 Mike Kudick declared a quorum present for the meeting.

- 1) **Adoption of Agenda:** Motion by Jeff Dorschner, seconded by Amy Grandaw to adopt the agenda as presented. Vote: Ayes: 6. Motion carried.

- 2) **Minutes Approval:** Motion by Stewart Swanson, seconded by Jim Stradal to approve the minutes of the meeting of September 24, 2019. Vote: Ayes: 6. Motion carried.

- 3) **Discussion and Possible Action on Proposed Wellhead Protection Overlay District Ordinance:** Members reviewed the updated document indicating changes agreed to at the previous meeting regarding prohibited uses.

 Motion by Stewart Swanson, seconded by Amy Grandaw to approve the Wellhead Protection Overlay District Ordinance as presented. Vote: Ayes: 6. Motion carried.

- 4) **Discussion and Possible Action on Proposed Groundwater Protection Regulations for Remainder of ETZ Boundary:** Mike Kudick reported that the Town Board decided they would like the regulations to be the same as the overlay district ordinance.

- 5) **Discussion and Possible Action on Proposed Remainder of Ordinance Regarding Conditional Use Permit and Zoning Variance Processes, Administration & Legal Issues:** Mike Kudick reported that the Town Board would like the town to have representation in at least the conditional use permit process. Attorney Boren reviewed an email he had sent dated 12/12/2019 (copy attached and hereby made a part of these minutes). He explained that allowing town members to participate in the conditional use permit process would require

the Village to change their ordinance, which he did not recommend. Instead, he recommended inserting a notification process in the ETZ ordinance that would require notification to the township of any applications received. He also explained that there was no option for town representation for zoning variances. Much discussion followed and the committee directed the attorney draft an ordinance creating a committee consisting of equal members of town and village representatives to hear and decide conditional use permit applications for the next meeting.

- 6) **Public Input & Questions from the Floor:** Concern was expressed about finishing the extraterritorial zoning process prior to September. Attorney Boren felt there is adequate time and noted that the process can be extended for 12 months.
- 7) **Confirm Next Meeting:** Wednesday, January 22 at 6:00pm.
- 8) **Adjourn:** Motion by Amy Grandaw, seconded by Jim Stradal to adjourn the meeting at 7:31pm. Vote: Ayes: 6. Motion carried.

Respectfully submitted,

Mike Kudick
Chairman

Marilyn L Padgett
Clerk

Marilyn Padgett

From: richard boren [rborenlaw@outlook.com]
Sent: Thursday, December 12, 2019 4:17 PM
To: Marilyn Padgett
Cc: Kurt Kostuch; Jeff Dorschner
Subject: Possible Town of Stephenson representation in the conditional use permit and zoning variance process in an extraterritorial zoning area

Marilyn:

As you know, I have been asked to render an opinion on whether the Town of Stephenson could have representation in the conditional use permit and zoning variance process in an extraterritorial zoning area. At the present time, the following ordinance controls and would prohibit this:

Crivitz municipal code Sec. 2-4-5 (a)
Residency Required for Service on Boards or Commissions

(a) Residency. No person not a resident of and not residing in the Village of Crivitz shall be appointed in a voting capacity to any Village board, committee or commission....

Comment: I suppose that the village could modify this ordinance in some fashion, but I do not believe this is good public policy.

Next we look at the statute and ordinance regarding the Plan Commission/Development Committee which deals with conditional uses.

61.35 Village planning. Section 62.23 applies to villages, and the powers and duties conferred and imposed by s. 62.23 upon mayors, councils and specified city officials are hereby conferred upon presidents, village boards, and village officials performing duties similar to the duties of such specified city officials, respectively...

[See also Crivitz municipal code Sec. 2-4-3 (c) and (d)]
62.23 City planning. (1) COMMISSION. (a) The council of any city may by ordinance create a "City Plan Commission," to consist of 7 members. The commission shall also include, as a nonvoting member, a representative from a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in the city, if the base's or installation's commanding officer appoints such a representative. All members of the commission, other than the representative appointed by the commanding officer of a military base or installation, shall be appointed by the mayor, who shall also choose the presiding officer. The mayor may appoint himself or herself to the commission and may appoint other city elected or appointed officials, except that the commission shall always have at least 3 citizen members who are not city officials. Citizen members shall be

persons of recognized experience and qualifications. The council may by ordinance provide that the membership of the commission shall be as provided thereunder.

Comment: the village could add a voting member town representative to the Plan Commission for the limited purpose of hearing ETZ conditional uses under Crivitz Municipal Code Title 13, Chapter 1, Article E. This would require a modification of the residency ordinance. The village could also create a nonvoting member on the plan commission similar to the representative from a military base in the statute above.

Finally, we look at the statute and ordinance regarding the Zoning Board of Appeals which deals with variances.

62.23(7)(e)2. Board of Appeals [also Crivitz municipal code Sec. 2-4-2 (a)]

2. The **board of appeals** shall consist of 5 members appointed by the mayor subject to confirmation of the common council for terms of 3 years, except that of those first appointed one shall serve for one year, 2 for 2 years and 2 for 3 years. The members of the board shall serve at such compensation to be fixed by ordinance, and shall be removable by the mayor for cause upon written charges and after public hearing. The mayor shall designate one of the members as chairperson. The board may employ a secretary and other employees. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The mayor shall appoint, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the mayor shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.

Comment: the Zoning Board of Appeals deals with variances. There is no wiggle room on the composition of the Zoning Board of Appeals. This is absolutely controlled by the statute which is also incorporated into the ordinance. Could one of the five members be a town voting representative on variance requests in the ETZ? I suppose that is theoretically possible, but then one of the five regular members would have to be temporarily bumped by the town representative. This is complicated and questionable.

In my opinion, the best option is to not change any existing ordinances, but instead, establish by ordinance a notification process whereby the town of Stephenson would be given advance notice when the Zoning Board of Appeals is considering variances and the Plan Commission is considering conditional use requests in the ETZ area. That way a town representative could attend any meetings and provide comments at any hearings. Remember, at this point we are apparently only dealing with groundwater protection and/or wellhead protection, not a detailed, restrictive zoning code.

Regards,

Richard B. Boren

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