

MINUTES OF REGULAR MEETING

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

**DATE: April 11, 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, Tony Fabri, Nancy Greenwalt (VC), Ralph Langenheim (C), Brendan McGinty, Steve Moser, Jon Schroeder

MEMBERS ABSENT: None

STAFF PRESENT: John Hall, Connie Berry, Jamie Hitt, Jeff Roseman, Susan Monte, Frank DiNovo, John Dimit, Joel Fletcher, Barbara Wysocki

OTHERS PRESENT: Norman Stenzel, Roger Meyer, Ronald Minch, Sanjay Goyal, Justin Kneeland, Maris Kneeland, Larry Knox, Andrew Hasdal, Hal Barnhart, Mike Bateman

1. Call to Order, Roll Call

The meeting was called to order at 7:06 p.m. and a quorum was present.

2. Approval of Agenda and Addendum

Mr. Fabri moved, seconded by Ms. Busboom to approve the agenda and the addendum. The motion carried by voice vote.

3. Minutes of Previous Meeting (February 14, 2005 and March 14, 2005)

Ms. Greenwalt moved, seconded by Ms. Anderson to approve the February 14, 2005 and March 14, 2005 minutes as submitted. The motion carried by voice vote.

4. Public Participation

Mr. Ronald Minch, who resides at 661 CR 3350N, Fisher, Il addressed Item #8, Bateman Subdivision. He said that the Bateman property is directly east of his property and his property sits

lower than the Bateman property. He said that the Bateman property does have a water issue in that the ground floods very easily and he does not feel that the subject property will pass a percolation test. He said that he viewed a parcel which is directly across the street from the subject property and it had standing water although the area has not received any recent rains. He said that he received the information regarding this case on Thursday night and was unable to reach his attorney until today. He said that he is opposed to the variance and the requested waivers and requested that the Committee defer its decision until he and his attorney have adequate time to review the information. He said that he lived in a subdivision before and moved to the rural setting to escape the close proximity of neighbors therefore he opposes this request.

5. Correspondence

The consensus of the Committee was to accept and place on file the following correspondence: Urbana and Champaign Sanitary District-Fee Increase.

6. County Board Chair's Report

Ms. Wysocki discussed the Mahomet Aquifer Consortium Board Meeting April 5, 2005 minutes. She said that the interaction between the County and the Board is very important.

Mr. Langenheim stated that the Mahomet Aquifer Consortium is composed representatives of the State Water Survey, State Geological Survey and representatives of the various communities and counties within the district. The primary concern is with research and obtaining grants to conduct further research. He said that the County would probably be interested in encouraging the Consortium to obtain a consistent monitoring system for groundwater use.

Ms. Busboom asked if the Aquifer has regenerated the level of water which has been loss due to usage. She said that it was her understanding that there was rule which stated that the water would not be sold outside of the district.

Mr. Langenheim stated that no such rule exists and water is being shipped to other communities. He said that there are a few myths regarding the aquifer but presently there is no concern with the aquifer. He said that the aquifer is not a continuous flow of groundwater from southern Ohio to the Mississippi River but a series of flows which begins at the Indiana line and ends at Havana. He said that the aquifer is not fossil water and a newly found recharge area was located near Potomac. As a result of replenishment there is potential for pollution and the most significant concern is improperly sealed wells or abandoned wells. He noted that presently there is no major concern but there is potential for concern in the future.

7. Recreation and Entertainment License: Eastern Illinois A.B.A.T.E., Inc., for live music, motorcycle show and motorcycle rodeo at the Rolling Hills Campground, 3151-A County Road 2800E, Penfield, IL. June 3rd and 4th, 2005.

Ms. Greenwalt moved, seconded by Ms. Anderson to approve the Recreation and Entertainment License: Eastern Illinois A.B.A.T.E., Inc. The motion carried by voice vote.

8. Case 181-05: Bateman Subdivision. Combined Area General Plan and Final Plat approval for a two-lot minor subdivision of an existing residential lot located in the CR Zoning District in Section 18 of East Bend Township.

Mr. Hall distributed photographs of the subject property and one photograph of the adjacent lot (Elliott Subdivision) for the Committee's Review. He said that during his visit (approximately four weeks ago) he witnessed water standing on the adjacent lot. He distributed Attachment I. Draft Findings for Waivers of Minimum Subdivision Standards dated April 11, 2005 to the Committee for review. The Committee has never made a finding of any waiver in the past fifteen years and even though it is included in the regulations the Committee has never made a finding for a subdivision. He said that he cannot explain why the Committee has not completed this task but with the new minimum subdivision standards and the greater authority to deny subdivision requests it is important that the Committee begin completing findings for waivers. Attachment I, includes bulleted information which is relevant to each finding and the Committee must indicate which bulleted items are relevant. He said that the County Health Department reviewed the percolation test data on Lot One and has approved the subdivision. He noted that all notices were mailed out within the time frame required by the regulations. Mr. Bateman has been coming into the Planning and Zoning Office for the past two years inquiring about the standards and before he was able to submit the plat the Board had adopted the minimum subdivision standards.

Mr. Fletcher stated that the Zoning Board of Appeals is required to make similar findings during approval of zoning cases.

Mr. Hall stated that if this subdivision was before the Zoning Board of Appeals they would review each finding and then vote on the final approval or denial. He said that the ZBA is not presented with a summary of bulleted information but are required to review these findings themselves but ELUC has never completed such a finding therefore he tried to make it a smooth process. He said that in general the Committee must decide whether this location is suitable for a subdivision and if the Committee is not ready to make a decision at tonight's meeting staff could come back with more draft findings.

Ms. Greenwalt asked who owned the land on the other side of the river.

Mr. Hall stated that the subdivider, who owns the existing home on proposed Lot Two, also owns the land across the river.

Mr. Langenheim read the Draft Findings of Fact for Waivers of Minimum Subdivision Standards and indicated that this appears to be very complicated and he does not feel that he has adequate time to review. He said that Mr. Minch requested that the Committee postpone a decision until he was able to review the distributed information therefore perhaps the Committee would also like a deferral for the same reason.

Ms. Greenwalt stated that she is concerned that the Committee maybe approving a subdivision which is known to flood. She said that even though the subdivider currently owns the land it is possible that he may desire to sell the lot at some point.

Ms. Greenwalt moved, seconded by Ms. Anderson to defer Case 181-05: Bateman Subdivision to the May 09, 2005 meeting.

Mr. Hall stated that anytime there is a lot with river frontage there is potential for flooding. Mr. Bateman's house was built with a Zoning Use Permit by which he supplied ground elevations and it was verified that it was well above the 100-year flood. He said that in regard to the normal everyday flooding concerns about water-logged soil and standing water the photographs indicate that there is standing water on other locations within the area on different soils.

Ms. Greenwalt stated that she understands that Lot One is less likely to flood but Lot Two is the lot which requires the waiver and so much of the land is one foot below the BFE. She said that she is still concerned with the approval of Lot Two if the current owner decides to sell it at a later date.

Mr. Hall stated that parts of Lot Two are one foot below the BFE and the land was that way when Mr. Bateman purchased it in 1988.

Ms. Busboom questioned Mr. Hall if the County Health Department approved the subdivision.

Mr. Hall stated yes.

Mr. Doenitz stated that he has not had a chance to visit the site but he does not consider the flooding of the river an issue.

Mr. Hall stated that during his visit he couldn't believe the amount of contrast within a 30 foot distance between the subject property the previously denied Elliott Subdivision . He said that the soil survey indicates a huge difference between the soils of the subject property and the adjacent property. He spoke to Mr. Scott Rodgers, East Bend Township Road Commissioner and he indicated that water was still standing on the adjacent property. Mr. Hall stated that the subject property meets all of the minimum standards but at the cost of making Mr. Bateman's property not meet the standards.

The motion carried.

9. Case 182-05: Greenwood Lake 5th Subdivision. Preliminary Plat, Engineering Drawing and Final Plat Subdivision Approval for a six lot subdivision of an existing 10.5 acre tract in the AG-1 District and RRO District located in Section 21 of East Bend Township, pursuant to Case 468-AM-04.

Mr. Doentiz moved, seconded by Mr. Fabri to recommend approval Case 182-05: Greenwood Lake Fifth Subdivision.

Mr. Fabri questioned why there is a limit to the length of the streets.

Mr. Hall stated that he was not sure of all the reasons why a limit was created but this is a street without an outlet and it is not desirable to have a very long street with a considerable amount of

traffic.

Mr. DiNovo stated that emergency vehicle access is a consideration when determining the allowable length of a cul-de-sac.

Mr. Doenitz stated that water drainage is a huge issue with a very long cul-de-sac.

Mr. Hall stated that the distance is the distance from the north-south township road and that the drainage is not all in one direction. He said that the County Engineer has reviewed the proposed "tear drop" turnaround and discussed it with the East Bend Township Highway Commissioner. Both the East Bend Township Highway Commissioner and the Chief of the Sangamon Valley Fire Protection District have concerns that the proposed turnaround will not accommodate large vehicles and further review is required. He said that at this time it appears feasible to modify the turnaround so that it will get the approval of all parties but it will take more time. The teardrop turnaround is only relevant to the approval of the Engineering Drawings and the Final Plat and those approvals should be continued to the next meeting. He said that the Preliminary Plat is not effected by the specific engineering approval for the proposed turnaround. He said that the Committee could approve the Subdivision conditionally upon receiving the County Engineer's approval or it could come back to the Committee.

Mr. Hall said that the township road commissioner did not like the idea that people which have lived at this intersection for some time will suddenly have a cul-de-sac constructed and have people turning around there at all times of the day. He said that the township road commissioner was also concerned about his ability to maneuver road maintenance equipment within the cul-de-sac. Mr. Hall stated that he spoke with Roger Meyer, Engineer and he recognizes that there are some areas where the pavement width needs to be changed from what has been proposed.

Mr. Fabri stated that he seconded the original motion for discussion purposes but after hearing the concerns he does not feel that he can support the request until additional information is received.

Mr. Schroeder asked what concerns the fire protection district had in regard to the subdivision.

Mr. Hall stated that the Chief of the Sangamon Valley Fire Protection District-Fisher Station commented that the proposed cul-de-sac does not provide enough pavement to turn around to accommodate a fire truck. The proposed improvements, in the Chief's opinion, would not be adequate.

Mr. Schroeder stated that basically there are existing problems with emergency vehicle turn arounds.

Mr. Hall stated that Mr. Schroeder was correct and during his site visit he had to do a three point turn around with the department vehicle.

Mr. Doenitz stated that he would be willing to change his original motion to include that the recommended approval is conditional upon approval of the County Engineer and Township Road

Commissioner.

Mr. Fabri stated that he does not agree with Mr. Doenitz amended motion and would like to have the approvals from the County Engineer and Township Road Commissioner in writing prior to approval of the subdivision.

Mr. Hall stated that even if the Committee was inclined to recommend approval of the subdivision with a condition the Finding of Fact for the waivers still requires completion.

Mr. Doenitz moved, seconded by Ms. Busboom to defer Case 182-05: Greenwood Lake Fifth Subdivision to the May 09, 2005 meeting. The motion carried.

10. Case 475-AT-04: Zoning Administrator. Request to Amend Sections 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 classifications; 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. Greenwalt moved, seconded by Ms. Anderson to recommend approval of Case 475-AT-04: Zoning Administrator.

Ms. Busboom requested the average cost for publication and re-publication as indicated on page 108 of the packet.

Ms. Monte stated that the average fee is \$75 per notice.

Ms. Busboom requested information regarding the powers and duties of the hearing officer.

Ms. Monte stated that Section 9.1.5.B, page 105 of the packet, indicates the powers and duties of the hearing officer.

Ms. Busboom asked what qualifications would the hearing officer be required to possess.

Ms. Monte stated that all hearing officers must be residents of separate townships and they need to reside in areas affected by the terms of the Zoning Ordinance. She said that the hearing officer cannot be a member of the County Board. The hearing officer must be appointed to the position by the Policy Committee of the County Board. The hearing officer candidate must possess the training and experience to conduct administrative proceedings of a quasi-judicial nature and practical knowledge of land use regulation, land development and natural resource conservation. The type of person which would be considered would perhaps be an attorney with a specialty in environmental land use or a former

Zoning Board of Appeals chairperson.

Ms. Busboom asked what the per diem would be for the hearing officer.

Ms. Monte stated that the per diem has not been determined at this time.

Mr. Doenitz questioned the need for a hearing officer.

Ms. Monte stated that this in the event that the County Board would choose to utilize a hearing officer. The current Ordinance is more liberal on what a hearing officer can do and this amendment would further restrict those duties.

Mr. Doenitz stated that his question was why is a hearing officer necessary at all.

Ms. Monte stated that a hearing officer is already a part of the existing ordinance and utilizing the hearing officer could alleviate the zoning case load from the Zoning Board.

Mr. Doenitz stated that the continuity of the Zoning Board of Appeals would be lost.

Ms. Monte stated that the hearing officer would only be utilized during a specific time period specified by the County Board. She said that for instance the hearing officer could be used only during the duration of the Comprehensive Zoning Review.

Mr. Roseman stated that the only cases which would appear before the hearing officer would be cases which require a minor variance of 25% or less.

Mr. Fabri asked if these proposals have appeared before the Zoning Board of Appeal and did they determine a time period for utilization of the hearing officer.

Ms. Monte stated that the Zoning Board of Appeals recommended this case. The text was distributed to townships and municipalities and has been held at ELUC for one month. She said that the time period will be set by the County Board and not by the ZBA. She said that it was anticipated that the hearing officer would be utilized during the duration of the Comprehensive Zoning Review.

Mr. Roseman stated that the Zoning Board of Appeals desires to hear all cases regarding CZR.

Ms. Busboom stated that the hearing officer has been in the Ordinance since 1993 and has never been used therefore could it be deleted from the Ordinance.

Mr. Fletcher stated that the text regarding the hearing officer could be removed from the Ordinance but a new text amendment would be required to be presented to the Zoning Board of Appeals.

Ms. Greenwalt stated that it appears that there is a tool available to assist the Zoning Board of Appeals with expediting cases and it would not make sense to delete a tool which may need to be used at some point.

Ms. Anderson stated that she agreed with Ms. Greenwalt. She said that the tool has not been

used previously but it may need to be used in the future and it doesn't make sense to just delete it.

Mr. Schroeder stated that the case load which is before the ZBA along with CZR is virtually impossible. He said that this a tool in the toolbox which is available for use without changing the continuity because it is still a public hearing process. He said that the ZBA is in favor of this and would appreciate ELUC's support. He said that by eliminating some of the current powers of the hearing officer it would eliminate some of the public concerns regarding the hearing officer.

Mr. McGinty stated that if modification were required at a later date it is possible therefore he supports the amendment and maintaining the hearing officer.

The motion carried.

11. Comprehensive Zoning Review
 - A. Status of CZR Phase One

Ms. Monte stated that public hearings for Phase One of CZR were held between November 2003 and September 2004. In January 2005, the Assistant State's Attorney made an inquiry to the Illinois Attorney General regarding the Comprehensive Review and confirmation was received regarding the inquiry. The Phase One hearings have been deferred until a response has been received from the Illinois Attorney General's Office.

B. ELUC Motion to withdraw CZR Phase One Cases 415-AT-03 and 428-AM-04

Ms. Monte stated that the requested motion is to withdraw the entire Phase One text amendment (Case 415-AT-03, Parts 1-N) and one of a total of four proposed Phase One map amendments (Case 428-AM-04, rezoning selected properties to add the Resource Protection Overlay District (RPO)). She said that the April 6, 2005, memorandum contains suggestions for a more specific type of motion which would provide some additional direction to staff. The effect of the Committee selection of any of the motions, other than Motion D, would negate the interim amendments currently in place within the existing Zoning Ordinance. She reviewed each Alternative Motion with the Committee. She noted that any action by the Committee other than Motion D could be viewed as a premature action. She said that by selecting Motion D "no action" at this time will allow ELUC the benefits of receiving the Attorney General response to the State's Attorney inquiry made and reviewing any revisions necessary to Public Review Draft 3.

Mr. Doenitz asked how the township protests fall into this process.

Mr. Roseman stated that the two township protests which were received were in regard to Case 415-AT-03 and 428-AM-04. He said that the memorandum indicates some of the implications and side effects of Mr. Doenitz's original motion.

Mr. Doenitz stated that if the two cases have been protested then the County Board must approve the cases by a 3/4th majority vote and he does not feel that this will happen.

Mr. Roseman stated that Public Review Draft 3 is in process and modifications can be made to the amendments plus the Attorney General’s comments and State’s Attorney’s report must be incorporated into the draft.

Mr. Doenitz stated that the whole process is a merry-go-around.

Ms. Anderson moved, seconded by Ms. Greenwalt to approve Motion D: Take no action at this time.

Mr. Moser stated that the whole process is frustrating. He said that the County is now expected to spend \$300,000 on a visioning study so that a County Comprehensive Plan can be completed. He asked the Committee how much more time and money will be wasted on trying to write a document which will never be approved. He said that there are four townships which have formed planning commissions and there is no way a 3/4th majority vote will be given for approval. The protests will continue to come in and the whole process is a waste of time.

Mr. DiNovo stated that Mr. Moser comments relate to Motion C: Withdraw Case 415-AT-03 and Case 428-AM-03 and take no further action at this time.

Ms. Busboom stated that she is very disappointed that the township planning commissions have taken the time to hold meetings and voice their concerns in writing and the County is ignoring their comments.

Mr. Doenitz asked staff if they were aware that this process is continuing to go in circles and wasting money.

Mr. Roseman stated that staff is aware of the process and they have taken all of the citizen’s comments, township comments and the municipality comments and incorporated those comments into Public Draft 3. The public hearing process is an exchange in comments and those comments are modified into the drafts. He said that if the Committee desires to have the cases withdrawn then so be it but staff requires direction with the rest of Phase One.

Ms. Busboom requested a roll call vote.

Schroeder-yes	Moser-yes	McGinty-yes
Greenwalt-yes	Fabri-yes	Doenitz-no
Busboom-no	Anderson-yes	Langenheim-yes

The motion carried.

Ms. Busboom asked if the township protests were still valid.

Mr. Fletcher stated that the township protests were still valid.

Ms. Wysocki stated that by the action that this Committee just took it is conceivable that when the Attorney General comments are received those comments may address the issues which the townships have been protesting. She said at that time staff will be required to revise those

provisions in accordance the State of Illinois.

Mr. Fletcher stated that the only way that the Attorney General's opinions will resolve this issue is if the Attorney General indicates that the County cannot do this therefore it will end the entire process.

Ms. Wysocki stated that it is possible that the Attorney General will approve the entire process therefore it is important that the County wait on their opinion.

Mr. Moser stated that the County has waited for 13 years and it will never be resolved. He said that when this all comes to the County Board level the entire package will be defeated.

Mr. Fletcher clarified that the County has no control over the time of receipt of the Attorney General's opinion.

12. Planning and Zoning Report

A. Barking Dog

Mr. Roseman stated that staff consulted with the State's Attorney's Office and they indicated that the Animal Control Act does not give Animal Control the authority to handle the type of domestic animal nuisance complaints that Zoning wishes to assign to Animal Control.

Mr. Schroeder asked if the Sheriff's Department could be utilized because he is concerned with the staff's safety when they perform site visits.

Mr. Fletcher stated that the Sheriff's office or Animal Control could assist staff with a site visit.

Mr. Schroeder stated that it would make more sense to call Animal Control first since they are trained to handle animal complaint situations.

Mr. DiNovo stated that currently the Nuisance Ordinance gives the Sheriff the same authority as the Zoning Administrator for nuisance violations.

B. Champaign County Soil and Water Conservation District-Salt Fork Watershed Plan Technical Advisory Committee

Mr. Roseman stated that on February 8, 2005 the Champaign County Soil and Water District made a request of the department to participate in the development of a watershed plan for the Salt Fork Watershed. He said that he has volunteered to serve on the Technical Advisory Committee.

C. Monthly Report

Mr. Roseman distributed and reviewed the March 2005 Monthly Report.

D. Enforcement List

Mr. Roseman distributed and reviewed the Open Enforcement Cases as of April 11, 2005. He noted that significant progress is being made by staff in resolving the enforcement cases to date.

13. Other Business

A1. Request of Bruce Carothers to waive or reduce the Zoning Use Permit fee to the 2001 rate for a detached garage which was constructed in May, 2000 without obtaining a permit. The garage is located at 3558 N CR 1700E, Ludlow, IL.

Mr. Moser moved, seconded by Mr. Doenitz to approve the request of Bruce Carothers to reduce the Zoning Use Permit fee to the 2001 rate for a detached garage which was constructed in May, 2000 without obtaining a permit.

The motion carried.

A2. Support of HB-0025: Eliminating a Loophole from the State Statute 55 ILCS 5/12002 Inoperable Motor Vehicles.

Mr. Greenwalt moved, seconded by Mr. McGinty to recommend approval of Support of HB-0025: Eliminating a Loophole from the State Statute 55 ILCS 5/12002 Inoperable Motor Vehicles.

The motion carried by voice vote.

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

Mr. Moser moved, seconded by Mr. Doenitz to place Item #A2. Support of HB-0025: Eliminating a Loophole from the State Statute 55 ILCS 5/12002 Inoperable Motor Vehicles.

15. Adjournment

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Secretary to the Environment and Land Use Committee

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