

DEVILS LAKE PLANNING COMMISSION  
HELD MARCH 22, 2007

Present: Kevin Davidson, Frank Mack, Terry Thompson, Marlene Bertsch, Larry Liere (on phone), Tom Traynor, Gary Martinson, Michael Grafsgaard and Fred Bott. Enclosed is a list of people present in the audience.

Kevin opened the meeting. Frank made a motion to approve the minutes of the last meeting held March 8, 2007. Motion seconded by Marlene. On vote being called for the motion carried.

This was the time set for a public hearing to review a request for vacation of Elm Street located South of Walnut Street between 8<sup>th</sup> Avenue SE and Walnut Drive SE. Gary said it is about 200 feet long and there is no potential development. There are utilities there so if it is vacated we will have to keep the utility easement open.

Marlene said she was involved in this transaction. The landowners have always been using one-half of the street as their personal property. When this came up, the appraiser discovered that the street wasn't vacated. When the property owners were approached, they came to the City and were surprised that the street had not been vacated because they had thought it had been done a long time ago. It actually had not. When you look at the picture you see that a gazebo on part of it that has electricity, power, cable, etc. The City gave them permission to do that. It has been used as part of their yards.

Hearing or receiving no further comments, Kevin closed the public hearing.

Frank made a motion recommending the City Commission approve the request for vacation of Elm Street located South of Walnut Street SE between 8<sup>th</sup> Avenue SE and Walnut Drive SE with ownership of vacated property evenly distributed to adjacent property owners and will include a utility easement on the entire vacated right-of-way. Motion seconded by Terry. Upon discussion, Mike said this will start the advertisement process with the advertisement being published for four consecutive weeks in the official newspaper. On vote being called for the motion carried.

This was the time set to review a proposed ordinance to amend zoning rules and regulations.

Guy DeSautel said at the last Planning Commission meeting held March 8, 2007, we presented our proposed ordinance for your consideration. We touched briefly on the City Commission request suggesting that we involve professional outsider's point of view. Today, Dan Houston from Civil Economics in Austin, Texas is here. He is an attorney and an urban planner. His power point presentation is going to last about thirty minutes. He will answer questions during his presentation or follow-up questions at the end of his presentation. Guy also said he would like to earmark 8:30 A.M. as a cut-off possibly because this might run more than one hour.

Tony Braunagel asked Mr. Houston who is paying for you to come to Devils Lake. It is the City or is it some other people in town.

Mr. Houston said it is the Business and Property Owners Coalition. At this point, it is a handful of people in the City who are independent businesses. He said the presentation is "Civic Economic and Retail Work". What they are trying to tell communities that they work with is how can you make an economy in your community where prosperity is for the long haul. You don't make decisions for just this year or just for the immediate tax crisis that you are facing, etc. but for the long haul. Their clients are all over the country. He talked about some of the work they have done in retail.

Mr. Houston said they were hired by city governments in Gunnison, Colorado and Homer, Alaska to come and look at the impact of a proposed super center of some kind. In Homer, it was under an ordinance like the one you are discussing. In Gunnison, they had a fair amount of money and decided they wanted to research this before they made an ordinance. He explained the study done and how it affected the two communities. Mr. Houston said in both of those cities they did a lot of interaction with the public. They spent a lot of time gathering information and giving it back. They did a Market Basket Survey. They took an excerpt of the list that is used for consumer price indexes. They took items that are commonly available and often purchased for groceries and certain drug stores items that are in grocery stores and they priced them at every store for a big distant around the community. It turns out that the cheapest single grocery basket they could come up walking through the store and pricing things was in fact one of the really big discount stores in Anchorage, Alaska or Pueblo, Colorado – large market discount stores. It was not the big discount store in the small market. If you didn't leave your small town to shop could you get compatible prices? It turns out if you just comparison shop in your town among the two or three stores – grocery and drug stores you have operating in your community instead of driving one or two hours to the super center to do it in you actually got a total cheaper basket in your own town if you got in the habit of buying items or going from store to store in your own community. The perception that those big stores bring a lot cheaper prices is a little bit overstated and it certainly in the very small markets when there is a range of competition available. It didn't seem that they mystify reduced prices.

Mr. Houston said in Ramsey County the population has been stagnate which is nice. That is true throughout the region. If you were going to have a Wal Mart Supercenter you are talking about 150,000 square feet. Within that store probably 45,000 square feet would be dedicated to the grocery store area. It is very rare situation that Wal Mart Supercenter adds on to an existing Wal Mart. From the planning perspective if you are going to have a Super Wal Mart it would be better if they didn't abandon the existing store. You probably would end up with 150,000 new square feet somewhere in your community. Then you have a 72,000 square feet Wal Mart Discount Center sitting vacant. Tractor Supply Company is the most reliable user of Wal Mart Stores. You already have a Tractor Supply Company building. It is very rare that you have a K-Mart. There is a lot of reorganization in the company. Nobody knows what is going to happen with the K-Mart stores. That is another 87,000 square feet that is up in the air at this point.

Mr. Houston has reviewed the proposed ordinance. Small town governments have a tough time drafting model ordinances. It is hard to do this in-house. The ordinance for the City of Devils Lake is a nice ordinance.

Kevin asked for public comments from the people in the audience giving you name and address.

Nels Nelson – He is a contractor and has rental property. He has a large family. He moved back to Devils Lake in 1995 from Arizona. In ten years, we have lost about 500 children in our school system. We kind of had a struggling young businessman that doesn't seem to flourish in Devils Lake very well. It is a struggle to be a young businessman. He has asked a lot of questions lately. What do you see? He has seen a lot of other towns growing. They said that they see our children moving out of Devils Lake. The children say there is not a thing going on in Devils Lake. Children are the new demographics of a small community. Ordering on line is becoming a thing that is going to devastate us and it devastates us somewhat now also. We can even shop on-line. We can have all we order shipped to us. He doesn't want to take businessmen and destroy them. How can we really help Devils Lake to grow and become a town that gets looked at instead of drove through? He feels that we get drove through so many times and he hears that so much. How many of us go out of town to shop to buy clothes, buy materials, etc. because they are cheaper and some of these other things that aren't as competitive. The demographics from this study he sees from other towns that aren't even close to ours. We are a farming community. Our tourism is starting to boom. He started calling towns basically farming communities or rural communities of 6,000 to 8,000 people. He talked to the city people of one town and the mayor told him that he was against big box store super Wal Mart. He went on saying how that town had flourish because the traffic started coming there. It had the same situation with the minority or another group of people that lived close by. The downtown is full and there is a grocery store that is trying to look for a downtown space. There is no downtown space. Other businesses are looking at that community. He called other towns and there other things that he said that really improved. People are looking at their community. He did not hear this deal that the town is going to fall apart. He heard that people are starting to look at their community and things are happening that were not happening before. He would really like to do a better study on that and call towns of our size. We need reality for our community. Do we need growth? This is a very serious issue. He believes that we need time to look a little better and research some more information. He does not see growth. Everything time he sees growth they are selling out to someone that doesn't have a heart in this community. That might be Wal Mart. Our other business do the same tactics as Wal Mart does to get ahead. Forward Devils Lake has not done a very good job in this community. That saddens him. They are not doing a very good job of saying how do we grow. We really need to look at this different and start growing up. To grow up you really have to look at ourselves. What did we do wrong in life? He doesn't want to hurt anybody in our community. He would like to see our community grow. Wal Mart isn't a type of business that is going to leave tomorrow. Some of these businesses that we are funding come in and leave and they take their money.

Arch Allison from Fargo said he is currently the market manager for Wal Mart for the state of North Dakota. He would like to talk about some of the criticisms. The presentation was good on some of the information but it didn't talk about North Dakota. He wants to discuss what impacted the people in North Dakota. In the last year, we had a very aggressive expansion plan in the state. They opened seven new super centers in the State. In talking with a gentleman who is the head of the Grocer's Association for North Dakota he was asked how many grocers went out of business last year that are no longer a part of the Grocers Association. There was one. It

was in New England. When asked was that due to Wal Mart he said “no”. Right now, there are plans for another grocer that might be going out of business. It is not due to Wal Mart. It is due to a family issue. Look at the grocery environment and some of the changes that went on. Competition is always good. It makes us better. If you look at the Fargo market, a new super center opened there. Hornbachers upgraded their store and put in a brand new store which is good for the consumers. If you look at the communities of Bismarck and Minot in which Wal Mart opened up new super centers, the local grocers there went in and remodeled their stores and invested in them. Now, the customers are the winners who have that new shopping experience. He also said that in the stores that they vacated last year when they relocated their stores, there are ten that are moving in everyone of those in North Dakota. Also, what does Wal Mart give back to the community? Governor Hoeven’s wife says how proud she is of Wal Mart’s involvement in the schools in which they donate some computers in the schools to help the children. A teacher at Sweetwater School was recognized last year by Wal Mart as the “State Teacher of the Year” and a \$10,000 donation was given to the school in her name. Last year the Wal Mart stores were recognized as the top organization in the State for their participation, volunteers and the help that they gave to the Special Olympics in North Dakota. He mentioned other organizations and places that Wal Mart has been involved with. He would like to ask the folks of Devils Lake what are their thoughts and the associates of the Devils Lake store. He is here today to celebrate with the associates in that store that was recognized by Wal Mart as “The Regional Store of the Year” for last year because of what they have done to the community and their associates in the store. Last year 85% of those associates said they are very engaged in that store and appreciate working there. So they are doing some good things in Devils Lake. He would ask the commission to think about those things he mentioned as you make your decision.

Val Schwartzenberger who lives in Frison Addition said one of the things that nobody is looking at the elected officials are the business managers of the community. The community either grows on their decisions or it gets stagnate. Right now, you go to Cando or Grand Forks to buy gasoline for \$0.12 a gallon cheaper than you can buy it in Devils Lake. To an extent, he lives on social security – not that much. The free enterprise system whether it be Wal Mart or whoever, competition will bring the prices down to those living on a fixed income which is very important not only to the old but also to the young that are on entry level of income. If you are going to grow a community you have to draw everybody into it. If you keep chasing businesses away you are not going to grow to it. If we had Home Depot and possibly a Menards to go with the super store the community would be better off. Everybody that comes in whether they are coming in to the Casino or whether they are coming in to shop, most of these people come in and they stay overnight. There are restaurants and hotels that receive income. Once you cease to bring them in because the economy becomes stagnate you lose.

James Davidson said he is a local businessman in town. He feels this issue is larger than your group – the Planning Commission and is larger than the City Commission. He feels that the people need to have a say in it. He feels that it needs to go to the people.

Terry Midstokke said he is retired now. His son works for Wal Mart in Fargo. He has worked there for two years. After two years, he gets a bonus. That money comes to your community and that stays in your community. Out of that \$45.00 of every \$100.00 that the local businesses spends in the community he would like the breakdown to know how much of that money goes

into reinvestment that man owns to have the interest or something else or how much goes into his bank account that doesn't go through the community.

Tony Braunagel said his biggest problem is the ordinance that you reviewed and it was quoted as saying it was a very good ordinance. He has some questions. He would like to have the Planning Commission sit down with a group of people and individually go through some of this ordinance. He has a lot of stuff that he has checked off which does not make sense to him. Somebody should sit down and explain this so that a working person can understand it. He knows that you don't have time to review these ordinances. You depend on staff to tell you what is going on. He would like to know how many of you have gone and sat down and visited with staff and gone through this ordinance. He would like to point out the trend of what is going on is actually our future. If you don't sit down and really analyze what is going on we are going to end up like a stock yard that has closed down. He has a lot of things that he would like to review. He would like the Planning Commission not to make a motion on this until you have a committee sit down and he would like to be on the committee to review the ordinance with you step by step and ask why you did this and why that. There are some sections in here that absolutely don't make a bit of sense.

Kevin closed the public hearing on the proposed ordinance to amend zoning rules and regulations. He would like to thank everybody for their input. He appreciates all the comments this morning.

Action on the zoning amendment – Kevin asked the members of the Planning Commission if there were any comments.

Marlene said in the last few days she visited with local people that have come forward with positive comments. She respects the comments that Tony just made about the proposed ordinance and the resolution that the City passed. It talks about how super Wal Mart or big box would fit into the City's Comprehensive Plan. She would like to see the City's Comprehensive Plan. It is an immense ordinance and there are a lot of things in here. One question that she had is that is this ordinance is only from what she can see eliminating big box businesses that have over 5% of non taxable items or use their store for more than that. There are a lot of questions that she has. This is a complex issue. She doesn't think that this is something that they intend to vote on. She feels that everyone on the Commission needs to study this.

Marlene made a motion that the Planning Commission table the issue until the next meeting and to refrain from voting on the resolution until at least the July meeting. Motion seconded by Frank. On vote being called for the motion carried.

Larry said there is a gentleman from Wal Mart that is a resource person. He would like to ask him would the restriction to 90,000 square feet impede Wal Mart's activity in the City of Devils Lake.

Arch said he can't say that it would impede it but if this ordinance is passed then it would really make it tough for them to do something under 90,000 square foot format. This is something that they will consistently look at. If the ordinance is passed the way it is today then that would

really make it tough to look at anything in the future. The present size of the store in Devils Lake is 72,000 square feet. A 200,000 square foot store is what we find in Fargo. When you look at economics of it we would not put anything that big in doing something in Devils Lake. In Grand Forks it is 200,000 square feet and that was added on to the additional building. Williston is 195,000 square feet.

Val said he drove truck cross country for better than forty years. He saw a lot of these Wal Mart Shopping Centers all over the country especially the super. The one thing that he noticed is when the super center comes in when they handle groceries and gas, the gas prices stabilize. They were more reasonable to the consumer. He doesn't know what they have plans for here. He feels that it is a big mistake if this City does not go along with it to improve.

Larry said that he agrees somewhat with Tony that the ordinance needs to be studied. He found a couple of things that he feels are mistakes. In 17.84.030 – conditional use permit section – it should be a variance of special use permit. He feels maybe we should form a committee to do some studying with the City Attorney – some people on both sides of the issue and go through this a little more thoroughly before our next meeting. He will back in Devils Lake on Wednesday afternoon.

Kevin said from there we certainly can address that and see what our next step is before the next meeting.

Larry asked the City Attorney if we can appoint a committee outside of the open meeting or can we do that after this meeting is closed.

The City Attorney said you can appoint a committee, but the committee is subject to the open records law. So you have to have notice of the meetings and if the public would like to attend.

Larry asked would it be appropriate to move that we form such a committee or can we just go ahead and do that.

The City Attorney said certainly if you want. He is not sure how you are going to plan to compose a committee at this point.

Marlene said she feels it is very important because this is so complex that we need more time. We have a pretty low attendance at the meeting today. We have a lot of members that are not here to even hear what has happen at this meeting. We as a group have a lot of unknown questions. Maybe we need to get together and talk about the questions and concerns we have. We really haven't had a chance to do that. At the last meeting, we didn't know for sure why we were really coming here. We listened to a presentation. Today, we listened to a presentation and amongst ourselves there has been very little input. If we do some kind of a committee we need to make sure that there is at least a representation from our board on that committee.

Larry said he agrees. If we publicized tomorrow, it would take a week before we could have another meeting even of a special committee. Is that correct?

The City Attorney said whatever the notice requirement is. What meeting are you talking about – a Planning Commission or a committee?

Larry said the Planning Commission to form a committee.

The City Attorney asked why can't we do that at the next regular meeting. It gives us some time to digest this and think about it and come up with some questions. The committee is certainly one option that we can look at.

Larry said he agrees with that except it delays that a month.

The City Attorney said it gives us some time to get some questions answered and discussed amongst ourselves so we know what we are doing.

Larry said we will table this until the next meeting and proceed from there. How big of an attendance do you have in the audience.

Kevin said we have a full room of people in the audience. There are four Planning Commission members present plus Tom, Gary, Mike and President Bott. The editor of the Devils Lake Journal is present also. We have thirty one people who signed the attendance sheet.

The City Attorney said so the public knows, the Planning Commission meets the 4<sup>th</sup> Thursday of the every month. The next meeting will be held April 26, 2007 at 7:00 A.M. at the City Office.

Larry said we also talked that maybe 7:00 A.M. isn't a good time for the general public to come and give comments because they have to be at work by 8:00 A.M. Would it be wise to have an evening meeting sometime on this issue?

Someone said it would be better because a lot more people would be able to attend.

Kevin said we talked about that and also with this meeting as kind of a platform he would believe that we might have it at the Courthouse or another area that would be more convenient for everybody. Is that something that has to be done now?

The City Attorney said we can do that between now and July.

Kevin said that we can discuss this at the next meeting.

There being no further business, Marlene moved to close the meeting. Terry seconded the motion. Motion carried and meeting adjourned.

Respectfully submitted,

Marge Austin  
Acting Secretary