

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: February 13, 2014

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 6:30 p.m.

MEMBERS PRESENT: Catherine Capel, Marilyn Lee, Brad Passalacqua, Jim Randol, Eric Thorsland

MEMBERS ABSENT : Debra Griest, Roger Miller

STAFF PRESENT : Connie Berry, John Hall, Andrew Levy (RPC), Susan Monte(RPC)

OTHERS PRESENT : Larry Hall, Julia Hall, Jean Fisher, Mark Fisher, Steve Burdin, Herb Schildt, Don Wauthier

1. Call to Order

The meeting was called to order at 6:30 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with two members absent.

3. Correspondence

None

4. Approval of Minutes (January 16, 2014)

Mr. Thorsland informed the Board that a revised version of the minutes has been distributed tonight for review. He noted that minor corrections have been inserted into the minutes.

Mr. Hall stated that staff may have corrected any changes that the Board may have had in mind. He said that if the Board would like to review the revised minutes the approval can be postponed to the next meeting.

Mr. Thorsland entertained a motion to continue the approval of the January 16, 2014, minutes to the February 27, 2014, meeting.

Ms. Capel moved, seconded by Mr. Randol to continue the approval of the January 16, 2014, minutes to the February 27, 2014, meeting. The motion carried by voice vote.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

5. Continued Public Hearing

Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required for any County Board approved special use permit for a Rural Residential Development in the Rural Residential Overlay district as follows: (1) require that each proposed residential lot shall have an area equal to the minimum required lot area in the zoning district that is not in the Special Flood Hazard Area; (2) require a new public street to serve the proposed lots in any proposed RRO with more than two proposed lots that are each less than five acres in area or any RRO that does not comply with the standard condition for minimum driveway separation; (3) require a minimum driveway separation between driveways in the same development; (4) require minimum driveway standards for any residential lot on which a dwelling may be more than 140 feet from a public street; (5) require for any proposed residential lot not served by a public water supply system and that is located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results; (6) require for any proposed RRO in a high probability area as defined in the Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy of the ISHPA response; (7) require that for any proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of the agency response.

Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

Mr. John Hall, Zoning Administrator, requested that Case 685-AT-11 be continued to the May 15, 2014, meeting.

Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the May 15, 2014, meeting.

Mr. Passalacqua moved, seconded by Ms. Lee to continue Case 685-AT-11 to the May 15, 2014, meeting. The motion carried by voice vote.

Case 768-AT-13 Petitioner: Zoning Administrator Request: Amend the Champaign Zoning Ordinance by adding the following standard conditions and special provisions to Section 6.1.3: Part A. Revise the use category “heliport/restricted landing area” to heliport-restricting landing area: and revise the existing standard conditions and special provisions for the use category “heliport-restricted landing area” and add new standard conditions and special provisions, as follows: (1) Number the existing standard condition and special provision 1. (2) Add the following standard conditions and special provisions for a limited time not to exceed 365 days from the date of adoption: (a) Add a

1 standard condition and special provisions to require the Final Approach and Takeoff Area to be no
2 closer than 800 feet from the nearest CR District when measured in a straight line from the Final
3 Approach and Takeoff Area in an approach/takeoff path and no closer than 500 feet when measured
4 from the Final Approach and Takeoff Area in other than an approach/takeoff path and that no part
5 of the approach/takeoff path may be less than 100 feet above the nearest CR District. (b) Add a
6 standard condition and special provision to require that the Final Approach and Takeoff Area may be
7 no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport-
8 restricted landing area. (c) Add a standard condition and special provision to require that the Final
9 Approach and Takeoff Area may be closer than 300 feet from the nearest property under different
10 ownership than the heliport-restricted landing area. Part B. Revise the existing standard conditions
11 and special provisions for the use category "restricted landing area" and add new standard conditions
12 and special provisions as follows: (1) Number the existing standard conditions and special provisions
13 for the use category "restricted landing area" and add new standard conditions and special provisions
14 as follows: (1) Number the existing standard conditions and special provisions 1-4; and (2) Add the
15 following standard conditions and special provisions for a limited time not to exceed 365 days from
16 the date of adoption: (a) Add a standard condition and special provision to require the end of the
17 runway to be at least 1,500 feet from the nearest CR District when measured in a straight line from
18 the end of the runway and not less than 500 feet when measured from the edge of the runway and that
19 no part of the approach surface may be less than 100 feet above the nearest CR District. (b) Add as
20 standard condition and special provision to require that the runway may be no closer than 1,320 feet
21 from the nearest dwelling under different ownership than the restricted landing area. (c) Add a
22 standard condition and special provision to require that the runway may be no closer than 300 feet
23 from the nearest property under different ownership than the restricted landing area.

24
25 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
26 sign the witness register for that public hearing. He reminded the audience that when they sign the
27 witness register they are signing an oath.

28
29 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

30
31 Mr. John Hall, Zoning Administrator, stated that no new information is available tonight. He reminded the
32 Board that in addition to those things that were included originally staff did add the revision to Section 4.3.8.
33 He said that Section 4.3.8 is out of date in the Ordinance therefore this amendment updates it and also
34 exempts the restrictions that are being added from requiring a Special Use Permit for homes that may be
35 built in those areas. He said that the Board revised the separation to property line from 300 feet to 280 feet
36 so that an RLA could be fit on a narrow 40 acre tract and it was done for both the RLA and HRLA. He said
37 that the separation to the nearest dwelling is at the original 1,320 feet.

38
39 Mr. Hall stated that when the Board is ready to review the Summary Finding of Fact that was included in the
40 Draft Finding of Fact dated January 16, 2014, he believes that everything is still valid and all of the
41 recommendations still stand. He said that the Supplemental Memorandum dated February 6, 2014, provided

1 the changes to the Finding of Fact for the change from 300 down to 280 feet. He said that the Documents of
2 Record was not updated but should include the following: 1. Preliminary Memorandum dated January 8,
3 2014, with attachments; and 2. Supplemental Memorandum dated January 16, 2014, with attachments; and
4 3. Supplemental Memorandum dated February 6, 2014, with attachments.

5
6 Mr. Hall noted that Case 768-AT-13 is a short case and he believes that it is ready for final action tonight.

7
8 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

9
10 Mr. Thorsland called Larry Hall to testify.

11
12 Mr. Larry Hall, who resides at 177 North County Road 1600E, Villa Grove, stated that he would like to
13 confirm his position that he voiced at the last meeting. He said that his only point of dissention was when
14 the setback was changed from 1,320 to 940 feet from the nearest dwelling under different ownership than the
15 heliport-restricted landing area but that concern was addressed and the 1,320 feet was re-instated. He said
16 that to acknowledge his presence and support on behalf of the citizens of Champaign County and to
17 encourage and support the passage of the amendment as presented he is present to answer any questions that
18 the Board may have.

19
20 Mr. Thorsland asked the Board if there were any questions for Mr. Larry Hall and there were none.

21
22 Mr. Thorsland asked if staff had any questions for Mr. Larry Hall and there were none.

23
24 Mr. Thorsland called Jean Fisher to testify.

25
26 Ms. Jean Fisher, who resides at 195 North County Road 1600E, Villa Grove, stated that she would like to
27 thank the Board and the Department of Planning and Zoning staff for all of their hard work and insight in
28 preparing the proposed amendment. She said that a permanent ordinance would be fabulous for the
29 protection of any of the citizens in Champaign County but the protection and promotion of the conservation
30 district is of utmost importance. She urged the Board's support in passing the amendment.

31
32 Mr. Thorsland asked the Board if there were any questions for Ms. Fisher and there were none.

33
34 Mr. Thorsland asked if staff had any questions for Ms. Fisher and there were none.

35
36 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
37 testimony regarding Case 768-AT-13 and there was no one.

38
39 Mr. Thorsland closed the witness register for Case 768-AT-13.

40
41 Mr. Thorsland asked the Board if there were any comments regarding the changes from the last meeting that

1 were included in the February 6, 2014, Supplemental Memorandum and there were none.

2
3 Mr. Thorsland stated that if the Board is ready he will continue to the Summary Finding of Fact.

4
5 **Summary Finding of Fact for Case 768-AT-13:**

6
7 Mr. Thorsland read the Summary Finding of Fact as follows:

8
9 From the documents of record and the testimony and exhibits received at the public hearing conducted on,
10 January 16, 2014, January 30, 2014, and February 13, 2014, the Zoning Board of Appeals of Champaign
11 County finds that:

12 1. Regarding the effect of the proposed amendment on the Land Resource Management
13 Plan (LRMP):

14 A. **Regarding Goal 8:**

- 15 • Objective **8.5 requiring the County to encourage the maintenance and**
16 **enhancement of aquatic and riparian habitats** because while it will either
17 not impede or is not relevant to the other objectives and Policies under this
18 goal it, will *HELP ACHIEVE* the following:
 - 19 • Policy **8.5.1 requiring discretionary development to preserve**
20 **existing habitat, enhance degraded habitat and restore habitat**
21 **(see Item 18.a.(2)).**
 - 22 • Policy **8.5.2 requiring discretionary development to cause no**
23 **more than minimal disturbance to the stream corridor**
24 **environment (see Item 18.A.(3)).**
- 25 • Objective **8.6 that avoids loss or degradation of habitat** because it will
26 *HELP ACHIEVE* the following:
 - 27 • Policy **8.6.2 requiring new development to minimize the**
28 **disturbance of habitat or to mitigate unavoidable disturbance of**
29 **habitat (See Item 18.B.(2)).**
- 30 • Based on achievement of the above Objectives and Policies and because it
31 will either not impede or is not relevant to other Objectives and Policies
32 under this goal, the proposed map amendment will *HELP ACHIEVE Goal 8*
33 **Natural Resources.**

34
35 Mr. Thorsland asked the Board if they agreed with the recommendations in Finding 1.A. and the Board
36 agreed.

37
38 B. The proposed amendment will *NOT IMPEDE* the following LRMP goal(s):

- 39 • **Goal 1 Planning and Public Involvement**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

- **Goal 2 Governmental Coordination**
- **Goal 3 Prosperity**
- **Goal 4 Agriculture**
- **Goal 5 Urban Land Use**
- **Goal 6 Public Health and Safety**
- **Goal 7 Transportation**
- **Goal 9 Energy Conservation**
- **Goal 10 Cultural Amenities**

C. Overall, the proposed text amendment will *HELP ACHIEVE* the Land Resource Management Plan.

Mr. Thorsland asked the Board if they agreed to the recommendations for Findings 1.B. and 1.C and the Board agreed.

2. The proposed Zoning Ordinance text amendment will *HELP ACHIEVE* the purpose of the Zoning Ordinance because:

- The proposed text amendment *WILL* conserve the value of land, BUILDINGS, and STRUCTURES, throughout the COUNTY (Purpose 2.0(b); see Item 16.B.).
- The proposed text amendment *WILL* promote the public health, safety, comfort, morals, and general welfare (purpose 2.0 (e); see Item 16.E.).
- The proposed text amendment *WILL* regulate and limit the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surroundings buildings and structures (Purpose 2.0 (h); see Item 16.H.).
- The proposed text amendment *WILL* classify, regulate, and restrict the location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses (Purpose 2.0 (i); see Item 16.I.).
- The proposed text amendment *WILL* divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the Ordinance (Purpose 2.0 (j); see Item 16.J.).
- The proposed text amendment *WILL* fix regulations and standards to which buildings, structures, or uses therein shall conform (Purpose 2.0 (k); see Item 16.K.).
- The proposed text amendment *WILL* prohibit uses, buildings, or structures incompatible with the character of such districts (Purpose 2.0 (l); see Item 16.L.).

- 1 • The proposed text amendment **WILL** protect the most productive agricultural lands
- 2 from haphazard and unplanned intrusions of urban uses (Purpose 2.0 (n); see Item
- 3 16.n.).
- 4 • The proposed text amendment **WILL** protect natural features such as forested areas
- 5 and watercourses (Purpose 2.0 (o); see Item 16.O.).

6

7 Mr. Thorsland asked the Board if they agreed with the recommendations for Finding 2. and the Board

8 agreed.

9

10 Mr. Thorsland entertained a motion to adopt the Finding of Fact, Summary Finding of Fact and Documents

11 of Record as amended.

12

13 **Mr. Passalacqua moved, seconded by Ms. Lee to adopt the Finding of Fact, Summary Finding of Fact**

14 **and Documents of Record as amended. The motion carried by voice vote.**

15

16 Mr. Thorsland entertained a motion to move the Final Determination for Case 768-AT-13.

17

18 **Ms. Capel moved, seconded by Mr. Randol to move to the Final Determination for Case 768-AT-13.**

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

20

21 Mr. Thorsland informed the petitioner that two Board members are absent tonight therefore it is at his

22 discretion to either continue Case 768-AT-13 until a full Board is present or request that the present Board

23 move forward to the Final Determination. He informed the petitioner that four affirmative votes are required

24 for approval.

25

26 Mr. John Hall requested that the present Board move to the Final Determination.

27

28 **Final Determination for Case 768-AT-13:**

29

30 **Ms. Capel moved, seconded by Mr. Passalacqua that pursuant to the authority granted by Section 9.2**

31 **of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**

32 **determines that the Zoning Ordinance Amendment requested in Case 768-AT-13 should *BE***

33 ***ENACTED* by the County Board in the form attached hereto.**

34

35 Mr. Thorsland requested a roll call vote.

36

37 The roll was called:

38

39	Lee-yes	Miller-absent	Passalacqua-yes
40	Randol-yes	Capel-yes	Griest-absent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

Thorsland-yes

Mr. Hall informed the audience that Case 768-AT-13 has received a recommendation of approval therefore the case will be forwarded to the March 6, 2014, Environment and Land Use Committee Meeting.

6. New Public Hearings

Case 769-AT-13 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to the Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control Ordinance as described in the legal advertisement which can be summarized as follows: I. Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15-15 that authorizes the County Board to have authority to prevent pollution of any stream or body of water. (Part A of the legal advertisement); and II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge System (NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement); and III. Add new Section 3 titled Definitions to include definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement); and IV. Revised existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency’s ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement); and V. Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion and water quality requirements that are required for all construction or land disturbance; and VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement); and VII. Revise and reformat existing Section 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement).

Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. He reminded the audience that when they sign the witness register they are signing an oath.

1 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

2
3 Mr. John Hall, Zoning Administrator, distributed notebooks to the Board which will be utilized for this case.
4 He said that the notebooks include a Supplemental Memorandum dated February 13, 2014, which includes
5 the legal advertisement as Attachment A. He said that the Supplemental Memorandum also includes a listing
6 of attachments which are included in the notebook and correspond to the lettered dividers M-X. He said that
7 the Board has everything needed to begin putting the evidence together although there will be other handouts
8 for future meetings and generally staff will distribute those handouts at the meetings with new dividers. He
9 said that in addition to the handouts that the Board currently has in front of them tonight there will be new
10 informational handouts to review for when the amendment is adopted and new example appendices
11 regarding an erosion control plan. He said that there will also be a new application form that will be relevant
12 to the proposed amendment.

13
14 Mr. Hall stated that Mr. Andrew Levy, Champaign County Regional Planning Commission Planner, has a
15 Power Point presentation for the Board regarding this case. He said that a copy of the slides for the Power
16 Point presentation is included in the Board's notebook for review.

17
18 Mr. Andrew Levy stated that he is Planner with the Champaign County Regional Planning Commission. He
19 said that the CCRPC works jointly with the Champaign County Planning and Zoning Department regarding
20 long range planning efforts. He said that his background is in geography and he has a Masters Degree in
21 Planning from the University of Illinois and has been with the CCRPC for six years as a professional
22 planner. He said that he has worked on a variety of issues with his primary focus on water related issues and
23 has been involved with some National Pollution Discharge Elimination System Requirements (NPDES)
24 during the past two years. He said that the Power Point presentation is a brief overview to introduce some of
25 the concepts that the Board will be discussing.

26
27 Mr. Levy stated that Champaign County adopted the Champaign Interim Stormwater Management Policy in
28 1991 (Resolution 3160) and the Policy was amended in 2003 (Ordinance 679). He said that the general
29 purpose of the Stormwater Management Policy was to guide developers' attempts to control the
30 transportation or movement of storm water which was well and good at that point but at this point and time
31 there needs to be more done. He said that regulating runoff from impervious areas was the intent in 2003 but
32 now is the time to do more.

33
34 Mr. Levy stated that all of this was mandated by Congress under the *Clean Water Act*, the National Pollution
35 Discharge Elimination System is a comprehensive program for addressing non-agricultural sources of storm
36 water discharge. He said that the *Clean Water Act* prohibits the discharge of pollutants through point
37 sources as opposed to non-point sources unless the discharger has a NPDES permit and is in compliance
38 with the conditions of the permit. He said that Champaign County was identified as a small Municipal
39 Separate Storm Sewer System (MS4), even though the County is not a municipality, and was issued a permit
40 along with Champaign, Urbana, Savoy, University of Illinois and the Fountainhead Drainage District.

41

1 Mr. Levy stated that the NPDES permit is broad and includes six minimum control measures. He said that
2 the control measure that the Board will be dealing with is Construction Site Runoff Control but the Board
3 should be aware that there is a lot to the NPDES permit. He said that the MS4 operator is required to have
4 some regulatory mechanism and the proposed ordinance is the County's compliance for that requirement.
5 He said that the mechanism must have procedures for site plan review of construction plans that consider
6 potential water quality impacts; and procedures for site inspection and enforcement of control measures; and
7 sanctions to ensure compliance (established in the ordinance or other regulatory mechanism); and establish
8 procedures for the receipt and consideration of information submitted by the public.
9

10 Mr. Levy stated that he has provided a graphic which indicates typical erosion rates for land-based activities.
11 He said that the graphic indicates forest land, farm land (active pasture), farm land (cover crop) and bare soil
12 (construction site, etc.). He said the graphic indicates the typical erosion rates for the different land activities
13 and bare soil has vastly higher erosion rates than agricultural land which is under row crop. He said that
14 problems which are associated with construction site runoff are due to the dirty water. He said that soil is a
15 pollutant and can carry other pollutants and that is something that the Clean Water Act seeks to prevent. He
16 said that as storm water flows from construction sites it can pick up sediment, debris and chemicals transport
17 to a nearby storm sewer system or directly into a river or lake. He said that the NPDES permit requires
18 clearing, grading and excavating activities in certain amounts to undertake certain activities to protect against
19 polluted discharges.
20

21 Mr. Levy stated that erosion and sediment control includes things like keeping areas of disturbance small in
22 size. He said that often there are construction sites where they may have partitioned off certain areas, kept
23 grass in certain areas or curtained off trees to help keep soil in place. He said that stabilizing areas of
24 disturbance before erosion occurs is helpful as well as keeping velocities of water runoff low and protecting
25 areas of disturbance from storm water runoff. He said that routine maintenance on controls is important
26 because if sediment fences are installed correctly a lot of the issues which the *Clean Water Act* intends to
27 prevent are solved.
28

29 Mr. Levy stated that sediment fences and site entrances with gravel into construction sites that are planted in
30 grass eliminates the possibility of sediment to leave the site. He said that the way that the Department of
31 Planning and Zoning can review the sediment control is through the site plans. He said that staff can review
32 the Erosion and Sediment Control Plans and help landowners and developers gain a control on the issues.
33 He said that throughout this process he has tried to identify some specific concerns and practical ways of
34 addressing and complying with those concerns and the chart included in the presentation indicates some of
35 those concerns and a method of compliance for each.
36

37 Mr. Levy stated that a map of the MS4 Jurisdictional Area is included in your notebooks and within this
38 presentation. He said that the MS4 Jurisdictional Area is a relatively small part of Champaign County and
39 includes the City of Champaign, City of Urbana and Savoy. He said that the portion of the MS4 area that
40 Champaign County is responsible for is only about 12 square miles along the urban fringe. He said that the
41 County still needs some control over areas just outside of that fringe to make sure that people protect the

1 existing drainage and water resources and maintain easements.

2
3 Mr. Levy stated that where subdivision approval or Zoning Use Permits are required there is a little bit more
4 that the County will be looking for such as a storm water drainage system, or it may require a drainage plan
5 or Land Disturbance Erosion Control Permit and Rules of Construction.

6
7 Mr. Levy stated that the MS4 map indicates an area which is shown in orange and within the yellow line is
8 the area where the Land Disturbance Erosion Control (LDEC) Permits are placed. He said that the
9 presentation indicates the Sections of the Ordinance that will be applicable to the MS4 area. He said that
10 there are exemptions to the LDEC Permit such as agriculture, land disturbance of less than one acre (in some
11 cases), activities related to cemetery grave sites, emergencies, land disturbances of less than 10,000 square
12 feet, land disturbances on lots in subdivisions subject to a municipal annexation agreement, and land
13 disturbance pursuant to a statewide or regional permit.

14
15 Ms. Capel asked Mr. Levy if mines are included or are they regulated by the State of Illinois.

16
17 Mr. Levy stated that he believes that mines would fall under an industrial permit with the State.

18
19 Mr. Levy stated that an LDEC Permit Minor and an LDEC Permit Major are being proposed. He said that an
20 LDEC Permit Minor is required when less than one acre of land disturbance will occur that is part of a
21 common plan of development or sale of record or if the land disturbance is located in a residential, business
22 or industrial zoning district or if the land disturbance is in an existing subdivision of more than four lots
23 including subsequent replats in the AG-1, AG-2 and CR zoning district. He said that a LDEC Permit Major
24 is required when one acre or more of land disturbance will occur. He said that the requirements for the
25 LDEC Major are already required by the Illinois EPA and the County is not proposing any additional
26 requirement and is only supporting the requirement by including it in the proposed ordinance.

27
28 Mr. Levy stated that administration and enforcement of these regulations will be conducted by the
29 Department of Planning and Zoning and the details for these activities are detailed in Sections 13, 14, and 15
30 of the proposed ordinance. He said that technical appendices are provided to help applicants prepare the
31 necessary applications and plans. He said that the Board is going to have several months to deal with this
32 ordinance and staff wants to make it easier for the public to comply therefore guides will be provided.

33
34 Mr. Levy stated that his presentation summarizes a timeline for the proposed amendment. He said that on
35 January 9, 2014, ELUC recommended referral of the proposed Storm Water Management and Erosion
36 Control Ordinance to the ZBA and tonight, February 13, 2014, the ZBA held its first public hearing
37 regarding Case 769-AT-13. He said that the ZBA will have this case before them for several months with a
38 tentative date of return to ELUC on May 8, 2014, by which they will either affirm or amend the ZBA's
39 recommendation. He said that tentatively on June 5, 2014, ELUC will make a recommendation to the
40 Champaign County Board and hopefully at the June 26, 2014, County Board meeting the County Board will
41 make a final determination regarding Case 769-AT-13.

1
2 Mr. Hall noted that an audit from the Illinois Environmental Protection Agency is anticipated sometime this
3 spring. He said that the County was supposed to have this Ordinance in place several years ago. He said
4 that he hopes that the audit goes well but the IEPA is aware of where the County is at with this process. He
5 said that the Board does not need to approve this until the Board is ready but we do want to get this
6 amendment back to ELUC as soon as possible but he does not expect to have this amendment back to ELUC
7 before the IEPA audit. He said that the Board should work as long and hard on this amendment as the Board
8 needs to but there is a little bit of an incentive to get it done as quickly as possible although that is only when
9 the Board is comfortable with it.

10
11 Ms. Capel asked Mr. Hall how much of a burden will be placed on the Department of Planning and Zoning
12 due to the required reviews and inspections.

13
14 Mr. Hall stated that if it is limited to the MS4 area the department can handle it. He said that the IEPA
15 recommends that the review and inspection process is completed throughout the whole 1,000 square mile
16 rural area which is impossible with a department staffing of only four employees. He said that every other
17 county that has been reviewed has done it throughout their whole countywide area but that is not what the
18 regulations indicate and he hopes that we can do it this way.

19
20 Ms. Capel asked Mr. Hall if there is any way that the County could share those inspections with the City of
21 Champaign or the City of Urbana.

22
23 Mr. Hall stated that if the County Board could be talked into such an arrangement the cities are ready to do it
24 but he cannot conceive that the County Board would to agree to it. He said that he is not opposed to such an
25 arrangement with the cities but he does not believe that there would be enough County Board members who
26 would agree to it.

27
28 Ms. Capel asked Mr. Levy if he could provide an example of when someone would need an LDEC Permit
29 Minor.

30
31 Mr. Levy requested Mr. Hall's input.

32
33 Mr. Hall stated that the easiest thing to imagine is that within the MS4 area, if you sell rural land without
34 having to go through the platting process, subdivision plat or survey plat, someone could sell their by-right
35 lots and would not be part of a larger common plan of development. He said that to use the four rights to
36 create lots that some parcels have, for the last two times the landowner will probably have to do some sort of
37 a plat and the minute a plat is done with two or more lots the landowner has become part of a larger common
38 plan of development. He said that within the MS4 area it is entirely possible that there will be some new
39 rural lots upon which a LDEC Permit Minor is required. He said that there are RROs in the MS4 area and he
40 suspects that there will be future RROs in that MS4 area and every RRO lot will be part of a larger common
41 plan of development expected to disturb an acre or more.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

Ms. Capel asked even a lot that is less than one acre.

Mr. Hall stated yes, but contributing to disturbance of one acre or more overall and the October 29, 2013, memorandum to the Environment and Land Use Committee included a cost analysis. He said that the costs in the memorandum are compared to the costs that the EPA used in the final rule that was included in the notebook. He said that he has not gone back to use the inflation rate from 1999 to 2013 but even if he did the County's costs are higher than what the EPA anticipated and there are probably reasons for that and at least the EPA took the time to do that in 1999 but the construction costs are generally higher than what they anticipated and also the costs to Champaign County for adding this program. He said that all of this was done through the *Clean Water Act* and it is a requirement that should have been in place a couple of years ago.

Mr. Thorsland stated that staff emailed the memorandum to ELUC and it is also included in the notebook. He said that the memorandum discussed at least two extra trips for staff and the estimate in the MS4 was five lots that would be affected.

Mr. Hall stated that for the first eight months of fiscal year 2013 staff had five major permits in the MS4 area therefore if these rules would have been in place there would have been at least 20 inspections conducted. He said that just limiting this to the MS4 area will still be a challenge for staff.

Ms. Lee asked Mr. Hall if Mr. Sebens' property is in the MS4 area.

Mr. Hall stated no. He said that before Ms. Lee came onto the Board the ZBA heard a case that was similar to Mr. Sebens' case and that previous case is located in the MS4 area. He said that construction for the previous case has not started yet but will begin before this amendment is adopted.

Ms. Lee asked if this amendment could create a situation that would allow more water to flow onto adjacent properties which is contrary to what is allowed currently.

Mr. Hall stated that this amendment should not result in any increased flows. He asked Ms. Lee why she believes that the amendment will increase the flows.

Ms. Lee stated that Mr. Sebens is proposing to build additional buildings which will create more runoff for the farmland that is downstream.

Mr. Hall stated that Mr. Sebens' proposal will do that and that is what is already regulated under the Storm Water Management Policy. He said that there will probably be less runoff from Mr. Sebens' property if he goes ahead with the development and does the storm water drainage plan.

Ms. Lee asked if the runoff will be less than it is currently.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

Mr. Hall stated yes, due to the required detention pond.

Ms. Lee asked if due to this ordinance there will never be an increase of runoff downstream to any agricultural land.

Mr. Hall stated no, not as a result of any changes that are being made here.

Mr. Thorsland stated that the ordinance should reduce the amount of sediment.

Mr. Passalacqua asked if the person who is required to obtain a minor permit will be held to the same standard as the people who have the major permit in regards to silt screening and practices for construction. He said that the standards will be the same and it is just the criteria for which permit and if a permit is required. He said that nothing is really being changed other than there will be more people involved in this than there was before.

Mr. Hall stated yes and those are the people who have no interest in erosion control and don't even know what it means because they have never had to do it and that is why the technical appendices for the minor are really essential. He said that this draft ordinance is based on the ordinance that Champaign and Urbana developed when they adopted their erosion control. He said that the County's ordinance is based loosely on the Champaign and Urbana ordinance because it was an ordinance being adopted by a city engineering department staffed by many professional engineers who are present on a daily basis. He said that engineers have more discretion than the County Zoning Administrator has in being a simple planner at the Department of Planning and Zoning. He said that the proposed ordinance looks a lot different than the one for Champaign and Urbana but it is as close as is can be and the technical appendices are copies of what Champaign and Urbana has and the one problem with them is that they do not have good examples for a rural situation. He said that for the major permit the examples are not important because the engineer that is involved will know what to do but for the minor permit the County will need to provide good handouts for its citizens. He said that this will end up looking like what Woodford County has adopted because they have been doing things like this since before 1999 when they came in under the Phase I. He said that Woodford County has a good ordinance and that is what much of the proposed ordinance is based upon. He said that the Woodford County Ordinance is included as an attachment along with their handout. He said that Woodford County has processed 50 minor permits.

Ms. Capel asked Mr. Hall if Woodford County's Ordinance covers the entire county.

Mr. Hall stated yes and they do not limit the amount of lots that can be created therefore the lots do not have to be approved by the RRO process or anything similar.

Mr. Passalacqua stated that the standards which the major permit is being held to are federal EPA requirements but we do not have a federal guidelines for the minor.

1
2 Mr. Hall stated that the minor is actually based on that because the federal guideline indicates one acre of
3 disturbance or more in a common plan of development. He said that this is the biggest change with these
4 rules because right now many people don't realize that they are within a common plan of development but in
5 the future they will know.

6
7 Mr. Passalacqua stated that his subdivision was sold to individuals who purchased small pieces of 17 acres.

8
9 Mr. Hall stated that if, a subdivision like Mr. Passalacqua's could be created now which can't due to the
10 RRO requirements, there would be erosion controls required which is why he will say that RROs out in the
11 remote rural area in the near future will find out that they are part of a common plan of development. He
12 said that they will need to comply but because of the way that the MS4 area is they won't have to get the
13 LDEC permits. He said that they will still have an issue of compliance with the EPA, just like they have
14 today, although they are not aware of it.

15
16 Ms. Lee asked Mr. Hall how this will affect the rural areas and what part of this will apply to them.

17
18 Mr. Hall stated that it is really only going to apply to the rural area when there is a subdivision plat or a plat
19 of survey that shows two or more lots. He said that it will not affect the homes that are already out in the
20 rural areas because under the current rules we are only required to enforce this in the MS4 area and that is
21 based on an EPA requirement. He said that some people think that the EPA requirement will change in the
22 future. He said that if the EPA requirement changes so that this has to be applied in a broader area then we
23 will have to make that change at that time but right now he does not see this ever affecting anyone who is out
24 in the rural area already. He said that as people divide land and sell off lots that the County allows you to do
25 those lots will be subject to it.

26
27 Mr. Randol asked Mr. Hall about land that has a pre-annexation agreement with a municipality. He asked if
28 the land would still be outside the village's jurisdiction and the County would have oversight.

29
30 Mr. Hall stated no. He said that if an annexation agreement results in a larger common plan of development
31 disturbing an acre or more the ILR10 requirements will still apply but will have to be enforced in a different
32 way. He said that the County will not have anything to do with it because once there is an annexation
33 agreement it is between that municipality and the landowner and if it is municipality that is not Champaign,
34 Urbana or Savoy it will be between the landowner and the EPA. He said that other municipalities may not
35 have anything about this in their ordinance but hopefully they do because it is an existing requirement.

36
37 Mr. Hall stated that the hardest thing to understand about this proposed ordinance is what impact it will
38 have in the rural areas. He said that if you are already out in the rural area it won't affect you unless you are
39 disturbing more than one acre. He said that staff often receives calls about people grading large areas of land
40 and the County has no requirements regarding grading currently in any of the ordinances unless you are in
41 the floodplain. He said that in the future if someone is disturbing one acre or more staff will contact them to

1 let them know that they are supposed to have an ILR10 permit and that is between the landowner and the
2 EPA. He said that if they need a permit from the County they are going to have to prove that they obtained
3 an ILR10 permit but they won't have to go through any special permitting with the County unless they are
4 within the MS4 area.

5
6 Ms. Lee stated that Ms. Capel asked a question about mines and Mr. Levy indicated that the County has no
7 control over them.

8
9 Mr. Thorsland stated that Mr. Levy indicated that mines would be under an industrial permit which would be
10 an entirely different process.

11
12 Ms. Lee asked if mines are subject to the ILR10 permitting requirement.

13
14 Mr. Hall stated that mines would be subject to a different permit but it is essentially the same thing because
15 they have to make sure that they minimize the pollution that can be carried off by storm water. He said that
16 concrete plants are also under the industrial rule and our own highway engineering building for the salt
17 storage is considered an industrial use. He said that there are a lot of different industrial uses that already
18 have standards that have to be met and this ordinance applies to those but for a mine the County does not
19 have zoning jurisdiction therefore it will not be an issue for the County.

20
21 Ms. Lee stated that the ordinance does not cover any municipalities in the County.

22
23 Mr. Hall stated that the ordinance only covers those in the MS4 area.

24
25 Mr. Passalacqua asked if the garage project that he completed in 2013 would have been an issue.

26
27 Mr. Hall stated that it would only be an issue if Mr. Passalacqua disturbed an acre or more of land for that
28 garage project.

29
30 Mr. Thorsland stated that he worked with the Champaign County Soil and Water Conservation District to do
31 waterways on his 20 acres.

32
33 Ms. Capel stated that the waterways are considered agriculture and are exempt.

34
35 Mr. Thorsland stated that CCSWD still followed those guidelines when they did all of the work and that is
36 all recorded at their office.

37
38 Ms. Lee asked Mr. Levy if he foresees agriculture not being exempt in the future.

39
40 Mr. Levy stated no.

41

1 Mr. Thorsland called Herb Schildt to testify.

2
3 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, stated that he is the Chairman of the Newcomb
4 Township Plan Commission and the Newcomb Township Board has requested that the Newcomb Township
5 Plan Commission review Case 769-AT-13. He said that Case 769-AT-13 is on the Newcomb Township
6 Plan Commission's March agenda. He said that he has spent some time reviewing the case and he has a few
7 questions and comments but before he begins he would like to emphasize that at this time he is not speaking
8 for Newcomb Township and the questions and comments that follow are his alone and only reflect his
9 personal viewpoints at this time.

10
11 Mr. Schildt stated that the Memorandum dated October 29, 2013, to the Environment and Land Use
12 Committee states that Section 6 is going to contain optional amendments. He asked Mr. Hall if that is still
13 the case.

14
15 Mr. Hall stated yes.

16
17 Mr. Schildt asked Mr. Hall if the February 4, 2014, Draft Storm Water Management and Erosion Control
18 Ordinance, indicated on the website is still the most current version for review.

19
20 Mr. Hall stated yes.

21
22 Mr. Schildt stated that from the language in Section 4.1.D. it appears that, with the exception of agriculture,
23 the requirements of Section 6 apply to all areas of the County including individual residences. He asked Mr.
24 Hall if his understanding of Section 4.1.D. is correct.

25
26 Mr. Hall stated that Section 7 already applies and is in the County's existing policy and that is where it
27 establishes that Section 6 applies everywhere.

28
29 Mr. Schildt stated that the waivers and variances to Section 6 appear to be supported by a language in
30 Section 17. He said that Section 17 seems to state that the ZBA can grant a waiver or a variance to anything
31 in Section 6 or anything else in the ordinance. He asked Mr. Hall if his understanding of that is correct.

32
33 Mr. Hall stated that it is not a prohibited variance.

34
35 Mr. Schildt stated that the definition of land disturbance seems problematic. He said that the definition is
36 too narrow because when he read it things came to mind such as patios, driveways, above ground pools,
37 walkways and landscaping in general. He said that what is problematic is trying to enumerate the list of
38 exemptions and he would recommend exempting single-family residences. He said that Section 4.2.D. under
39 Storm Water Drainage Exemptions states: individual single family and two-family detached dwellings and
40 related accessory structures on a single lot. He said that the ordinance could affect some existing residences
41 if the letter of the law is applied strictly.

1

2 Mr. Hall stated that there is a basic 10,000 square foot exemption so even preparing your garden in the
3 spring is a land disturbance and if you are in the MS4 area as long as you do not disturb more than 10,000
4 square feet it is never an issue. He said that in the rural area it would be one acre and if someone has a
5 garden that is one acre in size then perhaps it isn't a garden but would be considered agriculture. He said
6 that even in the MS4 less than 10,000 square feet is exempt and no permit is required.

7

8 Mr. Schildt stated that Section 4.1.D. states that the requirements listed in Protect Existing Drainage and
9 Water Resource (Section 6) and Easements (Section 7) shall apply to all subdivisions and to all Zoning Use
10 Permits and to all land disturbance regardless of the amount of area involved or percent of impervious
11 surface area, but shall not apply to agriculture.

12

13 Mr. Hall stated that Section 6 regulates erosion and sedimentation on a neighboring property. He said that
14 Section 6 adds the new sump pump discharge separation from a roadside ditch or offsite swale, stream,
15 property line or in such a way that it creates a nuisance condition at any time of the year or contributes to
16 erosion. He said that Section 6.1.E. indicates that no sump pump discharge or storm water shall be directed
17 to any sanitary sewer. He said that Section 6.4 states that no waste or debris that results from construction
18 activities shall be carried off the site by either wind or water. He said that these rules are intended to be
19 common sense things.

20

21 Mr. Thorsland stated that the definition includes the text, "not limited to," which means that not everything
22 is called out. He said that as Mr. Hall pointed out common sense would apply. He asked Mr. Hall if Mr.
23 Schildt had a particularly large garden or was building a very large patio how would anyone know that he
24 was doing that or was violating the ordinance. He asked Mr. Hall what would trigger staff or the EPA to
25 investigate.

26

27 Mr. Hall stated that it is inconceivable that building a patio outside of the MS4 area would ever be a
28 problem.

29

30 Mr. Schildt stated that he understands the pressures for the MS4 area and the reason why he is bringing these
31 concerns before the Board tonight is because of the time pressures therefore he does not want to give the
32 wrong impression. He said that when he sees the 10,000 square foot exemption he sees it referring to
33 Section 4.3 which is the LDEC permit exemptions and did not recall it being relative to Section 6. He said
34 that he does not understand how that exemption can apply to the Section 6 requirements.

35

36 Mr. Hall stated that he wasn't certain as to how limited his comments were.

37

38 Mr. Schildt stated that it has taken a while for him to wrap his head around this because it is so big but he
39 was referring strictly to the Section 6 requirements which are optional and he does not see them being
40 exempted by the 10,000 square foot rule and if that is the intent then it should be written in there.

41

1 Mr. Hall stated that they are not exempted by the 10,000 square foot rule.

2
3 Mr. Schildt stated that Section 4.1.D. states, “all Zoning Use Permits and to all land disturbance regardless
4 of the amount of area involved,” therefore since the 10,000 square foot exemption does not apply to Section
5 6 and this is referring specifically to Section 6 it doesn’t exempt it. He said that there needs to be an
6 exemption there because the enumerated exemptions are too small and he would recommend exempting
7 activities around single family residences.

8
9 Ms. Lee stated that she believes that Section 6 goes along with the common law regarding drainage because
10 landowners are not supposed to create more water flow on landowners downstream from your property.

11
12 Mr. Schildt stated that he did not read Section 6 as to referring to that and he is concerned with the
13 underlined additions that are being made to the underlined portions of Section 6. He said that Section 6.1.D.
14 refers to the new sump regulation and reads as follows: No sump pump discharge or discharge from any
15 private wastewater treatment system shall discharge directly into or within 25 feet of a roadside ditch, off-
16 site drainage swale, stream, property line, or in such a way that it creates a nuisance condition at any time of
17 the year or contributes to erosion. He said that anyone with a basement that lives in the rural areas, probably
18 has a sump pump therefore Section 6 could potentially affect a lot of people. He said that if a landowner’s
19 sump pump has never caused a problem in a house that has been there for 40 years and the landowner comes
20 to the Department of Planning and Zoning for a permit to build a garage the application process would
21 require the landowner to indicate where the sump pump discharges to confirm that it wasn’t within 25 feet of
22 a swale. He said that an existing resident of Champaign County could actually run afoul of this after the fact.
23 He asked Mr. Hall if his interpretation of this is incorrect or is it possible.

24
25 Mr. Hall stated that as we discussed previously the 25 feet is a new rule that just went into place in February
26 and he is not aware that it grandfathers existing discharges. He said that he wants to show the ZBA the rule
27 that is in place right now throughout the State of Illinois for sump pump discharges and if we can grandfather
28 them then he will recommend doing so but if we can’t then he will not recommend it. He said that Section 6
29 discusses sump pump discharges and stockpiles of 100 cubic yards or more and whether or not you should
30 be concerned about how close it is to stream or a ditch. He said that Section 6 also discusses waste and
31 debris that leaves a construction site and construction or land disturbance within 30 feet of the top of the
32 bank of a ditch, stream or drainage ditch. He said that this Board needs to determine if these are reasonable
33 rules that make sense or not.

34
35 Mr. Schildt stated that he was going to recommend that the grandfather clause is fundamental otherwise the
36 consequences could be dire for some people. He said that if someone wanted to build onto their house and
37 they find out that their sump pump discharge is discharging 24 feet away from a drainage swale they would
38 have to pay to reroute it even though it has never caused a problem. He said that grandfathering is the fair
39 and right thing to do and Champaign County has always acted correctly in these regards.

40
41 Mr. Thorsland asked Mr. Schildt if he would like to see potential violations in Section 6 or all of this as it

1 applies grandfathered if possible by the law for single family homes.
2
3 Mr. Schildt stated that he is concerned about Section 6.4.E. He said that Section 6.4.E. indicates that No
4 construction or land disturbance pursuant to construction shall occur within 30 feet of the top of the bank of
5 a drainage ditch or stream or within 30 feet of the centerline of a drainage swale. He said that he cannot
6 understand why Section 6.4.E. is included.
7
8 Mr. Hall stated that there are certain things that you can do within 30 feet of a stream and those are outlined
9 in 6.4.E. but other than that, since we are trying to prevent water pollution from land disturbance, why would
10 you have to disturb the land that is within 30 feet of a stream.
11
12 Mr. Schildt stated that he errs on the side of private property rights. He said that this came up back in the
13 Comprehensive Zoning Review days and a comment was made about Frank Lloyd Wright’s house, “Falling
14 Water,” which is probably one of the most famous houses in America and it could not be built with this
15 regulation. He said that the architect and engineers should be able to determine whether a house is too close
16 to an embankment and should not be written into the zoning code in 2014.
17
18 Mr. Hall stated that in the instance of Frank Lloyd Wright’s home, “Falling Water,” he could apply for a
19 variance.
20
21 Mr. Schildt asked how someone could spend the money involved in designing a home with that concept in
22 mind knowing that they might be turned down.
23
24 Mr. Thorsland stated that rather than discussing the proposed ordinance’s effects to Frank Lloyd Wright we
25 should move on to Mr. Schildt’s next concern.
26
27 Mr. Schildt stated that his recommendation would be to strike Section 6.4.E.
28
29 Mr. Hall stated that staff can provide the Board with all the things that could be built pursuant to a statewide
30 or regional permit.
31
32 Mr. Schildt stated that Section 6.4.D. refers to stockpiles of materials. He asked if stockpiles of materials
33 and sump pumps in the rural area, outside of the MS4, have been a problem.
34
35 Mr. Hall stated that staff has received complaints regarding sump pumps but staff has not received
36 complaints about stockpiles.
37
38 Mr. Schildt asked Mr. Hall to elaborate on what types of complaints staff has received regarding sump
39 pumps.
40
41 Mr. Hall stated that staff has received complaints regarding nuisance wet spots, etc.

1

2 Mr. Schildt stated that one of the things that occurred to him regarding the sump pump regulation was a
3 possible conflict because if you can't direct the water towards some sort of normal natural drainage, basically
4 rain water, then you are left with it pooling up in your backyard which creates a mosquito breeding ground
5 which is a nuisance. He said that if the sump pump regulation is not taken out perhaps it can be looked at
6 again or made so that conflicts don't exist.

7

8 Mr. Thorsland stated that it doesn't state that you have to make it pool but does tell you that you have to be
9 25 feet away from the waterway therefore it doesn't mean that you could not direct the discharge towards the
10 waterway to give it a buffer zone. He said that the regulation just states that the discharge cannot be 24 feet
11 from the waterway.

12

13 Mr. Schildt stated that new construction is not the issue but existing cases where you might tell someone that
14 they have to fix something that is not broken.

15

16 Mr. Schildt stated that Sections 2.D and 2.E are under the purpose of the ordinance. He said that Section 2
17 begins as follows: The purpose of this ordinance is to accomplish the following:. He said that 2.D. and 2.E.
18 reads as follows: 2.D: Conserve, preserve and enhance the natural resources of the County, including its
19 soils, waters, vegetation, fish and wildlife; and 2.E: Promote public welfare and protect waters under the
20 *Clean Water Act* by guiding, regulating and controlling the design, construction, use and maintenance of any
21 development or other activity that disturbs soil on land situated within the County. He said that while he
22 does not have a problem per say with those statements he would ask why they have been added to something
23 that is called the Storm Water and Management Control Ordinance.

24

25 Mr. Hall stated that those are the kinds of things that the *Clean Water Act* is requiring the County to do to
26 meet the NPDES requirement.

27

28 Mr. Schildt asked Mr. Hall if they have to be included in the ordinance.

29

30 Mr. Hall stated that the purpose there is to be honest and that is what this ordinance is intended to do. He
31 said that we could leave them out of the purpose but we may get questions from the EPA as to why we are
32 not trying to do this or that.

33

34 Mr. Schildt stated that the only reason why he brought this up is because he believes that the best law is
35 focused, narrow and specific and it did not seem that these things are related to this ordinance.

36

37 Mr. Schildt stated that a practical thing that is important is that Section 4.3 has a possible typo. He said that
38 the first sentence in Section 4.3, Permit Exemptions reads as follows: All land disturbance activities meeting
39 the following conditions are exempt from the Land Disturbance Erosion Control Permit requirements. Mr.
40 Schildt asked Mr. Hall if the sentence should be revised to read the following: All land disturbance activities
41 meeting any of the following conditions are exempt from the Land Disturbance Erosion Control Permit

1 requirements.
2
3 Mr. Hall stated that Mr. Schildt was correct with his recommended revision to the first sentence in Section
4 4.3.
5
6 Mr. Schildt stated that it is his recommendation that review this be split into two cases. He said that one
7 case would be related to the MS4 portion and the second case would be related to the optional amendments
8 which are mostly added to Section 6. He said that by splitting this into two cases would streamline the
9 adoption of the MS4 amendments and make it a cleaner process.
10
11 Mr. Thorsland asked the Board if there were any questions for Mr. Schildt.
12
13 Ms. Lee stated that during discussion of Section 6.4 Mr. Schildt made a comment about being 30 feet from
14 the drainage ditch and that he saw no purpose in having Section 6.4.E. She said that drainage ditches do
15 maintenance work therefore they need the 30 feet so that no construction can occur there and that is true for
16 all drainage ditches in the County. She said that doing away with Section 6.4.E. would be very detrimental
17 to the agricultural community.
18
19 Mr. Schildt stated that he farms therefore Ms. Lee is preaching to the choir.
20
21 Ms. Lee stated that she lives on a farm and her husband is a drainage district commissioner.
22
23 Mr. Schildt stated that his point is that perhaps we could look at this a different way in that perhaps there is a
24 way that we can protect the drainage ditches which are a part of drainage districts. He said that his house is
25 above the Sangamon River and it is wooded underneath therefore he tends to think in terms of someone
26 building in that situation more than along an agricultural drainage ditch. He said that perhaps this could be
27 mitigated in some sense to accommodate the concerns that were expressed for drainage districts.
28
29 Mr. Thorsland asked the Board if there were any questions for Mr. Schildt and there were none.
30
31 Mr. Thorsland asked if staff had any questions for Mr. Schildt and there were none.
32
33 Mr. Thorsland called Don Wauthier to testify.
34
35 Mr. Don Wauthier, who resides at 1831 Tahoe Court, Champaign, stated that he is employed by Berns,
36 Clancy and Associates Engineers and he has provided written comments on behalf of BCA. He said that it is
37 his opinion that the ordinance is pretty well written, other than a few typos or glitches, and it is something
38 that the County has to do because it is mandated by the Federal EPA. He said that the ordinance provides
39 the regulations that the County needs to provide to meet the Federal EPA requirements and minimizing the
40 additional efforts and expenses that will be incurred by the local citizens and staff. He said that he has
41 written four or five of these ordinances for other government agencies and this ordinance is a pretty clean

1 and straight forward adoption of the requirements.

2
3 Mr. Wauthier suggested that the MS4 map be made easier to read for the average citizen to determine
4 whether they are included in the MS4 area or not. He said that nice lines down specific streets creating nice
5 squares would be easier and if you include a few people who are in that could have been out, well ultimately
6 the municipality will expand over time and MS4 area will expand over time as well. He said that the issue
7 of stockpiling dirt adjacent to the ditch is actually a problem during residential development because what
8 tends to happen is that the stockpile of dirt from the basement for the house is in placed in the backyard next
9 to the channel. He said that there was a house built last summer where the stockpile dirt was placed five feet
10 from the water of a drainage district ditch and the drainage district and the County complained and it took
11 weeks to get that homebuilder to deal with that issue. He said that fortunately it was dry and we didn't have
12 any rain but if we would have had a big flood all of that dirt would have washed away in to that creek. He
13 said that it does happen more than you think because people put the dirt in the back yard.

14
15 Mr. Hall stated that he is glad that Mr. Wauthier mentioned this situation and he plans to go back and review
16 that permit. He said that the property was located within the MS4 area but he does not know if they
17 disturbed more than 10,000 square feet and this is a good example where it pays to have a stockpile standard
18 that applies across the board.

19
20 Mr. Wauthier stated that the lot was probably right at that 10,000 square foot lot size and when you are doing
21 a pre-existing lot that has been out there and hasn't been built upon for a long time the entire property is
22 disturbed. He said that a lot of the time in residential development the drainage plan that was actually
23 created for the subdivision gets screwed up by the landscaper after the house is built because they don't care
24 about the drainage but only making the landscaping look good. He said that many times there is a swale on
25 the property but the landscaper installs a berm for a flower bed or something therefore it is a never ending
26 fight with residential development when the landscaper come into the picture.

27
28 Mr. Thorsland stated that typically in his area when someone want a basement on soil that has poor drainage
29 the contractor builds a hill and the first thing that happens is that the hill ends up in the road the entire time
30 that the home is being built because it runs into the road and every truck that goes in there brings it out and
31 eventually they finally end up with this mountain with channels.

32
33 Mr. Wauthier stated that whether the house lot is 10,000 square feet or 9,000 square feet having minimum
34 basic soil erosion control features around that lot is a good thing and it doesn't cost much and it will help
35 keep that soil on the site all of the time.

36
37 Mr. Thorsland asked the Board if there were any questions for Mr. Wauthier and there were none.

38
39 Mr. Passalacqua stated that as he drives around Champaign he sees violations all of the time. He asked if the
40 EPA is the governing body for Champaign. He said that it is not unusual for him to see trucks leaving job
41 sites which leave dirt trails or incomplete silt fences.

1
2 Mr. Hall stated that a truck can leave a dirt trail but it has to be cleaned up by the end of the day.
3
4 Mr. Passalacqua stated that many times that does not happen therefore who enforces these violations.
5
6 Mr. Hall stated that MS4 group meets quarterly and an EPA person attends those meetings and at almost
7 every meeting violations are discussed. He said that violations happen almost every day and not all of them
8 are caught but when they are caught they are followed up on. He said that engineering staffs are nothing
9 more than human organizations and they will try to do better next time but keeping some of these contractors
10 in check is difficult. He said that these erosion and sedimentation violations are difficult to control because
11 they are managed daily and that is why he hopes that staff does not have to do this outside of the MS4 area.
12
13 Mr. Passalacqua stated that not to belittle the ordinance agriculture is exempted even though dirt is being
14 moved around all of the time yet we are placing our efforts on the this small area.
15
16 Mr. Thorsland stated that Mr. Levy presented a slide that indicated the difference between an acre of
17 construction and one acre of row crop.
18
19 Mr. Passalacqua stated that he agrees with the intent but there is a discrepancy between row crops with tons
20 of erosion per acre versus a construction site.
21
22 Ms. Lee stated that there are practices being conducted in agriculture which assists with erosion such as “no
23 till” and strip farming because it is in the best interest of the farmers to not lose the top soil.
24
25 Mr. Thorsland stated that one of our biggest issues in Champaign County is that a lot of the farmers who
26 farm the large acreage plots are not the owners of the acreage itself therefore their goal is to maximize the
27 acreage, pay the rent, and move forward to the next field.
28
29 Mr. Hall stated that when ELUC voted on sending this to a public hearing they did approve the discretionary
30 portion for the public hearing but there is a lot of reservation whether or not Section 6 will be in the final
31 version. He said that there are some County Board members that he knows will never support it and the
32 question is whether the County Board wants it or not. He said that this has been divided into parts that can
33 be taken out but right now we need to focus on what the ZBA wants to recommend.
34
35 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
36 regarding Case 769-AT-13 and there was no one.
37
38 Mr. Thorsland closed the witness register for tonight’s hearing.
39
40 Mr. Thorsland asked Mr. Hall if there is anything else that the Board needs to focus upon other than the
41 information provided in the blue binder. He asked Mr. Hall if he had a continuance date in mind.

1
2 Mr. Hall stated that we do not have anything on the agenda for February 27th therefore the Board could
3 continue this case to that date so that there could be another question and answer session. He said that he
4 cannot promise the Board that he will have any additional information available for this case by that date but
5 perhaps Mr. Levy will have materials for the Board.

6
7 Mr. Thorsland stated that since the notebook is full of materials for review he would like the opportunity to
8 read through the materials. He said that if the Board continues Case 769-AT-13 to the February 27th meeting
9 the Board could present any questions or concerns at that meeting.

10
11 Ms. Lee stated that it would be helpful if staff could indicate what portions of the ordinance came from the
12 *Clean Water Act* and what portions are from the EPA so that the Board knows what portions are set in
13 concrete and what portions can be amended.

14
15 Mr. Hall stated that he cannot stress enough how looking at the *Clean Water Act* is of little help. He said
16 that the *Clean Water Act* and the NPDES regulations are easy to read but again they are not a lot of help. He
17 said that the very last attachment included in the notebook is a table that Mr. Levy prepared and it compares
18 the County's draft to Urbana's draft and it indicates what directly comes from Urbana's draft. He noted that
19 Urbana's draft was prepared for the same purpose and has been in place since 2007. He said that most of
20 what the draft from Urbana didn't have is the information in Section 6 and some other minor things but a lot
21 of this did come from Urbana even though it has been reworded.

22
23 Ms. Lee stated that she did read the basic information that was provided by staff for tonight's meeting and
24 she does believe that the ordinance is well drafted for the intent of controlling soil erosion.

25
26 Mr. Thorsland stated that there are two or three other ordinances included in the notebook for review. He
27 said that it is very important for the Board to read all of the information provided by staff in the notebook so
28 that at the next meeting the Board can pose any questions or concerns that the Board may have.

29
30 Mr. Hall stated that Section O in the notebook includes a model ordinance from 1991 and the organization
31 no longer has the same name. He said that the ordinance was a really good ordinance when it was written
32 and unlike any other ordinance it has commentary that is very helpful and is interesting to read. He said that
33 reviewing the ordinances is probably one of the most useful things that the Board can do at this point and
34 that review may help the Board come up with questions as to why they are seeing either a constant standard
35 or not seeing a standard that someone else has. He said that we need to meet the NPDES requirements and
36 we want to do it in a reasonable way that makes sense therefore reviewing what other people have done is
37 one way of doing that. He said that he would like to have a checklist of everything that we have to do to
38 meet the MS4 requirement and the closest thing that comes to that is included in Section L of the notebooks
39 which is the ILR10 permit.

40
41 Ms. Lee asked Mr. Hall if he will have a better checklist when the audit is conducted.

1
2 Mr. Hall stated that he is sure that he will have a good checklist after the audit is completed.

3
4 Mr. Passalacqua stated that he agrees with Mr. Wauthier regarding the erratic borders on the MS4 map
5 because there could be people who are not included or who are included. He said that he believes that all
6 government lacks simplicity and some straight lines would simplify things.

7
8 Mr. Hall stated that staff will work on making a map of the MS4 area larger and with better resolution. He
9 said that the boundary was drawn by the census and was based upon population density and some other
10 things therefore the lines are what they are. He said that if the Board believes that other areas should be
11 included to reduce confusion then staff can consider it but every acre that is added to the MS4 area that does
12 not have to be added adds more regulations.

13
14 Mr. Thorsland stated that it appears that there are parts on the current map that are just vacant ground and
15 there are other parts that appear that they should be included but were not.

16
17 Mr. Randol stated that these reasons are why we are the Zoning Board of Appeals and if someone has a
18 conflict they can come to Board.

19
20 Ms. Lee asked if Case 769-AT-13 will be the only case for the next meeting.

21
22 Mr. Hall stated yes. He said that it is too late to advertise any new cases. He said that there would have been
23 cases on the February 27th meeting date but staff did not receive the materials that were required for
24 advertisement.

25
26 Mr. Thorsland entertained a motion to continue Case 769-AT-13 to the February 27, 2014, meeting.

27
28 **Ms. Lee moved, seconded by Mr. Randol to continue Case 769-AT-13 to the February 27, 2014,**
29 **meeting. The motion carried by voice vote.**

30
31 **7. Staff Report**

32
33 Mr. Hall stated that staff advertised for interns and the advertising period ceased on February 12th. He said
34 that he has made calls to applicants but no decision has been made but he will keep the Board updated.

35
36 Ms. Lee requested a status regarding the violation involved in Case 764-V-13, Harshbarger, Copple and
37 Schum.

38
39 Mr. Hall stated that Mr. Harshbarger called after receiving the notice and long before the deadline and
40 indicated that he is planning on moving the building which is in violation. He said that Mr. Harshbarger
41 indicated that it will cost approximately \$5,000 to move the entire building by the 7-1/2 feet that is needed.

1 Mr. Hall stated that anyone that calls our office about the property indicates that they would like the garage
2 to remain at it is currently. He said that it is going to take until April or early May to get the project
3 completed.

4
5 Mr. Passalacqua asked Mr. Hall if the property is still on the market.

6
7 Mr. Hall stated that the previous sales contract expired but other people have called regarding their interest
8 in the property and they are informed of the problems. He said that he expects the property to be sold before
9 the building is moved.

10
11 Mr. Passalacqua asked Mr. Hall if the statement from Mr. Harshbarger indicating that he is going to move
12 the building is enough for the Board to move forward.

13
14 Mr. Hall stated that we have to give Mr. Harshbarger a chance to move the building.

15
16 Mr. Passalacqua stated that we did that before.

17
18 Mr. Hall stated that Mr. Harshbarger did not receive a final notice before and it is too bad that he didn't go
19 ahead but people are people and we were not there to make him do it. He said that we are there now and we
20 have gotten a reply, which is all that we can ask for, and now we have to wait to make sure that it gets done.

21
22 **8. Other Business**

23 **A. Review of Docket**

24
25 Mr. Thorsland stated that Ms. Capel has indicated that she will be absent from the February 27th meeting.
26 He said that he will absent from the March 13th meeting. He asked the Board if anyone else will be absent
27 from any meetings and there was no one at this time.

28
29 **B. Cancellation of March 27, 2014, meeting**

30
31 Mr. Thorsland stated that Mr. Hall will be absent from the March 27th meeting and no cases have been
32 scheduled on the docket for this meeting date.

33
34 Mr. Thorsland entertained a motion to cancel the March 27th meeting.

35
36 **Ms. Capel moved to cancel the March 27th meeting.**

37
38 Mr. Hall stated that the only possible reason the Board may want to not cancel the meeting is to have the
39 opportunity to discuss Case 769-AT-13.

40
41 Mr. Thorsland stated that perhaps the Board should consider this cancellation again at the February 27th

1 meeting.
2
3 **Ms. Capel withdrew her motion.**
4
5 **9. Audience Participation with respect to matters other than cases pending before the Board**
6
7 None
8
9 **10. Adjournment**
10
11 Mr. Thorsland entertained a motion to adjourn the meeting.
12
13 **Mr. Passalacqua moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice**
14 **vote.**
15
16 The meeting adjourned at 8:21 p.m.
17
18
19 Respectfully submitted
20
21
22
23
24 Secretary of Zoning Board of Appeals
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40