

MINUTES OF REGULAR MEETING

Champaign County Environment & Land Use Committee
Champaign County Brookens Administrative Center
Urbana, IL 61802
DATE: February 13, 2006
TIME: 7:00 p.m.
PLACE: Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

MEMBERS PRESENT: Jan Anderson, Chris Doenitz, Tony Fabri, Nancy Greenwalt (VC), Ralph Langenheim (C), Brendan McGinty, Jon Schroeder

MEMBERS ABSENT: Patricia Busboom, Steve Moser

STAFF PRESENT: Connie Berry, Frank DiNovo (RPC), Joel Fletcher (Senior Asst. State's Attorney), John Hall, Leroy Holliday, Susan Monte, Barbara Wysocki (County Board Chair)

OTHERS PRESENT: Jeanne Gustafson, Greg Abbott, Amy Murray, Nancy Moser, Craig Rost, Hal Barnhart

1. Call to Order, Roll Call

The meeting was called to order at 7:01 p.m. The roll was called and a quorum declared present.

2. Approval of Agenda

Mr. Langenheim requested that the Committee hear Item #15: Request fee waivers for Special Use Permits for two METCAD towers prior to Item #11: Discussion regarding building codes and regulation of rental housing.

The consensus of the Committee was to hear Item #15: Request fee waivers for Special Use Permits for two METCAD towers prior to Item #11: Discussion regarding building codes and regulation of rental housing.

Ms. Greenwalt moved, seconded by Ms. Anderson to approve the agenda as amended. The motion carried by voice vote.

3. Minutes of Previous Meeting (November 2, 2004; December 12, 2005; and December 20, 2005)

Mr. Doenitz moved, seconded by Ms. Greenwalt to approve the November 2, 2004;

December 12, 2005; and December 20, 2005 minutes as submitted. The motion carried by voice vote.

4. Public Participation

None

5. Correspondence

None

6 County Board Chair’s Report

None

7. Joint Champaign County-City of Champaign Enterprise Zone

Ms. Greenwalt moved, seconded by Ms. Anderson to recommend approval of the Joint Champaign County-City of Champaign Enterprise Zone. The motion carried by voice vote.

Mr. DiNovo cautioned the Committee that they approved Item #7 without reviewing the Ordinance.

Mr. Fletcher stated that the Committee did not approve anything in respect to the Ordinance but the Committee did take a vote on the idea and its concept and made a general policy statement. He said that this could be taken to the full County Board with a recommendation for approval, even though the Ordinance was not reviewed by the Committee or Item #7 could be deferred to next month.

Mr. Doenitz stated that forwarding Item #7 to the full County Board without reviewing the Ordinance is not a good policy.

Ms. Wysocki stated that Mr. Craig Rost or Ms. Jeanne Gustafson should be contacted to discuss the time sensitivity of this item. She suggested that if Item #7 is time sensitive then a Special ELUC Meeting could be scheduled at 6:30 p.m., in Meeting Room 2, prior to the County Board meeting on February 23, 2006. She said that the Committee could review and discuss Item #7 at this time but if it is not time sensitive then Item #7 could be deferred to the March 13, 2006, ELUC meeting.

The consensus of the Committee was to hold a Special ELUC Meeting on February 23, 2006, at 6:30 p.m. in Meeting Room 2, to discuss Item #7.

8. CDAP Loan Request for ABC Learning Center (Carol Kelly)

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Mr. Schroeder moved, seconded by Mr. Doenitz to recommend approval of the CDAP Loan request for ABC Learning Center (Carol Kelly). The motion carried by voice vote.

9. CDAP Loan Request for Alliance Resources, LLC

Mr. Doenitz moved, seconded by Ms. Anderson to recommend approval of the CDAP Loan request for Alliance Resources, LLC. The motion carried by voice vote.

10. CDAP Loan Request for Concrete Supply, Inc. (Kerry & Becky Grove)

Mr. Doenitz moved, seconded by Ms. Greenwalt to recommend approval of the CDAP Loan request for Concrete Supply, Inc. (Kerry & Becky Grove). The motion carried by voice vote.

11. Discussion regarding building codes and regulation of rental housing

Mr. Schroeder moved, seconded by Mr. Doenitz to table Item #11 until the March 13, 2006, ELUC meeting. The motion failed by voice vote.

Mr. Schroeder stated that this issue is specifically stated on the agenda as discussion. He said that as of today at 3:00 p.m. the Planning and Zoning Staff did not have any information regarding Item #11. He said that he received a telephone call from someone from the local media which asked him to comment on this issue and he was embarrassed to admit to the local media that he did not have information on this issue. He asked how the Committee can discuss this issue when they haven't received any information to review prior to tonight.

Mr. Fletcher clarified that he is responsible for the late distribution of materials regarding Item #11. He said that when the agenda was being prepared he knew that the information would not be ready for the packet and he should have informed staff to indicate that the information would be distributed at the meeting. He said that this request came from a County Board member and this was his way of getting this to the Committee so that discussion could begin on this topic. He said that his is not an item for action.

Mr. Doenitz stated that the Committee has not had adequate time to review the distributed information and asked how a discussion occurs.

Mr. McGinty requested that Mr. Fletcher provide a brief overview to the Committee regarding this issue.

Mr. Fletcher presented a brief overview of the distributed memorandum dated February 13, 2006.

He said two new statutes changed the affect of building code on private contracts. He said that

1 one of the statutes indicates that every residential construction contract has to have a building
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3 code and if the County does not have a building code one will be set by state statute. He said that
4 the main effect of the County setting a building code is to make the County responsible for
5 enforcement of the building code. He said that if the County does not adopt a building code and if
6 there is not a specific code identified in the contract between the builder and the purchaser then
7 the Illinois Residential Building Code Act sets a default set of codes that apply.

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9 Mr. Fletcher also explained that a second affect which is not listed in the memorandum is the
10 statute which provides the "Right of Set Off". He said that if a building is not in compliance with
11 either the County building code or the implied building code the tenant, under certain
12 circumstances, can make or pay for the repairs themselves and deduct the costs of the repair from
13 their rent. He said that he was also asked about the general power for the County to regulate
14 rental housing. He said that the County cannot set rent nor enact regulations that have the affect
15 of setting rent. He said that the County does not have the general power that the cities have to
16 cite unfair housing practices. He said that the County can consider rental housing like all other
17 structures in accordance to zoning restrictions. He said that this was not intended to be a detailed
18 discussion about everything that could come up in a building code ordinance and it was only
19 intended to begin the discussion so that he had a better idea of where he needs to focus his
20 efforts.

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22 Ms. Greenwalt stated that a few months ago a constituent came to the Democratic Caucus to
23 speak and she recommended that this person come to the Republicans as well to discuss his
24 concerns with construction in the unincorporated areas and no building code. He said that he
25 suggested that the County adopt the State's standards to give the new homeowner's more
26 protection. She said that it seemed to make common sense to adopt the State's standards
27 because there would be no cost for inspectors or other comprehensive means. She said that she
28 was interested to see if the County could establish standards of health and safety for rental
29 properties because should the County have this in affect then the Residential Tenant's Right to
30 Repair Act comes into play.

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32 Mr. Fletcher stated that it is not a simple matter of adopting the State's standards into a local
33 ordinance. He requested that this issue be deferred to the April 10, 2006, ELUC meeting.

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35 Ms. Greenwalt stated that she has heard from quite a diverse group of people who have very
36 dramatic stories to tell the Committee. She said that she would like to inform these people of the
37 deferral date so that they may attend the meeting.

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39 **The consensus of the Committee was to defer Item #11: Discussion regarding building**
40 **codes and regulation of rental housing to the April 10, 2006, ELUC meeting.**

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42 **12. Discussion regarding burning in the unincorporated areas of the County**
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2/13/06

AS APPROVED MARCH 13, 2006

ELUC

1 Ms. Greenwalt stated that the Justice Committee viewed the distributed photographs. She said
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3 that it appears that this is a health issue for the lady who submitted these photos and the
4 Committee should consider her concerns.
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6 Mr. Fabri asked if the County is allowed to treat subdivisions differently than the general
7 unincorporated areas of the County or is it a one size fits all issue.
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9 Ms. Greenwalt stated that she would imagine that there is an exemption for agriculture.
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11 Mr. Fletcher stated that he is not aware of the County's authority to regulate in this area at all
12 specifically when it is a burning issue. He said that a burning issue could be referred to the IEPA
13 or the fire protection district, which does have some regulatory authority in the area. He said that
14 the County does have the general authority to regulate public nuisances and air contamination.
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16 Mr. Schroeder stated that the lady also came to the last County Board meeting to present her
17 photographs. He clarified that agriculture is not totally exempt in the County and suggested that
18 the Committee members perform a little homework on the agenda items. He said that the
19 Sadorus Fire Protection District set a policy on any burning. He said that if someone within the
20 Sadorus FPD burns without a permit they will be fined. He said that within a lot of the fire
21 protection districts the trustees have the authority to regulate what, when, and how much can be
22 burned. He said that the property in the photographs is located within a fire protection district and
23 he believes that the lady should contact the trustees of her fire protection district and petition that a
24 burning policy be adopted.
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26 Ms. Anderson stated that most people believe that they can burn anything, other than buildings in
27 the unincorporated area.
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29 Mr. DiNovo stated that the State allows the burning of yard waste and any domicile paper waste.
30 He said that anyone who burns plastic garbage in a garbage burning barrel is violating the State
31 law.
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33 Mr. Fletcher stated that a fire protection district does have more direct authority than the County
34 does to date.
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36 Ms. Anderson asked if everyone in the County is located in a fire protection district.
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38 Mr. Schroeder stated yes.
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40 **13. Update regarding affects of the Illinois Supreme Court decision in Village of**
41 **Chatham vs. Sangamon County.**
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43 Mr. Fletcher stated that he addressed the Committee about this topic in December. He said that

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 2 he wrote one of the attorneys representing one of the litigants in the case and his response was
 3 included in the packet. Mr. Fletcher stated that the City of Champaign Legal Council has been
 4 tracking this legislation and it appears that it will not pass this year. He said that he is meeting with
 5 the City of Champaign and City of Urbana’s legal council tomorrow to talk about legislative
 6 solutions to this problem.

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 8 Ms. Wysocki asked Mr. Fletcher if the County should draft a letter to its legislators indicating the
 9 County’s stand.

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 11 Mr. Fletcher stated that this was the consensus of the Committee in December. He said that one
 12 of the goals during his meeting with the City of Champaign and the City of Urbana is to see if there
 13 is a consensus between the cities and the County on this issue and to present that consensus in
 14 one letter to the legislators.

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 16 **14. Monthly Reports for December, 2005 and January, 2006.**

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 18 **Mr. Doenitz moved, seconded by Mr. Fabri to accept and place on file the December, 2005**
 19 **and January, 2006, monthly reports. The motion carried by voice vote.**

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 21 **15. Request fee waivers for Special Use Permits for two METCAD towers**

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 23 **Mr. Doenitz moved, seconded by Ms. Greenwalt to approve the requested fee waivers for**
 24 **Special Use Permits for two METCAD towers.**

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 26 Ms. Anderson asked if the Committee had approved such waivers for other government entities in
 27 the past.

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 29 Mr. Hall stated that the Committee has approved such waiver requests in the past.

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 31 **The motion carried by voice vote.**

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 33 **16. Comprehensive Zoning Review Update**

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 35 Ms. Monte stated that on January 31, 2006, the Zoning Board of Appeals continued the public
 36 hearing for Case 522-AT-05 to a Special Meeting to be held on March 2, 2006. She said that the
 37 ZBA requested that a Study Session be provided to review questions that they may have during
 38 their preparation of the Findings of Fact.

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 40 Ms. Wysocki asked if the Special Meeting on March 2, 2006 would only be a Study Session for the
 41 entire meeting or just the beginning portion of the meeting.

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 43 Ms. Monte stated that the intent is to hold a Study Session at the beginning portion of the meeting

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followed by a resumption of the public hearing.

Ms. Wysocki asked if staff anticipates action during the regular meeting.

Ms. Monte stated that the ZBA has 8 Findings of Fact to consider and there are many members of the public which continue to provide testimony. She said that it may be very ambitious to believe that the ZBA would be able to move through all of the Findings on March 2nd.

Mr. Hall agreed. He said that Ms. Wysocki raised questions regarding the relationship between a Study Session and a Regular Meeting that staff needs to investigate. He said that he was only expecting the Study Session to be periods in the meeting where the Board will make the public aware that they do not desire to hear testimony and intend to take time to hash the issues out and after that time resume the public hearing. He said that staff will need to discuss this with Mr. Fletcher to determine if there are any significant issues raised by a Study Session. He said that in the 15 years that he has been on staff the ZBA has not held a Study Session and he is not aware of any special protocols that may be required.

Mr. Fletcher stated that he would need to review the ZBA By-Laws.

Mr. Hall stated that Study Sessions are not discussed in the By-Laws. He said that as Ms. Monte stated staff is working on 8 Findings of Fact documenting all of the testimony and issues which have come to light in the public hearings to date. He said that there is a lot of information to insert into the findings but there should be very little new information. He said that it is ambitious to believe that final action could be taken March 2nd but it is not impossible.

Ms. Greenwalt suggested that the Study Session for the ZBA could be held at 6:30 p.m. and the Regular Meeting could begin at 7:00 p.m.

Mr. Schroeder stated that it is very difficult for the ZBA to not receive testimony. He said that perhaps the ZBA should move through the findings as quickly as possible and then close the public hearing. He said that at this point perhaps the ZBA could go into a Quasi Study Session where the members could hash and rehash issues and staff could answer their questions.

Mr. Doenitz stated his disappointment in the lack of attendance to the public hearings by the ELUC members. He said that ELUC will be expected to vote on Case 522-AT-05 and the majority of the Committee has not been attendance.

Mr. Langenheim stated that he has attended all of the public hearings and sympathizes with those who have not attended.

Mr. Doenitz stated that it is frustrating since the members of this Committee are the ones who will be expected to vote and move this forward to the County Board yet many of them have not attended the hearings to hear the public comment.

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17. Other Business

None

18. Determination of Items to be placed on the County Board Consent Agenda.

The consensus of the Committee was to place Items #8, 9, and 10 on the County Board Consent Agenda.

19. Adjournment

Mr. Doenitz moved, seconded by Mr. Fabri to adjourn the February 13, 2005, ELUC meeting. The motion carried by voice vote.

The meeting adjourned at 7:44 p.m.

Respectfully submitted,

Secretary to the Environment and Land Use Committee

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