



PLANNING & PARKS DEPARTMENT

Andrew T. Struck, Director

www.co.ozaukee.wi.us/540/Planning-Parks

MEETING MINUTES
COMPREHENSIVE PLANNING BOARD
WEDNESDAY, NOVEMBER 20, 2024 AT 11:00 A.M.*
OZAUKEE COUNTY ADMINISTRATON CENTER, ROOM A-200
(121 West Main Street, Port Washington, WI 53074)

*(OR 10 MINUTES FOLLOWING CONCLUSION OF THE COUNTY BOARD MEETING, WHICHEVER IS LATER)

Agenda Packet: <https://ozaukeecounty.gov/2107/Comprehensive-Plan-Board>

Bruce Ross, Chairperson

Thomas Richart, Vice-Chairperson

Rob Holyoke, Scott Rishel, and Timothy Maguire

Dan Vogel (Alternate)

1. Call to Order

A regular meeting of the Comprehensive Planning Board was held at the Ozaukee County Administration Center in Room A-200.

Attendee Name	Title	Status	Arrived
B. Ross	Chairperson	Present	10:35 AM
T. Maguire	Supervisor	Excused	N/A
R. Holyoke	Supervisor, District 22	Present	10:55 AM
S. Rishel	Supervisor, District 14	Present	10:50 AM
T. Richart	Vice-Chairperson	Present	10:40 AM
D. Vogel	Alternate	Present	10:35 AM

Staff present: Andrew Struck, Director - Planning and Parks Department; Brittany Whyte, Natural Resources & GIS Technician.

Others present: Robbie Robinson, Senior Planner - Southeastern Wisconsin Regional Planning Commission (SEWRPC), Miranda Page, Land Use Planner - Southeastern Wisconsin Regional Planning Commission (SEWRPC).

Alternate Supervisor Vogel will be a voting member today, as Supervisor Maguire is excused from the meeting.

2. Assurance that the Meeting has been Properly Noticed / Adoption of Agenda

Chairperson Ross called the meeting to order at 11:00 AM. Mr. Struck provided assurance the meeting was properly noticed.

Mr. Struck: Noted that the public hearing is scheduled for 11:30 AM per the public notice, so he suggested adjusting the meeting agenda in order to accommodate the public hearing starting at 11:30 AM.

Chairman Ross asked if the CPB members would agree to move the Public Hearing on the agenda to start at 11:30 AM per the public hearing notice.

Motion made by Vice-Chairperson Richart, seconded by Supervisor Rishel, that the agenda be adjusted such that the Public Hearing item be taken up at 11:30 AM as published in the notice. A voice note was taken. Motion carried unanimously.

3. Public Comments, Correspondence and Written Communications

Chairperson Ross asked if there were any public comments.

Mr. Struck said that there was a written public communication received and referred to the paper copy of the letter that was handed out to the CPB members.

Mr. Struck gave a summary of the situation contained in the letter. This letter was sent to us in review of the final draft POSP. It is from the neighbor directly south of Tendick Nature County Park. The neighbor reviewed the final draft POSP (November Draft) posted online and had a concern. Mr. Struck gave a brief history of our relationship with this parcel of land. Tendick Nature County Park was donated in 1999 to Ozaukee County by the Tendick family; several parcels were land divided from the parent parcel. The house on this parcel south of the park was land divided as a residential parcel. The parcel is directly adjacent and the structures are in very close proximity to the park and parcel line. A County-owned barn is located on county property behind the residential lot and is currently used for county storage and maintenance. A previous land owner built a separate structure (indoor gazebo) on county property. The County identified it as an encroachment through a survey of the County property. As such, to resolve the encroachment on County property, the landowner proposed and negotiated buying land from the County to resolve the encroachment issue. The County did not require removal of the structure (within its rights), but rather a resolution was passed by the County Board to sell approximately 0.14 acres of the County park land with approval of the Tendick Family, so that the landowner of the adjacent parcel could keep the structure and legally sell the property in the future with the structure (indoor gazebo) he built. As a note, when the County has projects at Tendick Nature County Park that are inconsistent with the master plan, the actions must be approved by the Tendick family heirs, due to deed restrictions. The heirs now are brothers (sons of Don and Rosemary, who made the donation). At the same time, the parcel line was found to go through the existing gravel driveway on the south end of the park. The entrance to the driveway is on the residential lot, but the rest of the driveway is on county property. Therefore, in conjunction with the land sale to the previous owner for the encroachment, an easement was established for the future property owner of the adjacent parcel for driveway rights and vice versa for County access using the existing gravel driveway. This easement was primarily required because the previous owner, after the purchase of land from the County for the other building encroachment, built another structure (a garage) on the parcel line with no setback. The garage is located such that you cannot back out of it without being on County property. Therefore, the easement was negotiated primarily to allow future landowners use of that structure (garage) without trespassing. The letter discusses concerns about the use of this shared (actual two) easement by the County. The letter references potential uses on the park master plan map in the POSP. In addition, it should be noted that per the County's previous WDNR Knowles Nelson Stewardship Program grants for the Tendick Nature Park property, handicap accessible parking is required (including existing and future staff as well as the public).

Mr. Struck introduced Matt Smith, who entered the CPB meeting, the current owner of the land parcel being referred to, directly south of Tendick Nature County Park.

Matthew (Matt) A. Smith (Mailing Address: 3849 COUNTY ROAD O, SAUKVILLE, WI 53080): We inherited the driveway. The easement has pretty clear language. County employees and agents only are allowed to use the shared driveway in the easement. The mouth of driveway is on his property (private) and the rest of the driveway is on land that the County owns, hence the two easements. The easement was set in place so that I could enter my garage through the driveway. We love Tendick Nature County Park, and the County is doing good work on the property. The public has had a lot of input on what they see the vision for the park to be going forward. The one thing he was able to notice on the POSP park master plan map is the handicapped parking note on the driveway. Mr. Smith introduced Ms. Christopher, who is representing him, and entered the meeting. *(This is a summary and not a recorded transcript).*

Mary Ann Christopher, attorney for Matt Smith: Inquired as to how much had been discussed so far on the easement language in this meeting? It is not clear in the POSP plan exactly what is contemplated. We want to get in front of the issue and make sure everyone is aware of the situation. This is shared driveway. From the POSP it appears that public use is contemplated for handicapped parking; though this is just an approximate

map, and we aren't certain. I took a look at the current easements in place – the current designated use is for year-round access for agents and personnel of the county only (per her reading of the easement). Per her reading of the easement, the easement is not for the general public, as the shared driveway is for the county's access to a maintenance/storage barn. When the easements were granted, the barn was just used for storage and maintenance. Who will be accessing the storage/maintenance barn? Any public use to access the driveway and locating a parking lot is contrary to the express language in the easement. I don't want county to devote resources or time into something that is not possible. *(This is a summary and not a recorded transcript).*

Mr. Struck: Thank you. Neither the POSP nor the Master Plan map goes into this level of detail nor into the history of the parcels, easements and illegal encroachments on the County property. The County primarily drafted the easement to allow for the private parcel to be legally sold allowing for the use of the garage structure as currently built on the property line with no setback, which did not comply with Town zoning. Page 701 of the POSP shows the Tendick Nature County Park Master Plan map with a handicap parking access label. This is what is being referred to in the comments and letter. Again, there are two easements, one that allows the County to use the current entrance driveway and another that allows the private landowner to access their garage over the County's land.

Mary Ann Christopher: Again, noted that there are two separate easements on the property. One easement is County granted land access to the landowner. The corresponding easement allows access from the landowner to the County for the driveway entrance.

Chairperson Ross: Asked if there was any further discussion.

Matt Smith noted that there is no handicapped parking there currently, as there is too much of a hill. He thinks there is no way you could designate ADA compliant access there.

Mr. Struck: Designation of handicapped access and parking is obligated by the WDNR Knowles Nelson Stewardship Program grants awarded for the property.

Supervisor Vogel: For the Stewardship grant we need the designation?

Mr. Struck: Yes, handicapped access and accommodation is required.

Chairperson Ross: Thanked Mr. Smith and Ms. Christopher for their comments. He noted that staff will review the details of the easement as noted in the letter and per the comments with Corporation Counsel as needed.

Chairperson Ross: We will move on in the meeting agenda if there are no additional public comments.

Mr. Struck: The only other comment is the alternative proposed CPB cover letter; however, we can take this up under the action item on the cover letter from CPB to the County Board regarding adoption of the overall POSP.

4. Approval of Minutes (October 16, 2024)

Motion made by Supervisor Holyoke, seconded by Supervisor Vogel, that the October 16, 2024, minutes be approved. A voice vote was taken. Motion carried unanimously.

6. REVIEW AND ACTION – A Park and Open Space Plan for Ozaukee County (4th Edition)

- a. Review/Discussion/Possible Action on a Comprehensive Planning Board Cover Letter for the Park and Open Space Plan and Discussion on Public Informational Presentation to the Ozaukee County Board of Supervisors

Chairperson Ross introduced agenda item 6a.

Chairperson Ross: Vice-Chairperson Richart has drafted a more succinct version of the cover letter to the County Board on the yellow paper handout.

Vice-Chairperson Richart: My objective was to create a cover letter within one page. I took the letter that Chairperson Ross wrote and modified and rearranged the paragraphs. Chairperson Ross had more interest to put more details into the letter. We also have the executive summary with more details.

Chairperson Ross: I am okay with whichever direction the CPB wants to go. The document will have more impact as a jointly signed letter; however, it doesn't need to be a jointly signed letter.

Vice-Chairperson Richart: There is enough space for 6 signatures on the bottom.

Mr. Struck: The last sentence in the proposed cover letter uses the word "endorse;" we will need to change this to the word "adopt." The County Board will be legally adopting the Park and Open Space Plan for Ozaukee County.

Supervisor Holyoke: I don't expect the county board members will look at everything in the POSP; I prefer Chairperson Ross's letter.

Chairperson Ross: I won't be offended if the CPB does not select my letter draft.

Supervisor Vogel said he prefers the letter to be concise.

Supervisor Rishel said that he doesn't have a preference between the two letters; he doesn't know if the board members will read it.

Vice-Chairperson Richart: Do we have the executive summary in the POSP and will that be distributed to the County Board?

Mr. Struck: Yes.

Vice-Chairperson Richart: So, this cover letter is essentially an executive summary of the executive summary?

Mr. Struck: Yes, to a degree.

Mr. Struck: What we agreed to deliver to the county board is the resolution and support document, the SWOT graphic and SWOT table, and the executive summary, which includes a referenced map and table from Chapter 6 as well as the overall timeline. Those items would be delivered as a package to the County Board.

Chairperson Ross invited someone to make a motion to consider which version to adopt of the letter to jointly-sign.

Vice-Chairperson Richart: This was just intended to be an alternate option. Are there any other thoughts anyone has to share?

Motion made by Vice-Chairperson Richart, seconded by Supervisor Rischel, to use Vice-Chairperson Richart's letter to provide to the County Board. Seconded by Supervisor Rishel. A voice note was taken. Supervisor Vogel, Supervisor Rischel, and Vice Chairperson Richart voted aye. Chairperson Ross and Supervisor Holyoke voted no. Motion carried.

Chairperson Ross: Are there any further comments to edit Vice-Chairperson Richart's cover letter?

Vice-Chairperson Richart: We need to change the word "endorse" to "adopt" and staff can clean it up.

Chairperson Ross: Ok, it is 11:30 AM, so we can move on from this agenda item to the Public Hearing.

5. PUBLIC HEARING: A Park and Open Space Plan for Ozaukee County (4th Edition)

Chairperson Ross called the public hearing to order at 11:32 AM.

Mr. Struck read the legal notice for the public hearing.

Mr. Struck noted that each CPB member received the hard-copy written comment provided earlier in this meeting.

Chairperson Ross: Do we need to review what we did in the public comment section of the meeting earlier?

Mr. Struck: If you want to discuss it further, however, the minutes will reflect the discussion under the public comment. *(Please see discussion under Public Comment of the minutes).*

Chairperson Ross: Are there any additional public comments or remarks?

Mary-Ann Christopher: I wasn't familiar with the issue of the garage not being within the required setback and zoning. That is a separate distinct issue.

Mr. Struck: Yes, my comments earlier were just to explain the background of the relationship between the Tendick Nature County Park parcel and the adjacent parcel and the actions of the previous landowner on multiple occasions.

Mary-Ann Christopher: mentioned that the current landowner did not build that structure on county property.

Matt Smith noted that he has had many positive interactions with the county staff and they have good ingress and egress. He noted that he does not have any encroachments on County property and has not placed items on County property within the easement *(A recent survey has demonstrated otherwise)*. His concern is with the future designated public access and handicapped parking. He expressed that he wants to be able to pull his vehicle into and out of his garage, so he requires the easement from the County.

Chairperson Ross: Are there any other public comments?

There were no other public comments and no other written comments.

Chairperson Ross closed the public hearing at 11:39 AM.

6. REVIEW AND ACTION – A Park and Open Space Plan for Ozaukee County (4th Edition)

b. Review and ACTION – Resolution recommending adoption of “A Park and Open Space Plan for Ozaukee County (4th Edition)”.

Chairperson Ross introduced agenda item 6b.

Chairperson Ross: I don't think there are many issues now with recommending the adoption of the POSP. It has been up to the committee to make comments on the POSP as it has developed over the last several months.

Chairperson Ross thanked everyone for their work on the plan, noting that it is an impressive document.

Chairperson Ross: Are there any comments or recommended changes?

Supervisor Holyoke: I am part of the Joint Mequon-Thiensville Bike and Pedestrian Way Commission, and we noted an edit to the proposed trail in Mequon in Map 6.5. Near the Little Menomonee River Fish and Wildlife Preserve (LMRFP), there is a designated trail/path that heads east to the Ozaukee Interurban Trail. The path included in this map shows the future route going all the way north to Freistadt Road. We think this is dangerous and there is a better route. The consensus from the MT Bike and Pedestrian Way Commission is to change this designated route to keep people off Freistadt Road.

Mr. Struck: This item is in Chapter 6, the Recommended Park and Open Space Plan chapter. The route shown in this map is a hybrid of what Mequon and Thiensville had in their existing plan and the desire of the County to connect to the Little Menomonee River Fish and Wildlife Preserve (LMRFP) and west to the County line. We would like to be consistent with what Mequon is planning for the area and also make a connection to the new County park. I concur with Supervisor Holyoke that Freistadt Road may not be the best connection to the east and the Ozaukee Interurban Trail.

Mr. Holyoke: I coordinated with Mr. Struck on a new route (primarily on the road) that connects east to the Ozaukee Interurban Trail.

Chairperson Ross: So, if Mr. Struck agrees to modify the route, what happens?

Mr. Struck: We can change the mapping in the POSP to reflect the new route proposed by Mr. Holyoke and the Joint Mequon-Thiensville Bike and Pedestrian Way Commission. We can also add a narrative to state that the final alignment will be done in coordination with Joint Mequon-Thiensville Bike and Pedestrian Way Commission. We would default to their planned trail route in this area east of the LMRFP. We just want the trail to connect through our Little Menomonee River Fish and Wildlife Preserve County Park property and west to the County line.

Chairperson Ross: Should we make a motion to recommend POSP adoption with this change?

Mr. Struck: Yes, you can move to approve the POSP with that amendment. We will then amend the planned trail route in the POSP for County Board approval.

Chairperson Ross: At what point do we remove the “conditional” approval?

Mr. Struck: Up to this point it was with “conditional” approval, but now we are recommending to the County Board for adoption.

Chairperson Ross: Is anyone opposed to the change that has been discussed for the proposed trail route?

Mr. Struck: One emphasis is that we have the proposed trail route go through the Little Menomonee River Fish and Wildlife Preserve County Park property. That doesn’t conflict with the proposed route though.

Supervisor Holyoke: The proposed route is an even shorter route to get to the Ozaukee Interurban Trail.

Chairperson Ross: There is consensus to accept that as an amendment and change to the plan.

Mr. Struck: Noted that there are two tables not in the right order in the current posted POSP final draft plan. That will be corrected. There are no changes to the tables themselves though.

Mr. Robinson: Other than those two tables that were accidentally omitted initially there are no other edits from SEWRPC. The accomplishments and funding table was updated. Mr. Struck mentioned a couple of minor master plan map updates that are still needed, particularly at Hawthorne Hills County Park.

Chairperson Ross: Are there any other edits requested or comments from CPB members?

Supervisor Rishel made a motion, seconded by Supervisor Vogel, to recommend adoption of A Park and Open Space Plan for Ozaukee County: 2050 (4th Edition) according to the included resolution to the County Board. A voice vote was taken on the resolution. Motion carried unanimously.

Mr. Struck: This motion is advancing the resolution found in the meeting agenda packet to County Board for adoption of the Park and Open Space Plan: 2050 (4th Edition).

7. Discussion on a Farmland Preservation Plan for Ozaukee County

Chairperson Ross introduced agenda item 7.

Mr. Struck: Mr. Robinson and Ms. Page will be helping us with the Farmland Preservation Plan update. CPB will be moving right into work on that plan starting at the December meeting. We have a statutory binding due date for this plan's completion of December 31, 2025. SEWRPC, in conjunction with County staff per the agreement, has noted that they can meet the due date. Included in the packet was the scope of service project overview, outlining what will be in the plan. We are very thorough with our plans and it will meet all the statutory requirements. The scope won't change much from the current plan; we are just updating it with current data and potentially any new Farmland Preservation Areas. Optional "homework" for CPB members is to review the current Farmland Preservation Plan (*it is located on the Department's website*). One of the main aspects is complying with statutes is to allow for eligibility for State tax credits to landowners that are within a Farmland Preservation Area and zoned accordingly. We will get into further details later. All communities will be invited to participate. Tax credits are the main incentive; they are only available in a Farmland Preservation Area as provided in the plan. The only community that opted in previously is the Town of Belgium. The Town of Belgium maintains farmland preservation zoning within the designated Farmland Preservation Area.

Supervisor Vogel: So, only the landowners in the Town of Belgium can get the credits?

Mr. Struck: Yes, currently that is the case and if they apply for the tax credits. All the communities were contacted on multiple occasions about the Farmland Preservation Plan and designated Farmland Preservation Areas in their community. Several communities opted out after many meetings and lots of discussion and a few communities like the Town of Cedarburg submitted an area for Farmland Preservation, but ultimately the area was deemed by DATCP to not meet the requirements in State statute for a Farmland Preservation Area. The parcels included in the preservation area must be contiguous and of a certain size, among other requirements.

Chairperson Ross: Will we be engaging with the municipalities to see if they have changed their minds about participating?

Mr. Struck: Yes, we will engage with all the municipalities. Obviously, most of the incorporated municipalities will not qualify according to statutory requirements with possibly the exception of the City of Mequon. The Town of Cedarburg likely will not be in a position to participate given the last plan and DATCP's decision and given the Town has further developed since the last plan. The City of Mequon is unique in the state for having farmland in the "City" but would need to accommodate for farmland preservation zoning.

Supervisor Rishel: Why would a municipality want to participate in this program? Just to help the landowners?

Mr. Struck: Yes, the tax credits can benefit the agricultural landowners in the community. The program requires that these Farmland Preservation Areas (FPAs) and the Farmland Preservation Plan is consistent with Comprehensive Plans.

Mr. Struck: During the last planning process for the FPP, the Town of Port Washington and Town of Saukville opted out. The Town of Cedarburg and Town of Grafton were not eligible since they could not meet the minimal requirements of a designated FPA. The Town of Fredonia ultimately opted out, although we went through the entire process of designating an FPA in the Town. So, landowners in those communities can't take the farmland tax credit. A participant that takes the tax credit agrees to keep the land in agricultural production. However, the land use conversion penalty that was present during the last planning process no longer exists as it was removed by the legislature.

Chairperson Ross: Engagement with the municipalities needs to happen soon.

Mr. Struck: Yes, we have already begun discussions with the communities.

Supervisor Rishel noted that on page 2 of the scope in the letter, a Citizen Advisory Committee is mentioned.

Mr. Struck: Yes, we will have some kind of advisory committee that will be more like a technical advisory committee. The committee will likely have members of the Clean Farm Families or other agricultural landowners, other agricultural agencies and the Ozaukee County Land and Water Management Department.

Supervisor Richart thanked Mr. Robinson and SEWRPC staff for everything they have done to date. He noted previous SEWRPC staff we have also worked with, Nancy Anderson and Ben McKay, who did a great job.

Chairperson Ross: Are there any other comments on the Farmland Preservation Plan?

Supervisor Holyoke: Is the Ozaukee County Land and Water Management department involved?

Mr. Struck: Yes, they are and will be involved, but the Planning and Parks Department is responsible for the development of the plan.

Mr. Robinson: Because of the hard deadline, CPB's work will need to be done timely and efficiently.

Chairperson Ross thanked everyone for all their work.

Mr. Struck acknowledged all of the work that SEWRPC staff have done for the POSP.

8. Other Business

There was no other business brought before the CPB.

9. Next Meeting Date(s) – Wednesday, December 18, 2024

The next meeting will be December 18, 2024, following the County Board meeting (if there is a County Board meeting), in room A-200 of the Ozaukee County administration building.

Mr. Struck noted that CPB will need monthly meetings for the Farmland Preservation Plan update, starting in February or March 2025.

10. Adjournment

Supervisor Rishel made a motion to adjourn. Seconded by Vice-Chairperson Richart. All in favor, motion approved unanimously. The meeting adjourned at 12:06 PM.