

MINUTES OF REGULAR MEETING

**Champaign County Environment
& Land Use Committee
Champaign County Brookens
Administrative Center
Urbana, IL 61802**

**DATE: March 14, 2005
TIME: 7:00 p.m.
PLACE: Meeting Room 1
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

MEMBERS PRESENT: Jan Anderson, Patricia Busboom, Chris Doenitz, Nancy Greenwalt (VC), Brendan McGinty, Steve Moser, Jon Schroeder

MEMBERS ABSENT: Tony Fabri, Ralph Langenheim (C)

STAFF PRESENT: Jeffrey Roseman, Connie Berry, Susan Monte, Jamie Hitt, Frank DiNovo, Joel Fletcher

OTHERS PRESENT: Steve Willard, Hal Barnhart

1. Call to Order, Roll Call

The meeting was called to order at 7:02 p.m. The roll was called and a quorum declared present.

2. Approval of Agenda

Ms. Greenwalt indicated that an item for public participation had been omitted from the agenda and requested that it be added as a new Item #4.

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

3. Minutes of Previous Meeting (April 08, 2004 and May 03, 2004)

Ms. Anderson moved, seconded by Mr. Doenitz to approve the April 08, 2004 and May 03, 2004 minutes as submitted.

Ms. Busboom requested that staff finalize all minutes for the Environment and Land Use Committee and the Zoning Board of Appeals for approval. She stated that it is difficult to approve minutes which are over one year old.

The motion carried by voice vote.

4. Public Participation

Mr. Steve Willard addressed Item #7. He said that what was known as "The Shed" is now called

“Rock the Shed,” a not-for-profit organization. He requested that the required fees for a map amendment and special use be waived because “Rock the Shed” is a private family business. He indicated that currently he has an insurance policy which covers the venue which takes places within the shed. He noted that a \$2 admission is charged to pay for the band but if a youth is unable to pay they are still admitted into the facility.

5. Correspondence

Mr. Roseman distributed letters dated February 14, 2005 and February 28, 2005 from Attorney Brian T. Schurter, advising staff that a township planning commission has been adopted by Stanton Township and that planning commissions have been proposed in Rantoul and Compromise Townships. Mr Roseman distributed a letter received March 11, 2005 from Mahomet Township Clerk Donna Parsons, indicating the the formal protest of Zoning Cases 415-AT-03 and 428-AM-04 by Mahomet Township Resolution No. 2005-2.

The consensus of the Committee was to accept the correspondence and place on file.

6 County Board Chair’s Report

None

7. Request of Rock the Shed, Inc, a not-for-profit corporation and Steve Willard, shareholder, to waive the required fee for a Map Amendment and Special Use Permit to operate a Private Indoor Recreational Development located in Section 36, Newcomb Township.

Mr. Doenitz moved, seconded by Mr. McGinty to approve the request of Rock the Shed, Inc, a non-profit corporation and Steve Willard, shareholder, to waive the required fee for a Map Amendment and Special Use Permit to operate a Private Indoor Recreational Development located in Section 36, Newcomb Township. The motion carried by voice vote.

8. Request of Bob and Rita Wingler, d.b.a. The Apple Dumplin’ to waive the required fee for a Zoning Use Permit for a sign, located in Section 2 of Urbana Township.

Mr. Moser moved, seconded by Mr. Doenitz to approve the request of Bob and Rita Wingler, d.b.a. The Apple Dumplin’ to waive the required fee for a Zoning Use Permit for a sign, located in Section 2 of Urbana Township.

Ms. Greenwalt noted that historically the Committee has not waived the fees for a private business. She said that the approval of this waiver maybe setting a precedence for future requests.

Ms. Busboom stated that the business has been in operation for approximately 18 years and the

sign was located in front of the business. She said that the sign was relocated to the porch of the building and should be grandfathered.

Mr. Doenitz stated that this issue appears to be nit picky and the County should not be concerned with the \$33 fee.

Ms. Anderson questioned if any kind of work was required by staff.

Mr. Roseman stated that due to a site visit a letter was mailed to the owner regarding zoning deficiencies. He said that Ms. Hitt informed the owner that if the existing sign was relocated a Zoning Use Permit would be required accompanied by a \$33 fee. He noted that staff is not being nit picky but following procedure.

The motion carried.

9. Consideration of an amendment to the Champaign County Liquor Ordinance No. 653, Ordinance Establishing the Rules and Regulations Governing the Sale and Consumption of Alcoholic Liquor.

Ms. Greenwalt noted that the information included in the packet are the changes proposed for recommended approval. She said that the information distributed at tonight's meeting is the complete ordinance with the proposed changes incorporated into the text.

Mr. McGinty moved, seconded by Ms. Anderson to approve the amendment to the Champaign County Liquor Ordinance No. 653, Ordinance Establishing the Rules and Regulations Governing the Sale and Consumption of Alcoholic Liquor

Mr. Fletcher stated that previously there was a problem with insufficient review time for submitted liquor license applications. He said that one of the amendments to the Liquor Ordinance increases the application fee by 25% but if the application is submitted 30 days prior to the expiration date of the existing license a 25% rebate will be issued. He said that clarification of procedures regarding criminal background checks has been proposed. He said that due to the time frame regarding receipt of the criminal background check a provisional license will be issued to the applicant upon application and replaced with a annual license when the criminal background check is completed. He noted that on Page 12 of the distributed Ordinance as revised March 24, 2005, Section 8.C, Date of Application should be amended to include the following text: April 1 through June 1 of year in which the application is made. He said that on Page 22, Section 10.2, Annual License should be amended to include the following text: An annual License shall be issued within ten (10) days after receipt of criminal background information from the Illinois State Police, unless such information materially alters the application of the criteria listed in Section 10.A.1.(1) through (25), above.

Mr. Moser questioned why the criminal background checks were necessary.

Mr. Fletcher stated that state law and the current ordinance allows a criminal background check

and the proposed language will make it workable.

Mr. Moser stated that he does not understand why an applicant who has had a liquor license for over fifteen years has to comply with this provision. He said that if a new business is created or a new owner buys an existing business then they should be required to have a criminal background check completed.

Ms. Busboom questioned the expense to the applicant regarding the criminal background check.

Mr. Fletcher stated that currently the expense to the applicant would be \$20 per person, which is a fee set by the Illinois State Police. He said that in the past the County Sheriff has charged a fee for required fingerprints for business licenses but has not, in the past, charged a fee for liquor license applicant fingerprints.

Ms. Busboom asked what the procedure is for submitting a renewal application.

Mr. Fletcher stated that a completed application accompanied by the appropriate fee is to be submitted to the County along with a separate check payable to the Illinois State Police for fingerprinting charges.

Mr. Moser questioned if the existing business could be grandfathered.

Mr. Fletcher stated that if this provision is proposed he would require adequate time for review and preparation and forwarded to the Liquor Advisory Commission.

Ms. Greenwalt stated that if the provision was proposed it would not be approved in time to meet the liquor license renewal dates for 2005. She said that as Chairman of the Liquor Advisory Commission she kept in correspondence with the Sheriff. She said that it was his preference that if the criminal background check was to be included within the Liquor Ordinance that it indicate that the criminal background checks be completed by the State Police and not completed internally.

Ms. Anderson questioned if the same procedure will be followed for the liquor license applicants regarding criminal background checks as is followed at the County Nursing Home.

Mr. Fletcher stated that he is unable to confirm the procedure which is followed at the County Nursing Home.

Mr. McGinty and Ms. Anderson accepted the amended text as proposed by Mr. Fletcher.

The motion carried by voice vote.

- 10. Case 475-AT-04: Zoning Administrator Request to amend Section 9.1.5 through 9.1.10 and Section 9.3**
 - A. Adjust parameters of minor and major variance classifications**

- B. Clarify the presiding authority for each variance classification**
- C. Restrict hearing officer duties**
- D. Remove option of appealing a hearing officer decision to the ZBA**
- E. Broaden requirements regarding maintenance of minutes and public records to include hearing officer**
- F. Make editorial changes to improve clarity**

Ms. Monte stated this is ELUC's initial review of the proposed text amendment and that proposed text amendments are typically held at ELUC for one month to provide sufficient opportunity for municipalities and townships to consider a protest. She said the text amendment proposes to restrict a hearing officer's duties and also includes proposed miscellaneous corrections to Chapter 9 of the Ordinance and that a majority ZBA recommendation to the County Board is to adopt the proposed amendment. She reviewed the amendment which further restricts hearing officer duties: currently the Ordinance allows that a hearing officer may preside over all Minor Variance cases; whereas the proposed text amendment allows a hearing officer to preside over a Minor Variance request: 1) only during times as authorized by the County Board; and 2) only provided that no other request for a variance, special use or rezoning is concurrently under consideration for the subject site or structure. She said the text amendment modifies the upward parameter of a Minor Variance to include only requests for deviations that do not exceed 25% (whereas the existing Ordinance indicates the upward parameter of a Minor Variance to include requests for deviations that do not exceed 50%).

Ms. Monte reviewed other Chapter 9 corrections proposed as part of the text amendment. She said the existing Ordinance allows that an appeal of a hearing officer decision may be heard by the ZBA and that a correction to this Section of the Ordinance is proposed (based on Illinois state statute) that a hearing officer decision is final subject to an administrative review as provided in Article III Administrative Review, Illinois Code of Civil Procedure (735 ILCS 5/3-101 et seq., 1996). She said that the existing Ordinance indicates that minutes and public records are required to be maintained for the ZBA and that the proposed amendment indicates that minutes and public records are required to be maintained for both the ZBA and hearing officer. She said the text amendment also provides clarification to the existing Ordinance with regard to who the presiding authority is for each classification of Variance (Administrative, Minor and Major) with a table added to Paragraph 9.1.6(A).

Ms. Busboom questioned who would be appointed as hearing officer and what qualifications would be required.

Ms. Monte said the existing Zoning Ordinance contains a paragraph about required qualifications for a hearing officer. She said the hearing officer provisions were adopted by the County Board in 1993 and have been in the Zoning Ordinance since then, although that to date the County Board has not elected to utilize the hearing officer provisions. She said that a list of hearing officer candidates has not yet been forwarded to the Policy Committee for their consideration.

Ms. Busboom stated that she served on the Zoning Board for five years and ELUC for many more and it surprises her that she has never heard of this provision. She questioned if the Hearing Officer would be hired or appointed.

Ms. Monte stated the hearing officer is an appointed position which would probably receive a per diem based on what is decided by the County Board. She said the proposed text amendment adds a provision that a hearing officer may not be appointed unless the County Board decides by resolution to enact a hearing officer. She said the proposed text amendment further restricts hearing officer duties, more so than the existing Zoning Ordinance provisions regarding hearing officer duties. She said during consideration of the proposed text amendment the ZBA expressed a desire that they be assisted by a hearing officer only : 1) with regard to Minor Variance requests for deviations less than 25% and only provided that no other zoning cases are requested concurrently to a Minor Variance; and 2) only during that time that the ZBA is considering hearings for the Comprehensive Zoning Review cases.

Ms Monte said that over the past two-year period (from January, 2003 through December, 2004) a total of 46 Variance cases were considered by the ZBA. Of those 46 cases, only approximately 11 of those cases would qualify to be heard by a hearing officer if, for example, the criteria for screening of Minor Variance cases to be allowed to be heard by a hearing officer (as proposed in the text amendment under consideration) were in place during that time.

Ms. Busboom questioned if a staff person would qualify as a hearing officer.

Mr. Roseman stated that at least two or three hearing officers would be appointed to alleviate any conflicts of interest which might arise with a specific case. He said that the text amendment was initially proposed due to the prospect of Phase One zoning hearings in each township to help alleviate the ZBA's burden of additional meeting dates. He said that when a hearing officer is no longer required to assist the ZBA an additional resolution can be proposed to eliminate the hearing officer. He said that someone such as a retired land use lawyer could be qualified as the hearing officer.

Mr. DiNovo stated that the only candidates which have been discussed for the hearing officer appointment are former ZBA members.

Ms. Monte read the qualifications of the hearing officer.

Mr. Doenitz asked why the County would want to add more bureaucracy.

Mr. Roseman stated that the key reason why the County Board may want to consider this provision is to help speed up the processing of certain Minor Variance cases which will be submitted during the hearings for the Comprehensive Zoning Review.

Mr. Doenitz stated that he is afraid that this provision will ruin the continuity of trusting the ZBA to take care of the public's cases.

Ms. Greenwalt questioned if the Committee desired to change the proposed amendment what would be the procedure.

Ms. Monte stated that at next month's ELUC meeting, the Committee has the option to remand

this case back to the ZBA or to make a recommendation to the County Board that it be denied.

Ms. Anderson asked if this text amendment came from ZBA.

Ms. Monte stated originally the text amendment from the Zoning Administrator was to expand duties of a hearing officer, but that the ZBA modified that request to instead restrict hearing officer duties.

Mr. DiNovo stated that the hearing officer provisions were added in 1993 with the thought that a hearing officer would expedite hearing cases, but after it was reviewed it appeared that no time would be saved. He said that the tool is available in the Ordinance if for some reason the County Board desires to utilize it. He said that just because it is included in the Zoning Ordinance does not mean that it has to be utilized, but it does provide that option to the County Board if ever required.

Ms. Busboom stated that until a hearing officer is proven necessary she does not support the proposed amendment.

Ms. Busboom moved to deny Case 475-AT-04. The motion failed by lack of a second.

Ms. Anderson stated that the hearing officer provisions are included in the Ordinance and have not been utilized. The amendment is to further restrict the duties of the hearing officer which means that the hearing officer, if utilized, will be used even less than what was originally proposed ,therefore she supports Case 475-AT-04.

Mr. McGinty questioned the procedure if the hearing officer provisions were removed from the Zoning Ordinance and then proposed to be added back into the Ordinance at a later date.

Ms. Monte said the existing Zoning Ordinance includes provisions to allow the use of a hearing officer. She said a new text amendment would need to be proposed to eliminate that existing Section of the Zoning Ordinance. A new text amendment would require a legal public notice to be advertised, another public hearing by the ZBA, a review by ELUC and final approval by the County Board. If in the future the hearing officer was to be added back into the Ordinance the same procedure would be required.

Mr. DiNovo agreed that the first thing that would be required would be to draft a new zoning case to repeal the hearing officer provisions which are currently in the Ordinance. He said that if at a later date if a hearing officer is desired provisions would be required for adoption. The process would approximately consume three months before it would appear before the Board.

Ms. Busboom stated that she will accept the proposed amendment so that the Committee may move on to other issues.

Mr. Schroeder stated that he supports the text amendment to further restrict duties of a hearing officer. He said that it would prove very difficult to have seven ZBA members at each township hearing; therefore the provision to allow the limited use of a hearing officer would help alleviate that situation.

11. Planning and Zoning Report
 - A. Barking Dog Enforcement

Mr. Fletcher stated that he is working with Mr. Roseman regarding the Barking Dog Enforcement and requested that Item #11(A) be deferred to the April 11, 2005, meeting.

B. Enforcement list review

Mr. Roseman distributed the following documents for the Committee's review: 1) Zoning and Nuisance Enforcement Cases dated March 14, 2005; 2) Cases Referred to the State's Attorney's Office dated March 14, 2005; and 3) Kennel Cases to be Resolved via Zoning Ordinance Amendments dated March 14, 2005. He said that there are 259 outstanding cases to date. The list includes 71 cases of inoperable vehicles; 22 cases of domestic animal complaints, of which 16 are kennels. He said that he discussed the kennel cases with Mr. DiNovo and he indicated that these types of cases will be resolved with an amendment to the Zoning Ordinance, therefore at this time no action is required unless a serious complaint is received. The list includes 12 floodplain related issues which have been discussed with the Illinois Department of Resources to determine which cases can be removed from the list. He said that as requested by the Committee a list has been provided indicating which cases have been referred to the State's Attorney's Office. He noted that further review is required to determine which cases can be removed from the list due to non-existence, compliance, etc.

Mr. Schroeder thanked staff for the distributed enforcement lists. He questioned if the barking dog complaints which are indicated on the list includes the kennel complaints also.

Mr. Roseman stated that the barking dog complaints and the kennel complaints are two different issues and are treated separately.

Mr. Schroeder questioned the procedure from the State's Attorney's Office once a case has been referred.

Mr. Fletcher stated that a notice is sent regarding the complaint and if no response is received a second notice is sent to the violator. If no response is received from the violator after receipt of the second notice a complaint is filed by the State's Attorney's Office with the court system. He said that typically the judge will give the violator two or three chances to bring the violation into compliance but if the matter is not taken care of then a fine is issued. He said that there are some cases on the list which have proceeded to the court system but there are procedural problems with some other cases.

Mr. Schroeder questioned what effect will an additional person hired within the State's Attorney's Office have on enforcement.

Mr. Fletcher stated that he is unable to respond to Mr. Schroeder's question at this time.

Mr. Moser questioned if there were repeat violators on the list.

Ms. Hitt stated that there are repeat violators on the list.

Mr. Roseman noted that the State's Attorney, prior to this monthly report to the Committee, has not had an opportunity to review the cases on the enforcement lists that are indicated as being with the State's Attorney Office.

Mr. Doenitz moved, seconded by Mr. Moser, to remove all Comprehensive Review Zoning Cases which have received a protest from a township from consideration.

Ms. Greenwalt stated that this is not an item on the agenda therefore no action can be taken at tonight's meeting.

Ms. Busboom requested that Mr. Doenitz's request be placed on the April 11, 2005 agenda.

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

The consensus of the Committee was to place Item #9, Consideration of an amendment to the Champaign County Liquor Ordinance No. 653, Ordinance Establishing the Rules and Regulations Governing the Sale and Consumption of Alcoholic Liquor, on the County Board Consent Agenda.

13. Adjournment

The meeting adjourned at 7:53 p.m.

Respectfully submitted,

Secretary to the Environment and Land Use Committee

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