

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61802

DATE: March 12, 2015

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 7:00 p.m.

MEMBERS PRESENT: Debra Griest, Marilyn Lee, Brad Passalacqua, Eric Thorsland

MEMBERS ABSENT : Catherine Capel, Jim Randol

STAFF PRESENT : Connie Berry, John Hall, Susan Chavarria

OTHERS PRESENT : Herb Schildt, Steve Burdin, Don Wauthier

1. Call to Order

The meeting was called to order at 7:02 p.m.

2. Roll Call and Declaration of Quorum

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

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.

3. Correspondence

None

4. Approval of Minutes (February 12, 2015)

Mr. Thorsland entertained a motion to approve the February 12, 2015, minutes.

Mr. Passalacqua moved, seconded by Ms. Lee to approve the February 12, 2015, minutes.

Mr. Thorsland asked the Board if there were any corrections or additions to the minutes.

Ms. Lee stated that lines 17 and 18 on page 69 should be merged with her statement on lines 10 and 11 on page 69. She said that her statement should read as follows: Ms. Lee stated that the residences are less than 500 feet from the location of the proposed fuel tanks. She said that recently the County has had tornadoes

1 and the tanks are located southwest of the residence. She asked Mr. Kieffer if they could relocate the fuel
2 tanks to maintain the required 500 foot distance.

3
4 **The motion carries.**

5
6 **5. Continued Public Hearing**

7
8 **Case 796-V-14 Petitioner: Steve Vincent and George Stanhope Request to authorize the following in**
9 **the AG-1 District: A variance from Paragraph 4.2.1H of the Zoning Ordinance, which requires that**
10 **no structure shall be constructed nor use established upon or moved to a lot that does not abut and**
11 **have access to a public street of no less than 20 feet at a point at which the lot has the right of access to**
12 **the street. Location: A 6.94 acre tract in Newcomb Township in the Southwest Quarter of the**
13 **Southeast Quarter of Section 15 of Township 21N, Range 7E of the Third Principal Meridian and**
14 **commonly known as the residence located at 360 CR 2700N, Mahomet.**

15
16 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
17 the witness register for that public hearing. He reminded the audience that when they sign the witness
18 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
19 time.

20
21 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
22 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
23 of hands for those who would like to cross examine and each person will be called upon. He requested that
24 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
25 those who desire to cross examine are not required to sign the witness register but are requested to clearly
26 state their name before asking any questions. He noted that no new testimony is to be given during the cross
27 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
28 from cross examination.

29
30 Mr. Hall, Zoning Administrator, distributed a Supplemental Memorandum dated March 12, 2015, to the
31 Board for review. He informed the Board that staff was informed by Mr. Stanhope that he and Mr. Vincent
32 were withdrawing their request for a variance. Mr. Hall said that Mr. Vincent was able to purchase the .196
33 acres of frontage from Mr. Morfey. He said that the transaction is complete and the deed has been recorded
34 therefore Mr. Vincent's property is now a conforming lot that meets the public street access requirements of
35 the Zoning Ordinance. He said that Mr. Vincent can now proceed with the sale of his property to Mr.
36 Stanhope without pursuing a variance.

37
38 **Case 769-AT-13 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
39 **Ordinance by amending the Champaign County Storm Water Management Policy by changing the**

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

27
28 **773-AT-14** Petitioner: Zoning Administrator Request to amend the Champaign County Storm Water
29 Management and Erosion Control Ordinance that is the subject Zoning Case 769-AT-13, by adding
30 the following: A. Add a requirement for a Grading and Demolition Permit for any grading or
31 demolition that disturbs an acre or more of land or for any grading or demolition that is part of a
32 larger common plan of development in which one acre or more of land disturbance will occur, and
33 that is not related to any proposed construction; and B. Add fees for Grading and Demolition Permits;
34 and C. Add required information to be provided in the application for a Grading and Demolition
35 Permit; and D. Add a requirement that any grading or demolition pursuant to a Grading or
36 Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR 10 General
37 Storm Water Permit for Construction; and E. Add a requirement that any demolition pursuant to a
38 Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations
39 enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos; and F.

1 **Add prohibitions against changing the flow of water and blocking the flow of water; and G. Add other**
2 **requirements related to Grading and Demolition Permits.**

3
4 Mr. Thorsland called Cases 769-AT-13 and 773-AT-14 concurrently.

5
6 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
7 the witness register for that public hearing. He reminded the audience that when they sign the witness
8 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
9 time.

10
11 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

12
13 Mr. John Hall, Zoning Administrator, distributed a Guide to Case 769-AT-13 and a Supplemental
14 Memorandum and Guide for Case 773-AT-14 dated March 12, 2015, to the Board for review. He said that
15 the distributed guides outline the state of the Draft Ordinance, Finding of Fact and highlights some handouts
16 that might be helpful. He said that he wanted to make sure that everyone was comfortable that they knew
17 what the Finding of Fact consisted of but there has been one change in Case 773-AT-14 and the Finding of
18 Fact for Case 769-AT-13 is still just the preliminary. He said that there have been minor changes to the
19 Draft Ordinance in Case 769-AT-13 and those minor changes are listed.

20
21 Mr. Hall stated that the Supplemental Memorandum dated March 12, 2015, for Case 773-AT-14, indicates
22 changes for the proposed Demolition Permit. He said that it occurred to him that we were talking about a
23 demolition permit and nothing has been discussed about sealing of any water well. He said that the
24 presumption is that if it is a rural property and they are demolishing the house and it is not related to any
25 other construction then it may be that the well needs to be sealed. He said that it could also be that they will
26 continue to use the well therefore he is not 100% comfortable with the text that is before the Board tonight
27 but he is much more comfortable since it at least mentions that there are requirements for sealing of water
28 wells. He said that there is also a chance that a demolition could include an underground storage tank.

29
30 Mr. Passalacqua asked Mr. Hall if the ILR10 address water well issues.

31
32 Mr. Hall stated no. He noted that the Department of Planning and Zoning has nothing to do with sealing a
33 water well but if we are discussing demolition then we need to raise the issue of what will happen to the
34 water well.

35
36 Mr. Passalacqua stated that there may be some instances where there will be a live well left on the property
37 but if it is an abandoned rural property that is being demolished the well has probably dried up or the pumps
38 removed.

1 Mr. Thorsland stated that even if the well has been dried up or the pumps removed the hole or casing still
2 remains which is an opening to the aquifer below. He said that it is probably a common practice to make
3 sure that the wells are sealed.

4
5 Mr. Hall stated that the sealing of wells is done with the Health Department even though the records are
6 actually transferred to the State Water Survey.

7
8 Mr. Passalacqua asked Mr. Hall if the Health Department requires the sealing of the wells.

9
10 Mr. Hall stated that state law requires it.

11
12 Mr. Passalacqua stated that once again we are restating something that already exists just to guarantee its
13 compliance.

14
15 Mr. Hall stated yes. He said that these are not new requirements that are being proposed in the Draft
16 Ordinance.

17
18 Mr. Thorsland asked if sealing of the well will be an item on a checklist.

19
20 Mr. Hall stated yes. He said that demolition debris is also regulated by IEPA and is only included in the
21 Draft Ordinance so that our citizens are aware of the rules. He said that clean concrete debris can be buried
22 but that is the only debris that can be buried and anything else must be hauled away and nothing can be
23 burned unless the necessary permits are obtained from the IEPA. He said that in all cases fugitive dust must
24 be minimized. He said that the fugitive dust issue is actually relevant to this ordinance because that is part of
25 what we are supposed to be doing. He said that it occurred to him that these demolition requirements, since
26 they are not repeated in the Land Disturbance Erosion Control Permits, need to be applicable to both. He
27 said that if this Demolition Permit is not approved by the County Board we will still be re-enforcing the
28 thing about dust, burning and clearing debris and it will not be in our Ordinance. He said that this is not an
29 ideal situation and could lead to a future amendment but particularly within the MS4 Jurisdictional Area we
30 absolutely have to enforce every relevant IEPA requirement.

31
32 Mr. Passalacqua asked if there is an IEPA demolition permit process.

33
34 Mr. Hall stated that he is not aware of an overall IEPA permit. He said that IEPA is big on having individual
35 things permitted and leaving it up to the citizen to know that they have to get all of these things done and it is
36 a little infuriating and it is not very helpful.

37
38 Ms. Lee stated that she has a question regarding burial of clean concrete debris. She asked if we are
39 discussing any disturbance that is over one acre and not disturbance less than one acre.

1
2 Mr. Hall stated that a Demolition Permit is required if there is one acre or more of land disturbance and it
3 could be argued that these things do not apply when it is less than one acre. He said that if he is asked he
4 would indicate that it still applies because it is the state law. He said that when the disturbance is less than
5 one acre there is no permit for him to deny therefore it is a gray area.

6
7 Ms. Lee asked Mr. Hall if the state law does not indicate whether it is more or less than one acre and is
8 applicable regardless.

9
10 Mr. Hall stated yes.

11
12 Ms. Lee stated that there are people doing this on less than one acre.

13
14 Mr. Hall stated that he is aware of that and there are people doing this on more than one acre.

15
16 Ms. Griest requested an explanation of the term "Clean Concrete."

17
18 Mr. Hall stated that "Clean Concrete" has no steel sticking out of the concrete and he would presume no tar
19 either.

20
21 Mr. Passalacqua stated that new concrete normally has steel in it for reinforcement and old concrete is
22 probably from old farm houses and buildings.

23
24 Ms. Griest stated that she thought that the *Clean Water Act* prohibited the burying of any concrete.

25
26 Mr. Hall stated that this is not his understanding and this topic comes up very often in our office.

27
28 Ms. Lee asked Mr. Hall when the IEPA requires a permit for burning demolition debris. She asked if it is
29 required when it is on more than one acre.

30
31 Mr. Hall stated that they require that demolition debris cannot be burned unless a permit is received from the
32 IEPA regardless of the area.

33
34 Ms. Griest asked if a fire department has to obtain a permit when they have a controlled burn for a home or
35 is it automatically granted to them by statute.

36
37 Mr. Hall stated that the fire department has to apply for a permit and meet all of the requirements. He said
38 that staff hopes that the Jones' building located south of Rantoul gets taken care of by a controlled burn and
39 we know that all of the permits have been approved including the permits related to the asbestos in the

1 building. He said that all of the permits for this controlled burn have been approved and now they are
2 waiting for good weather.

3
4 Mr. Hall stated that the additions to the amendment are a burden and are not the focus of the amendment but
5 if we are going to take in a permit for demolition we had better be doing it properly.

6
7 Mr. Hall stated that the second page of the new Supplemental Memorandum for Case 773-AT-14 includes
8 new evidence for Finding of Fact 16.E which is the purpose statement related to Public Health, Safety and
9 Welfare. He said that the new evidence states the following: 16.E(3): Regulation of erosion control for
10 grading and/or demolition for one acre or more of land disturbance is already regulated by the IEPA under
11 the ILR10 Permit and neighbors with complaints about erosion or sedimentation from adjacent grading or
12 demolition can seek help from the IEPA; and 16.E(4): Adding a requirement for Grading and/or Demolition
13 Permits as proposed in this Case 773-AT-14 provides the following: a. Recourse for neighbors with
14 complaints about erosion or sedimentation activities when there is less than one acre of land disturbance and
15 no IEPA requirements apply; and b. The County Board will have the option of a comprehensive approach to
16 erosion and sedimentation regulations that was not explicitly detailed in the legal advertisement for related
17 Case 769-AT-13. He said that he proposed this amendment so that they have the option of a comprehensive
18 amendment.

19
20 Mr. Hall stated that he does believe that the ZBA should make a recommendation that they are comfortable
21 with and whenever the Board has enough members he would encourage the Board to make a
22 recommendation for this case that the Board really wants to stand by and if it is a recommendation of denial
23 then so be it and the case will move to ELUC with that recommendation.

24
25 Ms. Lee asked Mr. Hall if he is only discussing Case 773-AT-14 or both cases.

26
27 Mr. Hall stated that he is discussing both cases. He said that he hopes that the Board does not recommend a
28 denial for Case 769-AT-13 because we will be going straight to court with the IEPA if the Board does and
29 that is only about the basic amendment in Case 769-AT-13. He said that he is prepared to make any
30 recommendation that the Board desires on the three optional things but Champaign County needs the basic
31 amendment to meet our requirements with the IEPA.

32
33 Mr. Passalacqua stated that he believes that the \$50 fee is completely fair. He asked Mr. Hall to provide a
34 scenario when the Notice of Intent requirement would be waived or not required.

35
36 Mr. Hall stated that outside of the MS4 is where it's an option for the County to require ILR10.

37
38 Mr. Passalacqua stated that he is not in favor of the optional because he believes that this is going to be more
39 labor intensive and burden on the Department of Planning and Zoning than Mr. Hall believes. He said that

1 he believes that the applicant is going to see these numbers indicating thousands of dollars and will be irate
2 with the County when in truth it is an Illinois requirement that is making the cost go up.

3
4 Mr. Hall stated that it is a federal requirement.

5
6 Mr. Passalacqua asked if during the permit process the information or application will indicate, "per federal
7 requirements," so that it is not the County who is the bad guy on this.

8
9 Mr. Hall stated that most people will find that out if they don't know it already. He said that the applicant is
10 going to ask why they have to do this or that because they are in a certain area and not in another and staff
11 will indicate that the federal government is requiring it and the County Board has not expanded it beyond
12 that area.

13
14 Ms. Lee stated that Mr. Hall mentioned three options. She asked Mr. Hall to indicate the three options.

15
16 Mr. Hall stated the suite of minimum erosion control requirements and ILR10 compliance outside the MS4
17 Jurisdictional Area and the \$50 fee for the Minor LDEC Permit.

18
19 Ms. Lee asked if the erosion control requirements are only in the MS4 area.

20
21 Mr. Hall stated no. He said that those things are not even minimums in the MS4 area and are requirements
22 but outside of the MS4 area we have proposed those as options. He said that he did this because he is tired
23 of answering why the County doesn't have regulations for this and regulations for that and this way he can
24 tell neighbors that there are requirements and staff can make them apply. He said that since it wasn't fully
25 explained at ELUC we would maintain that we do not have to require ILR10 compliance outside of the MS4
26 area but some County Board members might believe that we should do that and he wanted to give them the
27 option for that. He said that he does not expect that the County Board will go along with that option but that
28 is all part of giving them a comprehensive approach that they can pick and choose. He said that the \$50 fee
29 for the Minor Land Disturbance and Erosion Control Permit is not meant to offset all of the County's costs
30 related to it but is meant to be a minimal fee. He said that helping people do those erosion control plans for
31 new homes is going to be another level of difficulty beyond what staff already does. He said that so many
32 people come to the office wanting staff to complete their site plan for them and staff has to courteously avoid
33 doing that but help them complete the site plan themselves and now this erosion control requirement is going
34 to kick that up to another level. He said that staff will probably be preparing erosion control plans for
35 individuals who are building a new home in the unincorporated area because it is really asking a lot of them
36 to expect them to do that. He said that staff will help people in whatever regards they need and the \$50 fee is
37 to offset a little bit of the cost.

38
39 Ms. Lee asked Mr. Hall if he is only speaking about Case 773-AT-14.

1
2 Mr. Hall stated no, those are the options for Case 769-AT-13. He said that Case 773-AT-14 relates to the
3 first option, which are the optional minimum requirements, and if the Board does not recommend the
4 optional minimum requirements in Case 769-AT-13 then the Board should also not recommend Case 773-
5 AT-14 because they rely on those. He said that Case 773-AT-14 adds the grading and demolition permits so
6 that the optional minimum requirements would apply when there is grading or demolition not related to
7 construction.

8
9 Ms. Lee stated that Case 773-AT-14 is applicable everywhere. She said that at one point Mr. Hall stated that
10 Case 773-AT-14 gives the Department of Planning and Zoning the power to enforce some of the things that
11 are already required in ILR10.

12
13 Mr. Hall stated no. He said that what Case 773-AT-14 is intended to do is when we have grading or
14 demolition that is not related to other construction, so no other permit is required, the grading and demolition
15 permit requirement would make the optional minimum requirements apply. He said that it would be a
16 violation if someone is grading and is tracking mud on to the road in the unincorporated area. He said that
17 this is already a violation in the MS4 Area so what would be grading and demolition permits in 99% of our
18 jurisdiction will simply be Land Disturbance and Erosion Control Permits in the MS4 area. The Land
19 Disturbance and Erosion Control Permit is for any possible land disturbance but outside of that area where
20 we do not have Land Disturbance permits is where we need to add a grading and demolition permit to give
21 protection to neighbors when there is grading or demolition going on.

22
23 Mr. Thorsland stated that Case 773-AT-14 is taking some of the parts that apply in the MS4 Area and
24 bringing them out into the unincorporated area should the Board decide to add that as it relates to Case 769-
25 AT-13.

26
27 Ms. Lee stated that she asked the question during another meeting regarding Ameren and how they track
28 mud onto the road and it was indicated that they were exempt.

29
30 Mr. Passalacqua stated that if they track mud the ILR10 will kick in.

31
32 Ms. Lee stated that the County can't enforce it.

33
34 Mr. Hall stated that Ameren is a utility and is exempt from our regulations although they are not exempt
35 from ILR10. He said that if Ameren disturbs an acre of land they have to have erosion controls just like
36 everyone else. He said that the way that the Draft Ordinance is written he does not believe that Ameren
37 would obtain a permit from the County but they would be required to comply with ILR10 requirements.

38
39 Ms. Lee said that the fact that they put mud on the road would still be under IEPA and not the County

1 because they are a utility.
2
3 Mr. Hall stated yes.
4
5 Ms. Lee asked what else is exempt other than utilities.
6
7 Mr. Hall stated that drainage districts, agriculture and anything within the right of way.
8
9 Ms. Griest stated that it is not uncommon that many contractors who make road improvements and might be
10 exempt still use the practices.
11
12 Mr. Hall stated that to the extent that they can minimize erosion and sedimentation they will have do that but
13 it will not be anything with our office.
14
15 Ms. Lee stated that she can see this taking a lot of staff time with adding these things to the workload.
16
17 Mr. Hall asked how.
18
19 Ms. Lee stated that they will have to get a permit with the office.
20
21 Mr. Hall asked Ms. Lee which permit she is talking about.
22
23 Ms. Lee stated the one for Case 773-AT-14.
24
25 Mr. Hall stated that anything that we do in our office, at any point, takes time. He said that a grading permit
26 does not have a lot of standards that apply but they will have to submit a site plan and staff will make sure
27 that they meet the separations to the property lines, the top of the ditch and the top of the stream bank, etc.
28 He said that those things go back to the LRMP and they support the LRMP but Ms. Lee is correct that those
29 reviews will take time. He said that his expectation is that once this is up and running, perhaps six months
30 after this is adopted, this review should be automatic. He said that he cannot stress enough how much time
31 staff spends answering questions of any scale or scope, things that have nothing to do with what staff is there
32 for, so helping someone complete a grading permit site plan will be pretty easy. He said that this will take
33 time and he may be naïve in thinking that we can meet the requirements in the MS4 Area of doing five new
34 inspections every week but he is willing to try it and if we don't do it we will be in court with the IEPA. He
35 said that this is not related to Case 773-AT-14 or any of the optional minimums but is what we have to do to
36 stay out of court. He said that he appreciates that Ms. Lee is concerned about this growing thing and how
37 much time it will take but our staff is excellent in getting these things done quickly once they learn what they
38 have to do and so the first few months will be rough but they are fast learners and we are not asking for a lot.
39 He said that a site plan showing where the grading is, showing any nearby streams or ditches and the

1 separation that must be maintained. He said that if staff receives a complaint then staff will follow up and
2 that is where some time may be spent but that is what our citizens want us to do. He said that staff does not
3 receive complaints like this very often and since he has been the Zoning Administrator there have only been
4 three or four instances where people were doing grading and staff received complaints but staff could not do
5 anything for them. He said that in one instance the complaint was referred to the IEPA and they did follow
6 up.

7
8 Mr. Thorsland stated that the Board has a dilemma in that there is a quorum present but there are three
9 decision points that must be made as a Board to recommend or not recommend to the County Board and then
10 make a recommendation for Case 773-AT-14. He said that the By-laws indicate that if there is a quorum the
11 Board can proceed with a recommendation, at the discretion of the petitioner, but before the
12 recommendation the Board needs to review the Findings of Fact. He said that there have been concerns
13 heard from the Board and the public and he would imagine that there will be a lot of input at the County
14 Board level. He said that often times the Board has to vote with four members and the By-laws indicate that
15 if there is a tie vote the request is denied. He said that he is concerned that one of the members that is absent
16 tonight due to illness does have a lot of input from the standpoint that he has a lot of experience and
17 knowledge with the other end of the clean water spectrum and its affects upon municipal government. He
18 said that the Board is also missing another important Board member tonight. He said that given the amazing
19 amount of information provided by staff he would like to know if the Board is comfortable going through the
20 decision points or would it be preferred that a full Board is present. He said that the only person's
21 anticipated absence at the March 26th meeting is Susan Chavarria and her input is absolutely vital in making
22 the office run smoothly but the Board may be able to get through the meeting without her presence. He said
23 that because of all of the work that has gone into this case and that the petitioner is the person who has
24 completed all of this work Mr. Thorsland would like to go through the decision points with as many Board
25 members as possible. He said that these are significant cases and Mr. Hall has pointed out that the majority
26 of Case 769-AT-13 has to be recommended or the County will have to obtain very good attorneys. He said
27 that he does not know if he is comfortable making recommendations on all of the decision points with only
28 four members of the Board.

29
30 Mr. Passalacqua stated that Mr. Randol's input is important although it is unknown whether he would be
31 disappointed if the Board moved forward without him. He said that Mr. Randol brings a lot to the table. He
32 asked if there were any witnesses for Case 769-AT-14.

33
34 Ms. Griest stated that she agrees with Mr. Passalacqua because these are such important cases. She said that
35 she would like to see all six members present during review of the Findings of Fact and if the Board did have
36 a new seventh member it would be hard for that member to get up to speed at an adequate level to be of
37 value to these cases. She said that the current six members do have an investment in these cases and Mr.
38 Randol adds a very valuable perspective therefore the Board would be shortchanging itself if he is not
39 present during the final discussions and votes.

1
2 Mr. Thorsland stated that Ms. Capel is one of our longest standing members and she is also absent from
3 tonight's meeting and her input is very important. He said that he would be comfortable in continuing these
4 cases to the March 26, 2015, meeting. He said that the Board should have all of its questions ready for staff
5 and should know how they feel about the cases therefore it should not take a long time. He said that he is
6 scheduled to leave the country on March 27th but he will be at the meeting on the 26th. He said that he will
7 not be present at the meeting on April 16th.

8
9 Ms. Griest asked Mr. Hall if the Board continued these cases to March 26th, what will happen to the
10 petitioners that were previously scheduled for that meeting.

11
12 Mr. Hall stated that he had previously docketed cases on March 26th but moved those cases back to a later
13 date when he realized that Ms. Chavarria was going to be absent. He said that much to the genuine dismay
14 of the applicant for Cases 799-AM-15, 800-S-15 and 801-V-15 they were moved to the April 16, 2015,
15 meeting.

16
17 Mr. Passalacqua stated that copies of tonight's memorandum and guides should be sent to Ms. Capel and
18 Mr. Randol for review. He asked Mr. Hall if there is anything else that will be changed before the next
19 meeting.

20
21 Mr. Hall stated no, unless something else occurs to him. He said that he does not want to send a
22 recommendation for denial on a demolition permit that did not address sealing the well and basic things to
23 do with demolition.

24
25 Mr. Passalacqua stated that he agrees but we are getting closer.

26
27 Ms. Griest stated that she would like to discuss sealing the well a little bit more. She asked Mr. Hall if he
28 means permanent sealing or securing it because there could be a farmhouse with a barn and the two
29 buildings shared the well. She said that the property owners may tear down the house but desire to leave the
30 well active with the pump in place. She said that her definition of permanent sealing the well means that a
31 plug is put in the well and it is capped and that is not what she thinks Mr. Hall is talking about. She said that
32 a sealed well may be a well driller's specific term.

33
34 Mr. Hall stated that he is discussing Public Act 85-0863 and it is a state law issue. He said that he believes
35 that they are talking about plugging a well with concrete.

36
37 Ms. Griest stated that there may be a lot of cases when they wouldn't do that but would still have to properly
38 enclose it so that it cannot be contaminated.

39

- 1 Mr. Thorsland stated that he might be able to find out what happens in this instance because someone in the
2 audience had their home removed from their property and they had an active well on the property.
3
- 4 Mr. Hall stated that demolition on farmland with farm buildings is exempt.
5
- 6 Ms. Griest asked if the farm residence is exempt as well.
7
- 8 Mr. Hall stated yes. He said that we do need to know when to properly raise the issue of sealing the well and
9 when we do not.
10
- 11 Mr. Thorsland asked Mr. Hall if the state statute provides a definition between a temporary situation and a
12 permanent situation.
13
- 14 Mr. Passalacqua stated that the water needs to be onsite to keep the fugitive dust controlled.
15
- 16 Ms. Griest stated that she has been dealing with a farm well and there is a period of inactivity and if you
17 exceed that period then you must plug it and seal it but it still has to be enclosed to prevent contamination.
18 She said that she would be more concerned with ensuring closure to prevent contamination than using the
19 term sealing because there are a lot of instances when sealing may be more than what we want to do.
20
- 21 Mr. Thorsland stated that perhaps staff can obtain information for the Board between now and the March
22 26th meeting.
23
- 24 Mr. Thorsland called Herb Schildt to testify.
25
- 26 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, stated that as the Board knows from earlier
27 testimony he is not a fan of Case 773-AT-14. He said that in regards to the well issue, agriculture is exempt
28 but he knows that there are cases when someone buys a house and a barn and they only intend the property
29 for a residence and not agricultural use. He said that the example that Ms. Griest cited is not unlikely and
30 Mr. Hall is only suggesting two possibilities, either it doesn't exist or, in essence, is destroyed. Mr. Schildt
31 stated that there is a third possibility in that the well simply remains in use and is not part of the demolition.
32 He said that wells do not go inside houses and are located somewhere else on the property. He said that it is
33 very easy to tear down a house and leave the well in place because if it is not being destroyed how can the
34 well be part of the demolition.
35
- 36 Mr. Hall stated that he understands Mr. Schildt's point and we need a system that works in all three
37 instances.
38
- 39 Mr. Schildt noted that as written this would cause a lot of problems.

1
2 Mr. Passalacqua stated that, in his mind, the only problem that he would see is if we build a big funnel
3 around the well head and it rains allowing mud to wash into the well itself. He said that in most instances it
4 should be pretty easy to protect that area.

5
6 Mr. Thorsland stated that he agrees with Mr. Schildt and it won't take long for staff to find out if the IEPA
7 considers these three different scenarios. He said that it may be very common for the existing well to
8 remain.

9
10 Mr. Passalacqua asked if his house burns down and he has to demolish it so that he can build a new house he
11 would prefer not to cap the existing well.

12
13 Mr. Thorsland stated that he does not believe that anyone would ask Mr. Passalacqua to cap his well. He
14 said that he is sure that the answer is out there and we just need to ask the question.

15
16 Mr. Schildt stated that the other scenario is a shared well.

17
18 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Schildt.

19
20 Ms. Lee asked Mr. Schildt why he is not a fan of Case 773-AT-14.

21
22 Mr. Schildt stated that approximately one year ago he indicated that he does not believe that Case 773-AT-
23 14 is necessary and he recommended that the case be withdrawn.

24
25 Ms. Lee asked Mr. Schildt if he still feels that way today.

26
27 Mr. Schildt stated yes.

28
29 Mr. Thorsland requested that Mr. Steve Burdin sign the witness register to present testimony regarding his
30 own experience regarding removal of his home and the existing well.

31
32 Mr. Thorsland called Steve Burdin to testify.

33
34 Mr. Steve Burdin, who resides at 2527N CR 450E, Mahomet, stated that in 2010 he basically demolished the
35 old house that was on his property and rebuilt. He said that to preface his comments he wanted to say that he
36 does not know the legal requirements for this therefore he does not know the law. He said that what he did
37 to prepare for the construction was to mainly protect himself and his property. He said that when you go into
38 a project like this you don't really know the builder that well even though they give you promises and a
39 contract but it really doesn't tell you what will happen all the way to the last detail. He said that luckily in

1 his case most of his concerns were largely unwarranted but what he did to protect himself was that he created
2 a document of what he expected in terms of activities on his property. He said that this included protecting
3 his well, trees, septic system, avian colony, etc. and required that they erect a fence around the well and he
4 corded off the area of the yard that he did not want heavy equipment driven upon which was the leach field
5 for the septic system. He said that any fill that was taken out when they dug the basement was piled up away
6 from the well head therefore it was pretty easy to protect it. He said that he is using the same well and the
7 closest thing to the well was one of the crane feet when they lifted the foundation into place.

8
9 Mr. Passalacqua asked Mr. Burdin to indicate the acreage of his property.

10
11 Mr. Burdin stated that his property is .94 acres.

12
13 Mr. Thorsland stated that Mr. Burdin's property was the subject of a variance case that was approved by this
14 Board.

15
16 Mr. Burdin stated that his builder did a good job in being the project manager.

17
18 Mr. Thorsland stated that there was nothing from the builder which indicated that they need any permit to
19 work around the well and any documentation was generated by Mr. Burdin as the homeowner.

20
21 Mr. Burdin stated that he was not aware of anything that came from them and whether it was following the
22 law or not and maybe that was a good thing in that the restrictions that he placed upon them were just extra
23 that maybe they would have abided by anyway because of the law.

24
25 Mr. Thorsland thanked Mr. Burdin for his testimony. He said that the Board has requested that staff look
26 into the well issue to make sure that the language is adequate or needs tweaked. He said that should the
27 Board adopt Case 773-AT-14 the language should be clear.

28
29 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Burdin and there were none.

30
31 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
32 regarding these cases and there was no one.

33
34 Mr. Thorsland asked the Board if there is anything else that the Board needs for the March 26th meeting.

35
36 Ms. Griest suggested that the language could be addressed by submitting the documentation that certifies
37 that the applicant is in compliance with the public act that covers the protection of those wells rather than the
38 County being specific on what they must do.

39

1 Mr. Thorsland stated that given the Board's concerns he is sure that staff will make this work.
2
3 Mr. Thorsland entertained a motion to continue Cases 769-AT-13 and 773-AT-14 to the March 26, 2015,
4 meeting.
5
6 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Cases 769-AT-13 and 773-AT-14 to the**
7 **March 26, 2015, meeting. The motion carried by voice vote.**
8
9 **6. New Public Hearings**
10
11 None
12
13 **7. Staff Report**
14
15 None
16
17 **8. Other Business**
18 A. Review of Docket
19
20 Mr. Thorsland asked the Board if they had any questions or comments regarding the distributed docket and
21 there were none.
22
23 **9. Audience Participation with respect to matters other than cases pending before the Board**
24
25 None
26
27 **10. Adjournment**
28
29 Mr. Thorsland entertained a motion to adjourn the meeting.
30
31 **Ms. Griest moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried.**
32
33 The meeting adjourned at 7:55 p.m.
34
35
36
37 Respectfully submitted
38
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3 Secretary of Zoning Board of Appeals
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