

**MINUTES OF A STUDY SESSION OF THE COUNTY BOARD,
CHAMPAIGN COUNTY, ILLINOIS
SEPTEMBER 12, 2006**

The County Board of Champaign County, Illinois met at a Study Session, Tuesday, September 12, 2006 at 7:00 p.m. in the Lyle Shields Meeting Room, Brookens Administrative Center, 1776 East Washington Street, Urbana, Illinois, with Barbara Wysocki presiding and Leroy Holliday, as Secretary of the Meeting.

CALL TO ORDER

Chair Wysocki called the Meeting to order, and the Clerk to call the roll. Roll call showed the following Board Members Present: Anderson, Beckett, Carter, Doentiz, Greenwalt, Hogue, James, Jay, Jones, Langenheim, McGinty, Moser, Schroeder, Tapley, Wysocki - 15; Absent: Avery, Betz, Cowart, Gross, Hunt, Knott and Sapp – 7. Thereupon, the Chair declared a quorum present. Board Members Bensyl, Fabri, O'Connor, Putman and Weibel – 5, arrived after the roll call.

APPROVAL OF AGENDA

Board Member Beckett offered the motion to approve the Agenda; seconded by Board Member Langenheim.

ZONING CASE 522-AT-05: ZONING ADMINISTRATOR

Ms. Wysocki stated that the procedures for this study session will be somewhat different than those conducted at a regular Board meeting in that presentations will be given by Ms. Monte, County Planner and Mr. Hall, Director of Planning and Zoning. She said that following these presentations the Board Members will have an opportunity to pose questions and submit comments to Ms. Monte and Mr. Hall regarding the Draft Ordinance. She said that at the conclusion of the study session public participation will be allowed although public comments will be restricted to five minutes. She reminded the public that this is a study session and not a public hearing therefore no new information or evidence will be allowed.

Ms. Monte gave a Power Point presentation and an overview of Zoning Case 522-AT-05.

Mr. Hall gave an overview of Zoning Case 522-AT-05 alternatives.

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COUNTY BOARD DISCUSSION

Mr. James asked Mr. Hall why is a 250 foot stream buffer needed and what is it based on.

Mr. Hall said the stream buffer is 150 feet and the Finding of Fact reviews a number of studies with buffers that range less than 150ft to 900ft. He said that was the minimum that could be proposed and still achieve some aspect of maintaining a contiguous riparian corridor.

Mr James asked Mr. Hall if there were to be a buffer would the homeowner still be responsible for the upkeep of that area or will the county.

Mr. Hall answered the homeowner and it would be like any other zoning side yard, rear yard, front yard set back.

Mr. James said it seems to be a lot of area to for a buffer in some of the areas we're talking about.

Mr. Hall said it would only be along the major streams and only if it's in the special Flood Hazard Area. He said if it's above the base flood elevation it is no longer in the stream protection buffer. Mr. Hall went on and said if there is not a fifty percent tree cover in the 2005 area photo then it's also not in the stream protection buffer.

Mr. Moser said he has a neighbor that has 160 acres of land. Mr Moser said he first bought four 20 acre tracts and then he bought another 80. Mr. Moser said the 20 acre tracts all have separate tax numbers and have never been joined together as one parcel. Mr. Moser said there was a set of buildings on the first 20 and the other three were bought over a period of years and the 80 was bought last. Mr. Moser asked Mr. Hall what would one home per 40 acres do in that situation if it was adopted.

Mr. Hall stated if you have an 80 acre tract which consists of four 20 acre parcels each with their own parcel number the Draft Ordinance will let you do one lot from each of the twenty acre tracts. Mr. Hall said if you have 80 acres with one parcel number you can create two lots.

Mr. Moser asked Mr. Hall with the current ordinance what could be done.

Mr. Hall said assuming no previous parcels had been created you could create three parcels from each one of the 20 acre parcels.

Mr. Moser asked do you mean three on each parcel plus the one that is already there.

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Mr. Hall said he assumed that was there before January 1, 1998. Mr. Hall said that each of those lots has to meet the requirement about lot access and minimum standards and with Best Prime Farmland they each have to meet the maximum lot size.

Mr. Moser asked Mr. Hall how many on the 80.

Mr. Hall answered five for a total of 17 on those parcels.

Mr. Jay said there are some things that concern him and one of those is the buffer around public property. Mr. Jay said if those folks need 250 feet of buffer they should either put it inside their boundaries or acquire it, and it should not be the responsibility of the home owner to provide a buffer for somebody else.

Mr. McGinty said several items came up at the ZBA one being that it would not be easy to enforce. He asked Mr. Hall how he would respond to that?

Mr. Hall said the drainageway protections create a lot of work for staff but staff is prepared to deal with it but the real concern in this Draft Ordinance is the tree removal permit and the surface vegetation management requirements. He said those are real problems. Mr. Hall said he did not think that staff could enforce those requirements.

Mr. McGinty said he had heard from people who are for one per 40 and those who are not. Mr. McGinty asked Mr. Hall to describe what's wrong with one home per 40 acres.

Mr. Hall said that it limits the options for the farmer who has invested in that land. Right now, if you have 20 acres you can sell off three lots and each lot is going for 65 to 70 thousand dollars.

Mr. McGinty asked Mr. Hall how about two per 40 instead of one and if that was better for the land owner to some extent.

Mr. Hall said it retains more of the asset value compared to the current ordinance. Mr. Hall said in terms of zoning we look at one per 40 as a good thing. It allows fewer non-agricultural residents out in the rural area. Mr. Hall said you are playing off those zoning concerns with the landowners' concerns about value and flexibility.

Mr. McGinty asked Mr. Hall if he shared the same concerns as the ZBA regarding the Stream Protection Buffer not being economically sound and being a cost burden to the landowner.

Mr. Hall answered his concern with the Stream Protection Buffer is that you have to have a tree removal permit to cut more than three trees and in good management practices you will probably cut down more than three trees in the life time of the property. Mr. Hall said in regards to the 150 foot buffer, it's just another zoning setback just like any other. Mr. Hall said it primarily affects only new lots and has very little impact on existing lots.

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Ms. Anderson asked about the 250 foot buffer for parks and other public resource areas.

Ms. Monte said the intent of the Public Area Resource Buffer is to minimize disturbance to these public resource areas from adjacent properties. Ms. Monte said potential harmful impacts are pollutant runoff, trespass, and encroachment. Ms. Monte said impacts that diminish parks are light glare, noise, pet predation on birds and small animals and increase traffic. Ms. Monte stated those types of impacts are minimized by the proposed 250 foot buffer.

Mr. Hall said if you adopt the one house per 40 acres the need for a public resource buffer is reduced greatly.

Mr. Langehiem asked Ms. Monte if the illustration Draft Public Resource Buffer showed the extent of the buffer that appears on Homer Lake shows less than half the existing resource area would have buffers.

Ms. Monte answered yes, that is correct there are fourteen lots that fall in that public resource buffer.

Mr. McGinty said that the information had been packaged in a way to where it would be interesting to see how to consider all the alternatives.

Mr. Moser said that he attended three ZBA meetings and about 80% of the discussion was regarding environmental issues and no one said if the drainage districts were exempt. He said there isn't much left out along the Salt Fork that is developed or platted so it will be grandfathered in and he looks at this as stomping on the people that went out there and built a house with another encumbrance on their property. Mr. Moser said he manages a farm in Kerr Township that is on the Champaign County and Ford County line that will be totally encumbered by the 250 foot buffer and there will never be a house on it and he can't support that. Mr. Moser said he supports the 25 foot buffer to protect the tiles. He said there are so many of those tiles we don't know about and were put in maybe 100 years ago and you will never find it until you hit one of them. Mr. Moser said he didn't how the county could enforce this Ordinance.

Mr. Hall said although we don't know where the tiles are, with this ordinance it states if you interrupt a tile the Zoning Ordinance requires that you do the proper thing. He said in times past, well meaning individuals would contact the Soil & Water Conservation District and they would help them and got the right thing done but if the adjacent land owner has a complaint that somebody may have interrupted a tile it isn't a violation of the Zoning Ordinance but this would make it a violation if you interrupt it and do not do the right thing. He said that it would be difficult to enforce but this would be a little bit of a help.

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Mr. Carter asked Mr. Hall why haven't we heard from the majority of the farmers. We are here making decisions and it looks like landowners should have some say-so about all of this.

Mr. Hall said we have had about 10 meetings and many hours of testimony that could be made available to you.

Mr. Tapley asked Mr. Hall what is the objective of the one per 40.

Mr. Hall answered the conversion of Best Prime Farmland is minimized, less non-farm traffic on farm road interfering with farm traffic, less encroachment in the wooded areas without review to insure there is acceptable levels of disturbance.

Mr. Tapley asked Mr. Hall what are the environmental concerns.

Mr. Hall answered when you have less and less of the natural environment every part that is of high quality becomes more valuable. These regulations are not intended to save just any old woodlands but to identify woodlands of high quality. He said there is a specific process to identify areas like that. He said the County Board adopted the Land Use Regulatory Policies back in 2001 after about a year long effort.

M. Tapley asked Mr. Hall if the environmental concerns go back to protecting Best Prime Farmland.

Mr. Hall answered there are two policies that deal with environmental concerns, policies 1.7.1 and 1.7.2, and several policies dealing with Best Prime Farmland.

Mr. James asked Mr. Hall if his staff would be limited in the ability to enforce this ordinance.

Mr. Hall answered yes, especially regarding tree removal.

Mr. James asked if the Department was backlogged at this time.

Mr. Hall answered there is a small backlog in regards to zoning violations and a large backlog of nuisance violations. Mr. Hall said every time you add a new rule it creates a new enforcement issue.

Mr. Langenhiem said regarding Mr. Carter's comment, there has been a lot of public input and many public meetings and ZBA meetings have been open and well attended and the public had ample opportunity to express their concerns and contribute input.

Mr. Moser said in regards to Mr. Tapley's comment, Mr. Doenitz, Mr. Schroeder, and Mr. Jay's son along with himself all farm. He said traffic is terrible on Windsor Road. where he lives. He said he cannot get his equipment out on the road between 7 and 8

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o'clock in the morning due to traffic and the same in the evening with evening traffic. Mr. Moser said each year when he puts chemicals on his field someone will come up to him and tell him the chemical he sprayed killed their trees. He said there are houses on narrow country roads and when you have a 20 feet wide head on a combine or take any type of tool down the road with mailboxes it is like going through an obstacle course. He said he has a lot of friends and they are either for this one per 40 or they are dead set against it because in their lifetime even though they will never sell a three-acre lot off of anything they own, they still want that privilege. He went on to say that when you put in dwellings in a township with no tax base and a road district to maintain it puts a lot of hardship on the road commissioner. Mr. Moser said that you can make a case all night long either way.

Mr. Jay said there are small land owners who have invested their money in farm ground as opposed to a 401k retirement plan. He said they put their money in land because when they retire they can either live off the land or they can sell it for their retirement. Mr. Jay asked how many Board members would stand for the county reaching into their retirement plan and taking a little off the top. He said this land is these folk's retirement and he does not believe the one per 40 is going to preserve farm ground. The City of Champaign gobbles up more prime farm ground in a week or a year than all the rest of the county put together and when the U of I expands or, the City of Champaign or the City of Urbana expands they expand into the very best soils in the world. He said when you get to the Mahomet area you get into the timber soils. Mr. Jay said that the system is flawed and he does not think the one per 40 is going to fix it so he can't support it at this time.

Mr. Fabri said that he was unhappy with this proposal but will vote to send it to public hearing for more discussion. He said there had been a lot of work put into our present Ordinance and about a year and a half ago some people got together in good faith and basically said let's scratch all the environmental stuff off the list and get just enough support from the people that do not like that. He said that was a bad compromise because the things we are giving up are the things we should be fighting for. He said that of the 180,000 people in the County he was sure the majority of them would like to see our forest preserves protected.

Mr. Schroeder said he has a problem with the Stream Protection Buffer because the buffer is to protect trees and there are no homes for miles along the Kaskaskia but you get to the Douglas County and Champaign County line and there's a forested area and people are building in that area and an organized drainage district is established there. Mr. Schroeder said people don't move out in those areas to cut down trees or to dig up bushes, but they move to those areas because they love the natural area and they respect it. Mr. Schroeder said he believes no government regulation should be imposed on an individual telling them what to do on their land. Mr. Schroeder said the buffer will not do anything for the Mahomet Forest Preserve or the Homer Lake Forest Preserve because they are already platted out and will be grandfathered in or there are already houses there. He asked if the county decided on the one per 40 and it passed would it be possible that a

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person that has 40 acres and who wants to develop that tract could go to any municipality and ask for an annexation agreement and therefore be exempt from County zoning.

Mr. Hall answered yes.

Mr. Moser said he had calls from a lot of people who never voted for him who are now asking for help. He said that the people are being encroached upon by the 15 people who live in the Champaign –Urbana city limits with liabilities that they do not want.

Mr. Carter said we should treat everyone the same and all should have a choice.

Mr. Jay said the buffer area around parks is a good cause but he thought the cost should be shared by everyone and not just the adjacent land owner.

Ms. Anderson said she grew up in a rural area with trees and streams and she would like to see them protected and the County must find a way to preserve natural areas.

Mr. Tapley said it seems like people are so willing to tell their neighbor what to do as long as it benefits them. He said he believes everyone wants to protect the environment and he is not sure what problems we are trying to fix.

Mr. Jay said we have more filter strips along streams and ditches than any other county in the State thanks to the Champaign County Soil and Water Conservation District and they also work to create additional timber ground so there are some positive things going on that a Zoning Ordinance just won't do. He said he thinks sometimes we try to do too much when it comes to zoning.

Mr. Moser said he would make a motion tomorrow night to send to the full board with no recommendation on all of these points and vote them up or vote them down.

PUBLIC PARTICIPATION

Ms. Wysocki said there are 5 or 6 people who have asked to speak and if others wish to speak please sign the white slips.

Chris Hausman said he is the chairman of the Champaign County Farm Bureau Land Use Committee. He said he the Farm Bureau has spent a lot of time and has been active looking at the land use policy for the past several years with a review by our board annually. He said the preference of the farm bureau is the by-right development of a one per forty and no rural subdivisions on land with an LE score of 85 or above. He said the bureau supports parts D, F, and J and 8 counties supported similar ordinances. He said he traveled to Bloomington and one side is strict urban development and on the other side nothing but rural landscape there is a distinction between urban area and the rural area. Mr. Hausman said last year there were ten countywide dialogue meetings and in these meetings over 680 people participated in these and in these meetings were farmland,

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urban sprawl, rural subdivisions, protecting agriculture were identified in all of these meeting and most of the times they were in the top tree. Mr. Hauseman said the ZBA approved unanimously Parts D, F, and J and the farm bureau supports their decision.

Phillip Geil had no comment.

Mark Thompson said the ZBA vote was split on part D and not unanimous. He said the one per 40 is a huge attack on private property rights for the landowners in the county. He said that when it comes to these buffers mother nature takes care of them, when we have a torrential rain the water sheds and the rivers move that water and you would not want to build on it and if you live there you would not do it. Mr. Thompson said the biologist who works at his conservation camp said that they are going to girdle every tree girdle means to cut a ring around the tree base and you kill the tree because it's junk and locust and we want to put in good trees. He said you are telling me that I can't cut down more than 3 trees and the wildlife biologist are telling me to cut down everyone of them down.

Mr. Thompson said during May and June of 2001 there were 5 town meetings consisting of mainly mayors, city workers, fire personnel and paramedics that were informed by mail which added up to approximately 106 people who made those 5 meetings and that is not a fair representation of the area. He said that the decision was made on September 18, 2001 which is a week after 9/11. He said he is a Farm Bureau member and he doesn't agree with this nor do about 50 percent of the members. Mr. Thompson said that he bought and paid for his property and doesn't want the county or anyone telling him what to do with it.

Eric Thorsland said he farms 17.1 acres next to Mahomet and Newcomb Township and is certified organic. Some people are putting value on land as to what they can sell it for rather than what they can do with it. He said that all I have to do is go 200 yards to get to my 10 acres that I farm now with all the development I have to wait just to go 200 yards. We loose good ground with all the by-right lots and RRO's. he said he looses his right to get to his property due to the neighbors planted trees on the east side of me which shades my crops. He said he as a farmer has to have a 30 ft buffer from the land. Mr. Thorsland said there is nothing wrong with development but it's best to keep it compact and contiguous.

Herb Shildt said that he and his wife have about forty acres north of Mahomet in Newcomb Township and maintain it in its natural state. He said that Mr. Fabri expressed the need to preserve natural areas but the natural is in my back yard that we bought and maintain, it's private property and these proposals seek to punish us. He said that when we bought the land we bought the vegetation and all that comes with it and if we wanted to cut down an oak tree for hardwood floors we should be permitted to do so and if the county wishes to prevent us from doing these things they should compensate us. Mr. Shildt said that he attended every CZR meeting and approximately 600 people attended and many testified and about 90 percent opposed the proposals. He said there are people

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in the county who live in these areas that are being impacted by the proposals who already doing the right thing. He said he is the chairman of Newcomb Township Plan Commission and Newcomb Township protested Draft 3 because he believes it is a bad idea.

Jim Rector said his family owns property along the Salt Fork. Mr. Rector said his family has had property along the Salt Fork for over 160 years. Mr. Rector did a slide show presentation regarding homes built along waterways and wooded areas.

Norman Stenzel, 545A CR 1900N, said maybe we all have been misled. He said some people may be against all zoning. He said that some people believe that zoning is a taking of property and zoning as a taking is not supported by the legal reviews of zoning. He said that there may be restrictions on activity but there is also much activity that is allowed. Mr. Stenzel said if there is allowable activity then the property has not been taken. He said if there is a difference in zoning then everyone may not be treated the same.

Hal Barnhart said that Part D on page 98 did pass by unanimous vote. He said that he attended some of the meetings that were held in the early 1970's when zoning was first being discussed and some people were against zoning like it was the end of the earth. He said that zoning is about protection. He said in 1977 the County adopted a set of Land Use Goals and Policies. He encouraged people to go back and read the intent statements for the Agriculture and Conservation & Recreation districts in the Zoning Ordinance. He said that the Land Use Regulatory Policies were adopted in 2001 and we should not be talking about the policies again but we should be talking about how the policies should be administered and how the Ordinance is going to fit the policies. He said that when the County passed the first Zoning Ordinance they talked about preserving farmland and natural areas and then prior to the Zoning Ordinance being amended in 1997 there could have been 400,000 by-right lots created in this county and he wondered what that protected. Mr. Barnhart said that if the County adopted one per 40 he did not know how many small lots could be created. He referred to a table that was given to the Ad Hoc Committee about a year ago and the table indicated an additional 19,000 lots could be created by right and he wondered if that was protecting farmland.

Mr. Barnhart said there are 12 factors to be considered in the RRO process and one of those factors is the effects on wetlands, historic or archaeological sites, and natural or scenic areas, and wildlife habitat and he wondered how that is done. He did not know what rational basis could be used for that determination. He explained there was the Section 22 report provided by the Soil and Water Conservation District which lists soil types and engineering problems in certain areas and the LE score that is rational and non-subjective evidence but there isn't much in terms of natural areas.

Mr. Barnhart mentioned that the County Board has no control over sprawl caused by the City of Champaign, Urbana, Savoy, Mahomet, and others but it does have control over land use in the County and he encouraged the County Board to make use of what they

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can do. He mentioned a BigSmallAll report that mentions of the 4,310 acres of farmland that were converted to residential use since 1998, 3,700 of those are single family homes and lots that are larger than 30,000 square feet account for 8% of the new single family dwellings but account for 46.6% of the land converted. Mr. Barnhart said there is an issue of how many lots and families per acre in town versus one family on a five acre lot in the countryside.

Neil Malone, Illinois Association of Realtors, stated that sometimes there is a distorted view of what the IAR does. What they really do is, as realtors they represent about 600 professionals in this part of Illinois that are engaged in nearly every land transaction that occurs. His responsibilities include working with seven local associations that range from Danville to Mattoon and Charleston, through Decatur, Lincoln, Springfield, and through to Jacksonville. As an expert in real estate transactions he can tell the Board that this is probably the worst idea in any of the jurisdictions he currently works with. It comes down to an issue of individual rights versus an abstract greater good. The people that realtors work with put their life savings into buying a property because they intend to enjoy the full use of that property. He indicated that Mr. Jay's analogy on the 401(k) issue was right on point. Land in the County has an economic value, whether that is best realized by farming it; conserving on; or building on it; the land has a value, and to limit that value arbitrarily by saying that just because a specific parcel of land has a Land Evaluation value of "X" does not make any rational sense especially when you consider that Champaign County is an excellent place to live because the natural features and the great schools and etc. But the people also make it a great place to live, and to deter people from coming here because the housing option they want is unavailable isn't rational. Then to further punish people who have made an investment in this community by purchasing land is completely counter-intuitive. He lives in Springfield, in one of the eight counties that has the 1 per 40 provision in code, and he deals with that on a personal level as well. He has a friend who works in State government, and they own land in Douglass County and in Champaign County as well. Every time he comes to Champaign County she jokes that he is over here protecting her inheritance because the land value would be greatly reduced if this proposal is approved. He has spoken to people who have spent their lives as rural land appraisers in this part of the state, and they all tell him that this will seriously effect economic value of the land in this County. There may be some people who aren't uncomfortable with someone taking value out of their 401(k), these are the only people he can imagine could support this proposal.

Russ Taylor of Mahomet said that he served on the Board 20 years ago. He owns farmland in Mahomet, his family has for four generations, and he has sold thousands of houses in the County. He has worked with people both rural and in the city. He wanted to suggest two things, by passing something like this the Board would be assuming that private property owners would not take care of their property in an environmentally positive way. They would be assuming that owners will destroy it or hurt the environment and the County needs to tell them how to protect their land. He doesn't think that is correct. The second point is that houses will go up even with the 1 per 40 and what

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the proposal will do is allow rich people to move to the County and buy their 40 acres and take it out of production and not let the average man achieve their dream.

Ms. Wysocki stated that concluded the public participation for the evening. The next action would be tomorrow night at the ELUC meeting and if it is their desire the County Board will take action on this proposal on the 21st of September.

ADJOURNMENT

The meeting adjourned at 9:50 p.m.