

**MINUTES OF REGULAR MEETING**

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<b>Champaign County Environment &amp; Land Use Committee</b>	<b>DATE:</b>	<b>September 10, 2007</b>
<b>Champaign County Brookens Administrative Center</b>	<b>TIME:</b>	<b>7:00 p.m.</b>
<b>Urbana, IL 61802</b>	<b>PLACE:</b>	<b>Lyle Shields Meeting Room Brookens Administrative Center 1776 E. Washington Street Urbana, IL 61802</b>

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**MEMBERS PRESENT:** Jan Anderson, Chris Doenitz, Matthew Gladney, Brad Jones, Ralph Langenheim, Steve Moser, Carrie Melin, Jon Schroeder (VC), Barbara Wysocki (C)

**OTHER COUNTY  
BOARD MEMBERS**

**PRESENT:** C. Pius Weibel (County Board Chair)

**MEMBERS ABSENT:** None

**STAFF PRESENT:** John Hall, Jamie Hitt, Leroy Holliday, J.R. Knight, Susan McGrath (Senior Assistant State's Attorney), Susan Monte (Regional Planning Commission)

**OTHERS PRESENT:** Deb Feinen, Karen Foster, Amy Twohey, George Malloch, Trisha Crowley, Bruce Knight, Eric Thorsland, Jason Barickman, Hal Barnhart

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**1. Call to Order, Roll Call**

The meeting was called to order at 7:03 p.m. The roll was called and a quorum declared present.

**2. Approval of Agenda**

**Mr. Langenheim moved, seconded by Mr. Jones to approve the agenda.**

Ms. Wysocki stated that the agenda should be rearranged and the Committee should hear Items #12 and #13 prior to Item #5.

**Mr. Langenheim and Mr. Jones accepted Ms. Wysocki's request and amended their motion to rearrange the agenda and hear Items #12 and #13 prior to Item #5. The motion carried by voice vote.**

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**3. Approval of Minutes (August 13, 2007)**

**Mr. Doenitz moved, seconded by Mr. Jones to approve the August 13, 2007 minutes as submitted. The motion carried by voice vote.**

Mr. Moser arrived at 7:05pm.

**4. Public Participation**

Mr. Jason Barickman, Attorney representing Mr. Roger Armstrong and Tom Fiedler who are both the plaintiffs in a lawsuit with the City of Champaign and now the Illinois American Water Company over an annexation agreement for a 40 acre tract of land, addressed the Committee. He said that the property is located two-and-one-quarter miles west of the Staley and Bradley intersection west of Champaign. He said that presumably most of the Committee members are familiar with that tract of land. He said that there is a pending lawsuit which claims that the City of Champaign acted outside of its authority for two legal reasons, the first being the *Chatham* decision and the second being that the City acted in an illegal spot zoning. He said that they are requesting that the County get involved in this lawsuit. He said that he had not seen the County’s written position, which was explained by Ms. McGrath, that this lawsuit is invalid or unwarranted and would like the committee to ask Ms. McGrath how she arrived at that conclusion.

Mr. Barickman said that there are two issues to this lawsuit, one is Chatham and certainly no one is expected to understand what Chatham said or what it means in the context of this lawsuit other than the attorneys who deal in municipal and real estate practice. He said that there are lawyers around the state trying to figure out what it means and we have our analysis and we believe that we are right and the city has their analysis and they believe they are right and that is what courts are for.

Mr. Barickman said that completely separate from Chatham is whether or not this is illegal spot zoning. He said that the water company purchased forty acres of land which is zoned agricultural, they bought it knowing that it is for agricultural use, the land is to be used to process water and it is not as if that piece of land is unique to obtain water from the ground in fact there are wells throughout the county. He said that these wells go into the Mahomet Aquifer and they bring up the water where it is processed and purified and then sold to us as consumers. Mr. Barickman said that we are not disputing where the well sites are we are disputing where the processing occurs.

Mr. Schroeder arrived at 7:10pm.

Mr. Barickman said that the property is in an area consisting exclusively of Ag and residential use today and for at least one mile in every direction from this forty acre parcel the use is agriculture and residential. Mr. Barickman said that the city changed the zoning to Light Industry and as a result of that objections were raised. He said that this parcel is not contiguous to the City’s corporate boundary and in fact it is over two

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1 miles outside of it. Mr. Barickman said that objections were raised not only from the city Planning  
2 Commission as well as the City Council hearing on this matter.

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4 Mr. Barickman said that when you look at spot zoning you look at the arbitrary nature of the decision. He  
5 said that the property is not contiguous and it sits about two miles outside the city's limits. He said that the  
6 City of Champaign's Comprehensive Plan has planned for development up to one mile outside of the city  
7 and has not planned anything further than that.

8  
9 Mr. Barickman said that the actions of the City of Champaign to allow this is solely for the water company,  
10 they had no plan for this before. He said that when you look at their planning which is three miles from the  
11 property, the plans the city has made calls for residential and agricultural uses. He said to the extent the City  
12 of Champaign has adopted a comprehensive plan that calls for any use similar to the use that they authorized  
13 through this rezoning is ridiculous they had not planned as far away as this property is and for two miles of  
14 that planning they only planned for agricultural and residential uses. He said that the city did this strictly for  
15 the water company and the water company offered no evidence as to why this site is so important for  
16 processing. He said that if you have ever seen a spot zoning case this is it. He said that he would disagree  
17 whole heartedly with any legal opinion that finds otherwise and he would ask them specifically to explain  
18 how they found anything otherwise.

19  
20 Trisha Crowley asked that Bruce Knight speak first.

21  
22 Bruce Knight, Planning Director for the City of Champaign, said he is here to speak to the resolution calling  
23 for intergovernmental agreements between the county and municipalities in the county. He said that the  
24 resolution stems from the case Mr. Barickman has talked about and a number of issues have been raised by  
25 that case and he felt it could be best dealt with by an intergovernmental agreement. He said that by state law  
26 the City of Champaign is required to follow its own zoning procedures for any rezoning via any annexation  
27 agreement. He said that they did receive a protest in the case but in point of fact, the result of a protest under  
28 our zoning and with the county as well is to require an extra-majority vote of city council which is six out of  
29 nine votes and under state law every annexation agreement has to be approved by six out of nine votes with  
30 the end result being the same that the city was required to pass this by six votes.

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32 Mr. Knight said that there was an issue regarding going beyond the extraterritorial jurisdiction and their  
33 reading of Chatham and the States Attorney's Office reading of Chatham, at least prior to this case,  
34 indicated that the law is clear and that there is no limit on where annexation agreements can be established  
35 between municipalities and property owners. He said that we agree that it is time to address that and set a  
36 reasonable limit and decide how to best do that and it ought to be done by intergovernmental agreement but  
37 beyond that it needs to be addressed by legislation as well and Ms. Crowley will speak about our thoughts  
38 on pursuing legislation.

39  
40 He said that in regards to whether the development is addressed by a comprehensive plan, we do require that  
41 for urban development to extend into the unincorporated area it be consistent with our comprehensive plan.  
42 Mr. Knight said that in this case we believe that this had to do with siting a utility and the water company  
43 did provide evidence as to whether this location was unique.

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Mr. Knight said that the City supports the concept of an intergovernmental agreement and thinks it is important that the agreement we have now is updated to address Chatham which was not the state of law at the time the agreement was first established. He said that the agreement should address the appropriate limits of new development that is approved in the County by the municipality through annexation agreement. He said that the resolution before the committee has some specific language for an intergovernmental agreement and the specificity of that language may cause some challenges as it is currently written.

Trisha Crowley of the City of Champaign said that they are here to discuss the intergovernmental agreement and Illinois communities, counties, and cities had been discussing the ramifications of Chatham since the decision was issued in 2005. She said that there have been all kinds of legislation in different forms proposed and some of it has passed but none of it deals with all of the different kinds of things that come out of the Chatham decision. She said that Mr. Barickman said it's a complicated thing that only lawyers can understand but by her point of view it's very simple that everyone can understand and can work with through intergovernmental agreement and through additional legislation. She said that Chatham was a decision that said if a city has an annexation agreement then city rules, ordinances and regulation apply and this is something that the city has been doing for the last two years. Ms. Crowley said that this one is further out than the others and raised all these issues that we are dealing with now and that brings up issues that are important to both of us not just from this one case but from the fact that the Chatham case is out there for all municipalities to use and everyone needs to know what the ramifications of that are.

Ms. Crowley said that part of an intergovernmental agreement is that it is something that all sorts of communities could enter into so that we have a coordinated plan of growth for the whole county. She said one of the aspects of an intergovernmental agreement is that many of the towns in the county are non-home rule units and they are required to have specific authority in order to enter into an intergovernmental agreement and that is why the City wants to cooperate with the County in proposing and looking at some legislation that would provide some long term solution to some of the Chatham issues and that legislation would improve the County's ability to enter into intergovernmental agreements with both home rule and non-home rule municipalities so that they could modify the effects of that decision through those agreements. She said that the City and the County have a history of working together in order to solve general problems and this will be another aspect of that.

Mr. Moser said that the collar counties and counties near East St. Louis are exempt and lost their mile and a half when municipalities annexed. He said that this is the first time this has happened in the fifteen years he has been here and he would like to get the county added to the list.

Ms. Crowley said that legislation is part of the answer but just saying a mile and a half is not much of a solution if you look at how much of the County is within the ETJ areas.

Ms. Crowley said that legislation is the answer to that and we would like to work with you on legislation and if non-home rule municipalities have the ability to enter into intergovernmental agreements then you can have some control through intergovernmental agreements under certain conditions.

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Mr. Moser said that Savoy, Champaign and Urbana seem to be willing to do this but he thinks that Mahomet, St. Joseph and Tolono would not be willing to agree to this.

Ms. Crowley said that it took a long time to get the sanitary sewer agreement together and she is not saying that this will be easy but if we work together we could get further in this issue.

Ms. Wysocki asked the committee to hold their questions until public participation has ended then they could ask their questions.

Eric Thorsland, CR2500 North, said that it is nice to see that the City of Champaign is willing to work with the County and that's great, it seems that everybody wants to support this so far and that's a fantastic idea. He said that Chatham is not something that you might think the lay person thinks about but it is for the people that live out in the mile and a half region.

Mr. Thorsland said that the resolution is a good one and it's the first time he had seen so many strike outs and it gets better and not distilled. He said that if the City of Champaign wants to work on this everybody should and he thinks the County should go back to the municipal boundaries and annexation agreements should not be allowed unless the water supply is up to the border. He said the protest rights of everyone within the mile and a half are not strong enough and things get moved around and annexation agreements are too far out. He said there are a couple of cases that are not here tonight that are examples of if you put a few houses out there more houses will get put out there and with Chatham eventually somebody from Fisher will decide that they like the way the land looks across Newcomb Township and into Mahomet. He said that this is a border war and at best, Chatham will be overturned at some point but until then if this County wants to get together and get people like Mahomet and St. Joseph on board go for it, do it, support it and get it done. He said that if you asked the average person they would like to see the mile and a half get diminished or back in the County's control. He said that he can vote for his county representative but cannot vote for the people in town. He asked that the committee support the resolution.

Ms. Wysocki asked if there were anyone else who wished to speak and there was none.

**5. Correspondence**

- A. Press Release and Media Advisory regarding: "Champaign Sued Over Water Company Annexation Agreement"**
- B. E-mail response from C. Pius Weibel regarding Armstrong IAWC annexation agreement**
- C. Letter from Scott Bidner, Champaign County Farm Bureau President dated August 23, 2007**
- D. Meeting of the East Central Illinois Regional Water Supply Planning Committee**
- E. E-mail from Linda Ehmen regarding decreasing farmland**

The Committee accepted and placed on file the correspondence included in Agenda Items #5A through 5E.

6. **Recreation and Entertainment License: Egyptian Collectors Association, Inc for a Hunting and Trade Show at the Champaign County Fairgrounds, 902 North Coler, Urbana. September 29-30, 2007.**

Mr. Jones moved, seconded by Mr. Doenitz to approve the Recreation and Entertainment License for the Egyptian Collectors Association, Inc. The motion carried by voice vote.

7. **Recreation and Entertainment License: Gordyville, LLC to operate Bull Riding and Dance. Location: 2205 CR 3000N, Gifford. October 19-20, 2007.**

Mr. Doenitz moved, seconded by Mr. Jones to approve the Recreation and Entertainment License for Gordyville, LLC. The motion carried by voice vote.

8. ***Zoning Ordinance text amendment for land use compatibility near pipelines***

Mr. Hall gave an update on the text amendment for land use compatibility near pipelines that is Case 583-AT-07 and explained that the public hearing would not open until September 27, 2007, and the case would not likely be decided by the County Board until December at the earliest.

9. ***Remanded Zoning Case 520-AM-05 Petitioner: Gene Bateman Request to amend the Zoning Map to allow for the development of 2 single-family lots in the AG-1, Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District. Location: Approximately seven acres of an existing 62.20 acre parcel in the East Half of the Northeast Quarter of Section 29 of Newcomb Township that is commonly known as the farm field that borders the south side of CR 2600N and CR 200E.***

10. ***Case 542-AM-06 Petitioner: Louis and JoAnn Wozniak Request to amend the Zoning Map to allow for the development of 8 single family residential lots in the AG-1, Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District. Location: A 57.64 acre tract of land located in the East 1/2 of the Southwest 1/4 of Section 22 of Newcomb Township and located on the west side of Illinois Route 47 and between CR 2600N and CR 2650N.***

Mr. Hall said that he had spoken with both Mr. Bateman and Mr. Wozniak and both of them had requested that their case be deferred until the County Board has taken final action on Zoning Case 583-AT-07 and he had checked with the States Attorney and it is possible to defer the cases in that way.

Mr. Hall said that a frontage protest had been received in Case 542-AM-06 and at such time as the County Board votes on that case it will require 21 of 27 votes to override the protest.

Mr. Langenheim moved, seconded by Mr. Doenitz, to defer items 9 and 10 until the County Board has taken final action on Case 583-AT-07. The motion carried by voice vote.

11. *Proposed Amendment to County's Nuisance Ordinance adding burning regulations*

Mr. Langenheim moved, seconded by Ms. Anderson, to recommend approval of the amendment to the Nuisance Ordinance.

Mr. Hall explained that he and Ms. McGrath had met with Sheriff Walsh and reviewed the proposed regulations and since the regulations are in the Nuisance Ordinance the Sheriff's deputies can issue tickets for violations. He said the burning regulations are a little more complicated than the Sheriff would like but the first notice could be from the Planning and Zoning Department with referral to the Sheriff's deputies if additional violations occurred.

Mr. Hall said that Ms. Hitt had checked with all municipalities in the County but to date had not gotten response from the Villages of Allerton and Ludlow. He said that on p. 146 of the agenda the Villages of Philo and Ogden needed to be added to the list of villages that allow burning of landscape waste during the hours of sunrise to sunset and also add Sidney after Savoy and with those changes the proposed regulations match the landscape waste burning regulations in the villages. Mr. Hall said he did not think these regulations would be an enforcement problem because historically the only complaints about burning have come from around Champaign and Urbana.

Mr. Doenitz asked if these regulations provide any uniformity around the various municipalities in the County.

Mr. Hall said there was no uniformity because the regulations are based on the Illinois Pollution Control Board regulations that require regulations similar to those of the municipality.

Mr. Moser said that he hoped the dumping regulations would also be enforced.

Ms. Melin said that she had received calls about burning of landscape waste south of Windsor Road and she thought that the proposed regulations would help.

Mr. Schroeder asked how this would be advertised to the general public and said he was against the Planning and Zoning staff being involved in investigating burning complaints unless staff can issue tickets.

Ms. McGrath said the Sheriff indicated that his deputies would contact the Planning and Zoning Department to verify which village had which rules rather than have a deputy try to follow the Ordinance but he did understand that tickets would have to be issued by the deputies. Ms. McGrath also said that the maker and seconder of the motion should acknowledge the changes as a friendly amendment.

Mr. Schroeder said that in the legislative budget hearings that were held last week he found out that deputies are already strapped and if someone living far out in the County needs help they can forget about it because it will take too long for a deputy to get there and this would just delay it more.

Mr. Doenitz said that if this is passed he was sure that Sheriff Walsh would be asking for a couple of more

1 deputies next year.

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3 Mr. Hall said the EPA rules relieve the County of the need to adopt rules for burning of landscape waste and  
4 the Committee could delete the landscape waste regulations from the amendment.

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6 Mr. Doenitz asked if the landscape waste regulations were removed, what would the amendment cover.

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8 Mr. Hall said that the amendment would cover burning of domicile waste within one mile of all  
9 municipalities.

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11 Mr. Langenheim asked if the proposed regulations would affect the annual burning of prairie reserves.

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13 Mr. Hall said it would not as long as those burns are conducted in accordance with the EPA rules.

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15 **Mr. Schroeder moved, seconded by Mr. Doenitz, to remove subparagraph F.(1)(g). The motion**  
16 **carried on a voice vote.**

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18 Ms. Melin said that burning of landscape waste is what people are complaining about.

19  
20 Mr. Hall said that the County could adopt regulations for burning of landscape waste only within 1,000 feet  
21 of Champaign and Urbana.

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23 **Ms. Melin moved, seconded by Mr. Schroeder, to reinstate F.(1)(g) only within 1,000 feet of**  
24 **Champaign and Urbana. The motion carried on a voice vote.**

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26 Mr. Jones requested a roll call vote:

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28	<b>Anderson-yes</b>	<b>Doenitz- no</b>	<b>Gladney- yes</b>	<b>Jones-yes</b>
29	<b>Langenheim-yes</b>	<b>Melin-yes</b>	<b>Moser-yes</b>	<b>Schroeder-yes</b>
30	<b>Wysocki-yes</b>			

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32 **12. *City of Champaign annexation agreement with Illinois-American Water Company for a proposed***  
33 ***water treatment plant in Section 1 of Scott Township and potential role of Champaign County in***  
34 ***litigation involving annexation agreement.***

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36 Ms. McGrath said that a series of meetings had been held since the last ELUC meeting to determine if it  
37 made sense for the County to intervene in the lawsuit filed by Mr. Barickman on behalf of Mr. Armstrong  
38 and Mr. Fiedler. She said that at the Committee’s request, she studied the documents leading to the  
39 Supreme Court decision in Chatham including the trial court level documents; and the appellate court level  
40 documents and the cases that were passed shortly prior to Chatham, to see what the legislature did in the  
41 new Municipal Code related to annexation agreements; and reviewed the City of Champaign Zoning  
42 Ordinance and the materials that were passed out to the Champaign City Council and applicable statutes;  
43 and the lawsuit filed by Mr. Barickman including the amended complaint that was received this afternoon;

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1 and the pleadings of the water company in the lawsuit. She said there were several meetings in addition to  
2 the meeting with Mr. Armstrong and Mr. Barickman, we also met with water company representatives Mr.  
3 Sjuts and their attorney Mr. Thies and that culminated with a meeting with the City of Champaign on  
4 Thursday, September 6. She said that she also reviewed materials provided by the RPC relating to the  
5 proposed intergovernmental agreement and also talked to County Engineer Jeff Blue who, at the request of  
6 the City of Champaign and the water company, conducted a pavement study on the roads surrounding the  
7 subject property on Bradley Avenue and CR1700 and, in fact, Mr. Blue has received a pavement  
8 management study report and has made his recommendations to the water company development team.  
9

10 Ms. McGrath said that she was looking to see what Sangamon County did when they opposed the Village of  
11 Chatham to say that they should not do the annexations they had done which at that time were about 65 to  
12 70 annexation agreements with different landowners and businesses in different areas of Sangamon County.  
13 She said that the County of Sangamon spent a lot of time and effort opposing what the Village of Chatham  
14 had done including retaining an expert witness, Bruce Knight. She said that Sangamon County raised all of  
15 the arguments that she would encourage Champaign County to raise if the County chose to intervene in Mr.  
16 Barickman's lawsuit. She said that Sangamon County talked about the constitutionality of the statute that  
17 said that some counties are exempt from the legislation regarding annexation agreements. She said that in  
18 answer to Mr. Moser's question about those counties, the counties that were exempt at the time of the  
19 Chatham lawsuit were Madison County, St. Clair County, Cook County, DuPage County, Kane County,  
20 Lake County, McHenry County, and Will County. She said that Sangamon County questioned the  
21 constitutionality of those exemptions and also talked about spot zoning and the fact that when the Municipal  
22 Code was amended, the legislature had left intact the part of the Counties Code that talked about the  
23 county's right to zone outside the mile and a half limit and did not change the Plat Act nor the county's right  
24 to have building codes. She said that Sangamon County asked how did it make sense that a municipality  
25 could enter into an annexation agreement that basically said it did not care about zoning and put whatever  
26 terms it wanted into the agreement and if the municipality wanted to it could even ignore its own codes.  
27

28 Ms. McGrath said that unfortunately the trial court, appellate court, and the Supreme Court decided that  
29 even though the law did not make sense, Sangamon County was wrong because first, the Legislature had  
30 looked at the Municipal Code last in time and there is a legal doctrine that says that the most specific  
31 legislation that is the last in time trumps everything else. She said that the other thing the courts said was  
32 that Sangamon County had no standing to question the constitutionality of the legislation that exempted  
33 certain counties and if the law needed to be changed it needed to be changed by the legislature and not the  
34 courts. Ms. McGrath said that is what every single court said in the Chatham case. She said that the issues  
35 raised in the Chatham case were the same issues that would be raised if the Board chooses to get involved in  
36 the lawsuit. She said that she thinks the legislation is terrible and has the exact effect that Mr. Thorsland  
37 talked about but that should not affect your opinion about whether or not to enter into the lawsuit. Ms.  
38 McGrath said that the County's intervention into the lawsuit would not be successful and you are better  
39 served entering into an intergovernmental agreement and asking for legislation because that is where the  
40 problem is.  
41

42 Mr. Doenitz asked Ms. McGrath to discuss the issue of spot zoning.  
43

1 Ms. McGrath said spot zoning was addressed at every level of the Chatham case the courts said two things.  
2 She said that first, just because a change is not compact and contiguous it is not spot zoning and if the  
3 municipality has followed its own Zoning Ordinance properly then it does not necessarily constitute spot  
4 zoning. Ms. McGrath said that in regards to Mr. Moser's question about what happens if an adjacent  
5 landowner asks the County to rezone land next to the water treatment plant, the zoning in the annexation  
6 agreement only goes into affect when the annexation actually occurs and in this case the City of Champaign  
7 has 20 years to annex the property.

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9 Mr. Moser asked Ms. McGrath if she reviewed the Boone County case near Cherry Valley and Belvidere  
10 and if it had any effect on this.

11  
12 Ms. McGrath said that she did and there were two cases that the Chatham court talked about specifically, the  
13 Lisle Case, and the Belvidere case and a third case. She said that the legislature had specifically amended  
14 the Municipal Code to allow non-contiguous annexation agreements.

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16 Mr. Jones asked Mr. Barickman if he saw something that Ms. McGrath had overlooked.

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18 Mr. Barickman said that the Chatham decision does not answer whether a municipality can execute an  
19 annexation agreement that is outside of its ETJ and within another municipal ETJ and outside of the  
20 annexing municipality's comprehensive plan. Mr. Barickman read from the City of Champaign Zoning  
21 Ordinance that stated, quote, it was enacted to implement the policies of the City of Champaign  
22 Comprehensive Plan and promote and protect the general welfare of the people. Mr. Barickman said that  
23 as he mentioned, the comprehensive plan that was adopted by the City of Champaign does not even reach  
24 the property and it does not follow that Chatham allows the rezoning if it followed the City Zoning  
25 Ordinance because the City violated it's Zoning Ordinance by going outside of it's comprehensive plan area.

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28 Mr. Barickman said that Chatham does not go so far as to say that if there is clear, illegal spot zoning the old  
29 precedence against spot zoning is no longer applicable. He said that Chatham does not allow spot zoning.  
30 He said that Chatham does allow a municipality to sign an annexation agreement on property that is not  
31 contiguous; and there is a debate about whether there is a limitation to that in the mile and a half; and there  
32 is a debate on whether that is allowed when the property is within another mile and a half and outside of the  
33 annexing municipality's mile and a half; and there is a debate on whether the annexing authority can do any  
34 of this if it is not within their comprehensive plan.

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36 Mr. Moser asked Mr. Barickman what would be changed in the lawsuit if the judge allowed it to be  
37 changed.

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39 Mr. Barickman said that what was originally a lawsuit between landowners and the City of Champaign has  
40 developed to where the water company has forcibly intervened and joined as a codefendant and that led to  
41 delays and the preliminary injunction hearing has been set for September 24 at 1:30 PM.

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43 Mr. Moser asked if the County were to intervene, should it do so quickly.

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Mr. Barickman said yes. He said that the City was told there would be a lawsuit by the landowners and there is a lawsuit and the water company hired a Chicago law firm and has shown that they will spend an unlimited amount of resources defending what the City has done and that burden is borne by two landowners who have never had a voice in this whole process and that is why we are before you. Mr. Barickman said this ought to be a dispute between the County the City.

Ms. Anderson asked what obligations the County would have if it got involved in the lawsuit.

Ms. McGrath said that depends upon how far up this case would go and the decision of the trial court but you will bear certain fees if there are depositions of witnesses or just arguments but that will be decided on the 24<sup>th</sup>. She said that if the County retained an expert witness there would also be a cost for that.

Ms. Wysocki asked if the County would have to hire outside counsel.

Ms. McGrath said no.

Mr. Jones said that the jurisdiction of the County is under attack and not just because of the water company and the County needs to enter into this litigation to try and stop it now and not wait for the legislature.

Mr. Barickman said the easiest and cheapest way to stop the litigation is for the water company to submit to the County zoning jurisdiction.

Mr. Moser asked if the decision to intervene would have to go to the full Board.

Ms. McGrath said that it would and it would require a simple majority vote.

**Mr. Doenitz moved, seconded by Mr. Moser, to recommend that the County Board intervene in the lawsuit against the City of Champaign annexation agreement with Illinois-American Water Company for a proposed water treatment plant in Section 1 of Scott Township.**

Mr. Schroeder said that with all due respect to his colleagues, he could not support the motion because it would cause unnecessary hardship. He said that the horse is already out of the barn thanks to Champaign but he will not vent his rage in trying to sue them. Mr. Schroeder said that his problem was with the State of Illinois. He said that an example of what the State of Illinois does for planning and zoning is to site a 150 kid child care facility next to a hazardous waste storage facility and nobody in this County or in the 102 counties in the state would allow that. He said there is a livestock facility located 50 feet from an adjacent residence and if he tried to establish the same facility he would be required to be one-half mile away from a residence but the State can do it. He said that if Champaign is the 800 pound gorilla in the room then the State is an 8,000 pound gorilla.

Mr. Schroeder said that what is needed is to get together instead of letting the State define us.

1 Mr. Langenheim said that he would vote against the recommendation.

2  
3 Ms. Wysocki asked if the Committee was ready to vote and if it should be a roll call vote. The consensus of  
4 the Committee was for a roll call vote:

5				
6	<b>Anderson-no</b>	<b>Doenitz- yes</b>	<b>Gladney- no</b>	<b>Jones- yes</b>
7	<b>Langenheim- no</b>	<b>Melin-yes</b>	<b>Moser- yes</b>	<b>Schroeder-no</b>
8	<b>Wysocki- no</b>			
9				

10 **13. *Proposed Intergovernmental Agreement regarding development pursuant to municipal***  
11 ***annexation agreement that is more than one-and-one half miles from municipality.***

12  
13 Ms. Wysocki said that on page 148 is a proposal for a resolution to create an intergovernmental agreement  
14 for the board to review asked if the committee had any questions or comments.

15  
16 Mr. Doenitz said that he disagrees with Ms. Crowley and he said that the only way to resolve this issue is to  
17 back up, undo it and let the County handle it the way it is supposed to.

18  
19 Ms. Crowley said that the City is operating under the law and rules as it existed and disagrees with Mr.  
20 Doenitz. She said that if the County doesn't like that there are ways that we can work together to change that  
21 but if all you want is to go back to that one case and undo that one case the County is not going to get very  
22 far.

23  
24 Mr. Doenitz said that is the only case we have.

25  
26 Ms. Crowley said that we have to look at Chatham as a whole and what affects it has on the county and what  
27 affects it has on the cities and try to look at the whole issue and deal with it through a process where each  
28 case as it comes up goes through a process of information and communication so that they know what the  
29 County's concerns are and what the City's concerns are and this will work not only with the City of  
30 Champaign but with any city or town, that's the concept for the intergovernmental agreement that they work  
31 with communication and the County could tell the City what the concerns are in a timely way so they could  
32 take that into account and the City could tell the County what their concerns are. She said if going ahead  
33 depends on taking care of this one case to begin with she didn't think that they would be moving very far.

34  
35 Ms. Melin said that maybe the county would have come to the same conclusion as the City of Champaign  
36 did but was never asked. She said that a complaint was made but six out of nine people voted for this  
37 annexation. She said that the people need to have a voice. She said that in any future agreement we should  
38 make sure that we put a lot of power in the voice of the people so that they could be heard.

39  
40  
41 Mr. Gladney said that he agrees with Ms. Melin. He said that he is all for intergovernmental agreements but  
42 the timing of this was not good, concerns were raised and the city came and asked about the agreement after  
43 their decision was made. He said that he watched the City Council meeting where it was voted on and also

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1 watched the planning meeting before that and there were a lot of concerns there and lots of words against it  
2 and the City of Champaign made the decision to go ahead with it and now its here and now everyone is  
3 saying let's talk and work together and hash this out.  
4

5 Ms. Crowley said that the concept of an intergovernmental agreement was discussed at the RPC Technical  
6 Committee for some time and it is now developing to this point. She said that maybe the timing was not the  
7 best but this case brings up the urgency and illustrates the issues precisely and that's why we're talking  
8 about it today rather than months from now. Ms. Crowley said this is an issue that we've been talking about  
9 for some time.

10  
11 Ms. Anderson asked if the intergovernmental agreement will any affect on the Chatham case.  
12

13 Ms. Crowley said that an annexation agreement is a contract so one party cannot get out of a contract by  
14 themselves so the city could not get out of the agreement with the county but it is unlikely that the  
15 intergovernmental agreement in itself will affect the Chatham case. She said that the case is being litigated  
16 and Mr. Barickman is being very active in trying to overturn that.  
17

18 Mr. Langenheim said that one thing to be considered here is that it is highly desirable that the water  
19 treatment plant be as close as possible to the wells that are producing the water otherwise you are pumping  
20 the water out somewhere else and purifying it and then pumping it back. He said in addition, there is a  
21 reduction of risk to that water supply by cutting down the distance the water has to be pumped.  
22

23 Mr. Doenitz said that he has no problem with where the plant and treatment should be but he objects to the  
24 process it took to get there.  
25

26 Mr. Schroeder said that he is not against the development and there was discussion about not going back but  
27 to go forward. He said that he disagrees with that and said we need to go back and take a look at the history  
28 to see what really broke down because everybody in this room lives in the County of Champaign, everyone  
29 has three representatives on this County Board and Mr. Thorsland made a good point when he said they are  
30 being pulled in these annexations and they have no say in the city council.  
31

32 Mr. Schroeder said that although the City allows the public to speak there are no consequences and it is  
33 almost like taxation without representation and that's what's so frustrating. He said he was on the Zoning  
34 Board of Appeals when the developers of north Prospect came to the County and they said they like to do  
35 this and rezone this, that's the way things used to be done. He said that when there was development outside  
36 corporate limits usually things came to the county we did not have a stormwater management policy then.  
37 He said the county tends to look at things differently than the city council does. Mr. Schroeder said that it  
38 was not a slam dunk when they rezoned north Prospect and there was a farmer who voted against it because  
39 there was concern about drainage even though Champaign had a pre-annexation agreement. He said that  
40 there is supposed to be a run-off ditch cut and water retention along Prospect but it never happened and  
41 instead it was pumped out on Scott Kesler's field for years. He said when you move outside the ETJ or even  
42 the corporate limits it's completely different no mater if you live out there or not if there is no consequence  
43 with what you do when you vote on things then you really don't see outside that.

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Mr. Schroeder said that he is not here to beat up on Ms. Crowley or Mr. Knight but things used to follow a pattern. Mr. Schroeder said that he is concerned with the development that Savoy has going on north of Church Street and considers it spot development as well as the development on Curtis Avenue because nothing is staying compact nor contiguous. He said that he appreciates the City of Champaign is looking into an agreement but it is frustrating because he had people come to him and ask is the County going to sue the City of Champaign or the water company?

Mr. Schroeder said that things used to be different out here and you say that the County doesn't have an engineer but the County has hired engineers before and for codes there are always pre-annexation agreements and the State mandates us to have codes so if you build something and something happens it's your neck. He said that it's deeper than just Chatham because if the County is looking to do a comprehensive land use plan he can't see this happening in the near future because of a lack of trust for things that happened in the past and for the things that continue to happen.

Ms. Crowley said that we can achieve an understanding by talking with each other and working on the document for the future. She said that she is not sure that she would recommend to the City Council to take the resolution in the exact form. She said that unless we are talking to each other we will be back here again and have this same conversation.

Ms Wysocki asked Mr. Hall if the committee passes this resolution does it then got to the County Board.

Mr. Hall said that he had talked to the Urbana staff and they said that they also have some concerns about the resolution so he thinks the Committee should wait another month. He said that this was the best he could do for this meeting but he did not give it to any municipal staff to review and it should be reviewed before it goes to the County Board.

Ms. Wysocki said that she did not want the county alone passing a resolution which one if not two municipalities have concerns with this resolution. She said that it would make more sense to work on it again and submit it at a future date.

**Mr. Langenhiem moved, seconded by Ms. Melin, to defer the proposed intergovernmental agreement regarding development pursuant to municipal annexation agreement that is more than one-and-one half miles from municipality. The motion carried by voice vote.**

Ms. Melin asked since this is a county resolution should we have input from all the municipalities.

Mr. Hall said that this is just a resolution calling for a future agreement. He said we had two municipalities who were interested in this from the start and he had passed it out at the RPC Technical Committee meeting and we only received comments from those two municipalities. He said that he would like to get the responses back by the next meeting.

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1 Mr. Moser said that he did not see that we could pass anything without Rantoul, St. Joseph, Mahomet and  
2 Tolono. He said that he talked to Rantoul and they said that they were not interested and he believes that St.  
3 Joseph, Tolono and Mahomet will say the same thing. Mr. Moser said he if we are going to go to Urbana we  
4 ought to make the effort and talk to all of them.

5  
6 Ms. Wysocki said that Mr. Moser's statement is well taken and some small villages and small towns don't  
7 have their own planning department or attorneys on staff and most of the village councils are part time  
8 people that have other jobs and it is not always convenient for them to get off and come here and sit down  
9 and work on this and move these issues along. She said that she can understand that some communities may  
10 say that this is not the battle they would like to fight right now and others are not practiced enough in  
11 situations like this.

12  
13 Ms. McGrath said that in light of the concerns the resolution should be sent to the village councils for their  
14 comments. She said that the County should also encourage the small municipalities and villages to join in  
15 the legislative effort as well.

16  
17 Ms Wysocki asked Ms. McGrath since we have a motion to defer and can choose to not to take action on  
18 this can the county still submit the agreement to the other municipalities.

19  
20 Ms. McGrath said yes.

21  
22 Mr. Doenitz asked Ms. Crowley if this agreement gets worked out, is any part of it binding or is it good  
23 faith.

24  
25 Ms. Crowley said that the point of the legislation is to make sure that it is binding.

26  
27 Mr. Doenitz said that legislation really does not have anything to do with the intergovernmental agreement  
28 so if we have an intergovernmental agreement with the City of Champaign or other municipalities are there  
29 any repercussions.

30  
31 Ms. Wysocki said that to her understanding no.

32  
33 Mr. Doenitz asked what good is it.

34  
35 Ms. Crowley said that there can be binding intergovernmental agreements with the cities right now and there  
36 are repercussions for going outside of the agreement and there are remedies in the agreement and that is  
37 something that is typically in the agreement. She said that you want to make sure that it is worth  
38 everybody's while to follow the process and have an agreement that is binding.

39  
40 Mr. Moser said that the only hope of getting that passed is with Champaign, Urbana, Savoy, and maybe  
41 Mahomet.

42  
43 Ms. Wysocki said that her response to Mr. Doenitz's question would be as Mr. Thorsland pointed out that

1 everybody beyond the city limits seems to be talking about Chatham in one way or the other and many of us  
2 have seen the newspaper article about the city planner in Tolono moving on the mile and a half that is left  
3 between them and Savoy basically saying that they are going to pursue this more aggressively than what was  
4 done in the past. She said that she agrees that Chatham does not provide any protections and it does rest on  
5 a great deal of good will and trust in each municipality which isn't too common but if you think about all of  
6 the ramifications of Chatham at this point what's being offered to the smaller towns and communities is that,  
7 at least in Champaign County, there will be definite guidelines about annexing within Champaign County.  
8 She said that we can't say anything in an intergovernmental agreement about what Quincy, Illinois might do  
9 to Fisher or what Rockford may do to Broadlands in terms of annexing that really has to come from the State  
10 legislative process but we can establish some civility by agreeing among ourselves about what kind of  
11 guidelines, procedures, and what kind of communication is going to happen within our county.

12  
13 Mr. Doenitz said that he knew Ms. Wysocki meant well but that was looking at it through rose colored  
14 glasses.

15  
16 Ms. McGrath said that is a point that your staff has taken very seriously because there is no point in entering  
17 into an agreement that doesn't do anything. She said that we have talked to Champaign and Urbana but we  
18 need to have the discussion with the villages and tell them that we want this to be an agreement similar to  
19 the boundary agreement between the cities and the sanitary district which is a contract but also to amend the  
20 legislation that specifically talks about annexation agreements to say that you can enter into an  
21 intergovernmental agreement between the County and municipalities and that agreement is legally binding.  
22 She said that is why this is a dual process to have the legislation in combination with the agreement.

23  
24 Ms. McGrath said that means that we will have to meet with area legislators and tell them what we want  
25 them to do similar to the effort that was done on Curtis Road in the past year. She said that it was  
26 meaningless to do one without the other.

27  
28 Mr. Gladney asked if we mail the proposed agreement to municipalities, can we put a timeframe on for the  
29 responses.

30  
31 Ms. Wysocki said we could put a timeframe and it would be good to have response back by the next ELUC  
32 meeting.

33  
34 Mr. Hall said that there was probably not enough time for responses to be received by the October ELUC  
35 meeting.

36  
37 Mr. Gladney suggested that there might be time to receive responses by the November meeting.

38  
39 Mr. Hall said that the November meeting should allow time for responses and allow time for everyone to  
40 attend the proposed RPC forum on annexation agreements.

41  
42 Mr. Gladney said he did not want to see us still waiting for responses in the spring.

43

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1 Mr. Doenitz said that for the record he was contacted by Mr. Sjuts after the last ELUC meeting and he  
2 expected Mr. Sjuts to be here tonight and he was assured that Mr. Sjuts would be here tonight and he is  
3 disappointed that he is not.

4  
5 Mr. Moser said that all villages should be contacted. He said that Philo adopted a comprehensive plan fifty  
6 years ago and Sidney wants to grow and Fisher and Gifford want to grow and they all ought to be contacted.

7  
8 Ms. Wysocki agreed that all would be contacted.

9  
10 Mr. Hall said that he would send a notice of the proposed intergovernmental agreement to all County  
11 municipalities and request comments in time for ELUC to take action in November but the agreement would  
12 also be on the October agenda.

13  
14 **14. *City of Champaign Request for increased County Contribution to Offset Cost of Drop-Off***  
15 ***Recycling Site Update***

16  
17 Ms. Monte said that no new information had been received and she asked that this item be deferred.

18  
19 **Mr. Schroeder moved, seconded by Mr. Doenitz, to defer item 14 to October 9, 2007. The motion**  
20 **passed on a voice vote.**

21  
22 **15. *Champaign County Land Resource Management Plan Update***

23  
24 Ms. Wysocki said that the first meeting of the Champaign County Land Resource Management Plan  
25 Steering Committee was held on August 31, 2007, and she was very happy that there were five members of  
26 ELUC present at that meeting. She said that Ms. Chavarria and Ms. Monte gave presentations on the state  
27 of County planning and distributed copies of the big.small.all report and the Blue Ribbon Panel and the next  
28 meeting is this Thursday, September 15, 2007, at 7:30 AM at the First Christian Church on Staley Road.

29  
30 **16. *Update on Enforcement Cases***

31  
32 Mr. Hall said that an offer had been received on the property with a burned out structure at 1101A East  
33 Perkins Road, Urbana, but the prospective buyer would like a decision as soon as possible and that would  
34 require a special ELUC meeting prior to the full Board meeting on September 20, 2007.

35  
36 **The consensus of the Committee was to hold a special ELUC meeting prior to the full Board meeting.**

37  
38 **17. *Monthly Report (August 2007)***

39  
40 Mr. Hall said he did not have a monthly report to hand out but that if a report were available it would show  
41 that there have been 13 enforcement cases resolved so far this year and there were only 15 resolved for all of  
42 2006 and there have been 75 enforcement inspections this year and there were only 57 enforcement  
43 inspections in all of 2006 so he thought the shifting of resources was starting to show some benefit. He said

1 that permits were picking back up and at the end of August permits were 95% of the same time in 2006 but  
2 zoning cases were still down. He said he hoped to have the monthly reports brought up to date next month.

3  
4 Ms. Wysocki asked how the move into the new office space had gone.

5  
6 Mr. Hall said there were still furniture issues at every workstation but he hoped to resolve those in the  
7 coming weeks.

8  
9 Mr. Schroeder said that he encouraged the Committee members to visit the new office.

10

11 **18. Other Business**

12

13 None

14

15 **19. Determination of Items to be placed on the County Board Consent Agenda**

16

17 None

18

19 **20. Adjournment**

20

21 **Mr. Doenitz moved, seconded by Mr. Moser, to adjourn. The motion passed on a voice vote and the**  
22 **meeting adjourned at 9:25PM.**

23

24

25

Respectfully submitted,

Secretary to the Environment and Land Use Committee

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