

# MEMO

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**To:** TPC

**From:** Jen; ZA

**Date:** 2-20-07

**Re:** Response to TPC Chair Memo dated 2-15-08 and 2-20-08 TPC Agenda Item VII(A)

To facilitate discussion I placed some information in your boxes as they pertain to roles and responsibilities within the Zoning Department. I supplied each of you with copies of the ZA, RCS and ZA Asst job descriptions as well as sections of the TPC Handbook. Please also refer to pertinent sections of the La Pointe Zoning Ordinance and TPC BY-LAWS.

To begin, all of us hold an office that serves the public. No matter who is designated to what responsibility, serving the public is all of our priority. Specifically, it is our charge to “insure that development occurs in an orderly manner so as to recognize and respect existing land uses”. (La Pointe Zoning Ord Section 1.1)

There are many facets of the department which perform the means to this end. State Statutes, Ashland County Ordinances and Town of La Pointe Zoning Ordinance are the main factors that speak to how land use is carried out to promote public health as well as the health of our natural resources.

Within these documents of code and law are two different kinds of duties, ministerial duties and discretionary duties. When planning, the Town Plan Commission has its highest level of discursion. When making quasi-judicial decisions such as CUPs and land divisions, allowable discursion is less as you weigh the proposal's compliance with the codes, smart growth plan and public opinion. There are duties of the Zoning Dept which have no discretionary factor at all. These are ministerial duties and must be carried out by letter of the law or code without question. Examples of this type of duty include complying with Open Records Laws, Open Meetings Laws, deadlines and permit processes outlined in the Ordinance.

Failure for a public official to carry out a ministerial duty can result in various criminal charges for Misconduct in Office. It would depend if there was nonfeasance, misfeasance or malfeasance on the part of the public official.

With this outlined, I will state that I believe in my job. I believe in law. I believe the laws that were set forth by our forefathers, whether at the Federal, State, County or Town level were imposed to bring peace and protect our natural resources. Therefore, I feel fortunate to be in the position I am in. As the Zoning

Administrator, it is my duty to administer the Town of La Pointe Zoning Ordinance, applicable Ashland County Ordinances and applicable State Statutes. By definition, my administrator position is ministerial. I have little to no discursion on the performance of my function.

Of course the question is tonight, what is my function? One function according to my job description is to administer the Zoning Ordinance and direct the function of the Zoning and Building Department. I administer the duties as laid out in the La Pointe Zoning Ordinance whether they are administered within the department or out in the general public. If the Ordinance and its ministerial duties are not performed properly within the Department, the Ordinance no longer matters outside the Department. As Town Officials you are expected to perform at a higher standard, know the laws and codes, know the amount of allowed discursion, know the correct process. The weight of the many constituents who depend on you to make decisions that affect their lives and property depend on your knowledge.

The laws and codes are not my words. The administration of the laws and codes are not my choice. My job is to present history, fact and law. There is nothing personal involved. If there is failure within the department, as Department Head I will make sure to the best of my ability the Department and the Ordinance maintains its integrity. If that means picking up the slack, then that's what has to be done. It is not a choice for the Administrator to selectively administer. It defeats the purpose of law. It is just done. It's the only way anyone can walk into this Department and have any faith they will be served in the same manner as the person before and in the same manner as the person after.