

MINUTES OF REGULAR MEETING

Champaign County Environment & Land Use Committee	DATE:	May 08, 2006
Champaign County Brookens Administrative Center	TIME:	7:00 p.m.
Urbana, IL 61802	PLACE:	Lyle Shields Meeting Room Brookens Administrative Center 1776 E. Washington Street Urbana, IL 61802

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

MEMBERS ABSENT: Patricia Busboom, Tony Fabri, Ralph Langenheim (C)

STAFF PRESENT: Connie Berry, John Hall, Leroy Holliday, Susan Monte, Joel Fletcher (Senior Assistant State’s Attorney)

OTHERS PRESENT: Steve Royal, Bernard Hammel, Tim Asire, Bob Mitsdarfer, Merle Ingersoll, Paul Cole, Carl Webber

1. Call to Order, Roll Call

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

2. Approval of Agenda

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

3. Minutes of Previous Meeting (April 10, 2006)

Mr. Doenitz moved, seconded by Mr. McGinty to approve the April 10, 2006, minutes as submitted. The motion carried by voice vote.

4. Public Participation

Mr. Steve Royal, who resides at 1365 CR 2550E, Ogden addressed Item #8. He said that he and his wife are 1/3 owners of the proposed Wolf Creek Subdivision along with Gary and Julie Cooper and Paul and Camille Cole. He said that he is Sergeant with the Urbana Police Department and has been for nearly 19 years but he is also a neighbor that lives right down the road from the subject property. He said that he knows 90% of the neighbors in the area and everyone loves the atmosphere out there and the main goal is to make sure that it stays that way. He referred to an aerial photograph which was included in the ELUC mailing packet

1 indicating the subject property and the neighborhood surrounding it. He said that this is a developed
2 neighborhood and the proposed subdivision is probably the end of any development out there. He said that
3 all of the homes in the neighborhood are very nice homes and based on his property tax bill the County also
4 believes that his home is very nice. He said that that subject property is not virgin farmland because it has
5 not been farmed for approximately 20 years.
6

7 Mr. Bernard Hammel, who resides at 908 E. Ford Harris Rd, Champaign stated that he represents the
8 Farmer's Union. He said that he feels that the proposed ethanol plant is not for Champaign County. He said
9 that Paul Cooley, a well known analyst from the area, suggests that the farmers buy ethanol stock so that
10 they can stay in business. He said that this is not possible because The Andersons is a private business and
11 stock is not available for purchase. He said that CNBC television gave an interesting presentation on The
12 Andersons and how the proposed ethanol plants will affect the communities. He said that he believes that
13 there is a better way and that there are other locations available for such a plant rather than over the top of
14 Champaign County's precious water supply. He said that The Andersons' hydrologists claim that there is an
15 unlimited supply of water although he does not believe that this is true. He said that a hydrologist from
16 Wisconsin, hired during the construction of the landfill, indicated that water travels through clay at a rate of
17 one inch per 100 years. He said that he took some clay from a borrow pit which was being constructed
18 along Olympian Drive and placed it in a jar with water and by the next morning the water had gone through
19 the clay therefore proving the Wisconsin hydrologist incorrect. He said that there are a lot of people who
20 use the Mahomet Aquifer for their water supply and questioned what everyone will do when the water
21 supply is low. He said the owners of The Andersons in New York will receive a huge profit from the
22 Champaign County plant and Champaign County farmers will not receive anything in return because it is a
23 private business. He said that it is up to the County Board to stand up and require more information before
24 approving ethanol plants in Champaign County.
25

26 Mr. Tim Asire, who resides at 2610 Appaloosa Ln, Mahomet stated that he has a petition for a flood
27 variance before the Committee for his home which was built in 1978. He said that all of the details are
28 included in the packet and he will be available to answer any questions that the Committee may have
29 regarding his request.
30

31 Mr. Merle Ingersoll, Engineer with HDC Engineering declined to speak at this time.
32

33 Mr. Carl Webber, Attorney representing The Andersons stated that through the media the Committee has
34 surely heard about the benefits of The Andersons' proposed project but there are a couple of items that he
35 would like to clarify for the Committee. He said that the taxing benefits to the County are obvious and The
36 Andersons is aware that those issues is very important to the taxing bodies. He said that the average income
37 of the farmers in the area are generally found to increase by approximately 10 to 15 cents per bushel in the
38 area in which the ethanol plants are located and that also has an impact on the value of the land. He said that
39 there are four wells that can be used to pump water into the river so that it goes down river to dilute what
40 leaves the Tuscola chemical plant so the dilution is an important and needed factor for the plant. He said
41 that if the ethanol plant is placed in the location that The Andersons desire the water which is dispersed into
42 the river is satisfactory and as it travels through the river it will decrease the amount of fresh water required
43 for dilution at the Tuscola chemical plant. He said that if this plant were located somewhere else in the

1 County it might need an average of 1.6 million gallons per day and could be offset by one-half of the year by
2 600,000 gallons that might not be used to dilute the stream. He said that the additives in gasoline which
3 have been no longer made lawful are in themselves a carcinogen and one of the biggest problems is that they
4 have been polluting our water source therefore one of the reasons for pushing the concept of ethanol would
5 be because ethanol could replace that additive as an oxygenator to the gasoline. He said that this process
6 does take some water to make the ethanol but at the same time it is protecting the water supply as well. He
7 said that he is told that over the last two or three years the overall ethanol production has become
8 tremendously more efficient by a level of two or three times. He said that it is important for Champaign
9 County to have the advantage of an ethanol plant because there will be an ethanol plant around and if it is 10
10 feet on the other side of the County line it will be unfortunate because it will take the same water and taxes
11 will not be in this area. He said that he has been discussing this issue with the City of Urbana and John Hall
12 of the Department of Planning and Zoning regarding the proposed plant so that the County Board does not
13 have to proceed with a ¾ majority vote. He suggested that as the language from the City of Urbana has been
14 reviewed, although there are portions which he believes is a little broad, it could be interpreted by the
15 County in a proper manner so that it would not adversely affect proceeding with this plan. He said that in
16 order to preclude the issue of protest if Mr. Hall would find the language from the City of Urbana
17 satisfactory that The Andersons would agree yet if the Committee's determination is in a different manner
18 that would bring about the City of Urbana's protest then City of Urbana Council members and County
19 Board members will be contacted to get this approved.

20
21 Mr. Moser asked Mr. Webber if it was true that if the Champaign County plant is denied that they will try to
22 build a plant in Indiana.

23
24 Mr. Webber stated that he cannot say exactly where it is but the competition for this ethanol plant is not
25 necessarily some place else in the County but is in Indiana because of the rather substantial perks that the
26 State of Indiana has set up for these plants.

27
28 Mr. Moser asked Mr. Webber if there is a City of Champaign protest.

29
30 Mr. Webber stated that the City of Champaign has three minor issues which everyone seems to agree with
31 and have been incorporated into staff's suggestion for approval. He said that it boils down to a question of
32 the description of the type of survey or review of the water issue but most everything else seems to be a non-
33 issue.

34
35 Mr. Paul Cole, who resides at 1208 Newbury Rd, Champaign addressed Item #8. He referred to an aerial
36 photograph of the subject property. He said that borrow soil, which was removed to build a pond, was
37 placed on the subject property from the property immediately to the west. He said that a little more than one
38 acre is covered with this borrow soil to a varied depth of four to six feet along the northwest quadrant of the
39 six acre parcel. He said that immediately to the east of the subject property is an access lane which is owned
40 by Mr. and Mrs. Hutchcraft, to the south is the township road and to the west is the property which slopes
41 down to the creek and will never be farmed. He said that this is not a case of taking farmland out of
42 production and Mr. Royal did a good job in explaining that this is a final step in a development that is

1 consistent with what already exists. He said that it was previously discussed that there was a possible
2 survey encroachment although he requested that Mr. Tom Berns and Mr. Ed Clancy of Berns, Clancy and
3 Associates review the original survey completed by HDC Engineering to confirm its accuracy. He said that
4 they determined that the survey was accurate although there is an encroachment and in order to be good
5 neighbors they will place on record that they do not mind the encroachment. He said that the Hutchcraft's
6 lane does lie perhaps about one-half foot over onto the subject property. He said that if he were in
7 downtown Chicago he would probably care about six inches but in the country he doesn't.

8
9 **5. Correspondence**

10
11 None

12
13 **6. County Board Chair's Report**

14
15 None

16
17 **7. Recreation and Entertainment License: Eastern Illinois A.B.A.T.E., Inc. for live music,**
18 **motorcycle show and motorcycle rodeo at the Rolling Hills Campground. Location: 3151A**
19 **CR 2800E, Penfield, IL. June 2, 2006 thru June 4, 2006.**

20
21 **Mr. Moser moved, seconded by Mr. Schroeder to approve the Recreation and Entertainment License**
22 **for Eastern Illinois A.B.A.T.E., Inc. The motion carried by voice vote.**

23
24 **8. *Subdivision Case 187-06: Wolf Creek Subdivision. Subdivision Plat Approval for a three-lot***
25 ***minor subdivision in the CR, Zoning District in Section 30 of Ogden Township.***

26
27 **Ms. Anderson moved, seconded by Mr. McGinty to recommend approval of Subdivision Case 187-06:**
28 **Wolf Creek Subdivision.**

29
30 Mr. Schroeder asked Mr. Hall if ELUC recommends approval or denial tonight will the case be forwarded to
31 the full County Board for final approval.

32
33 Mr. Hall stated that if the case is denied by the Committee the case will not be forwarded to the County
34 Board but a Statement of Rejection will be required. He said that if the case is approved it will be forwarded
35 to the full County Board for final approval.

36
37 **The motion carried by a show of hands.**
38 **The vote was: 4-yeyes 2-nays**

39
40 **9. Zoning Case 527-FV-05: Tim Asire Request: Authorize the following variances from the**
41 **Champaign County Special Flood Hazard Areas Ordinance: A. Authorize the use of an**
42 **existing dwelling in which the top of the lowest floor is 8.5 inches above the Base Flood**
43 **Elevation instead of 1.0 feet above the Base Flood Elevation; B. Authorize the construction**

1 and use of an addition to a dwelling in which the top of the lowest floor of the addition is 8.5
2 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation; and
3 C. Authorize the use of an existing shed in which the top of the lowest floor is 4 feet 7 inches
4 below the Base Flood Elevation instead of 1.0 feet above the Base Flood elevation and that is
5 720 square feet instead of no more than 500 square feet. Location: Lot 27 of The Meadows
6 Subdivision in Section 36 of Newcomb Township and that is commonly known as the residence
7 at 2610 Appaloosa Lane, Mahomet.
8

9 Mr. Doenitz moved, seconded by Mr. Moser to recommend approval of Zoning Case 527-FV-05: Tim
10 Asire.
11

12 Ms. Anderson stated that this is an area where the Committee has had other cases requested for a flood
13 variance. She requested clarification of the difference in previous cases versus this case.
14

15 Mr. Hall stated that the conditions in this case are much different than the conditions in the floodplain
16 variance that the Committee saw a year ago. He said that in this case there is an existing home which when
17 constructed the Base Flood Elevation was the same as it is currently but the Zoning Administrator at the
18 time rounded down on the required elevation of the home and the builder ended up elevating the home more
19 than what the Zoning Administrator required. He said that the elevation of the current home is less than
20 what it should have been and is less than what our current regulations would require but Mr. Asire desired to
21 build his addition with no height difference between the addition and the existing home therefore a variance
22 was required. He said that Mr. Asire wanted to begin construction on the addition and the only thing at
23 issue is the actual top of the floor of the addition therefore the current Zoning Administrator allowed him to
24 begin. He said that if ELUC denies the variance the only thing that Mr. Asire will be required to do is add
25 another three or four inches to the top of the floor that he built and the rest of the home will not have the
26 variance. He said that the existing home is above the Base Flood Elevation although it is not one foot above
27 the Base Flood Elevation. He said that the shed however was built without a permit and was not built in
28 conformance with the regulations and Mr. Asire did not own the property when the shed was built. He said
29 that in light of that fact the ZBA felt that it was reasonable to authorize use of the shed but if the shed were
30 damaged or destroyed it would have to be rebuilt in conformance with the regulations.
31

32 The motion carried by voice vote.
33

34 **10. Discussion regarding Liquor Advisory Committee**
35

36 Ms. Greenwalt stated that the County Board Chair is trying to appoint and reappoint people to the Liquor
37 Advisory Committee. She said that she and Mr. Schroeder will represent ELUC and community members
38 are needed. She said that the Liquor Advisory Committee will probably not meet for several months. She
39 said that the appointments will be approved by the Policy Committee.
40

41 **11. Zoning Case 523-AT-05: Zoning Administrator. Request: Add "Ethanol Manufacturing" and**
42 **authorize by Special Use Permit with standard conditions in the I-2, Heavy Industry Zoning**

1 *District.*

2
3 **Mr. Doenitz moved, seconded by Mr. Moser to recommend approval of Zoning Case 523-AT-05:**
4 **Zoning Administrator.**

5
6 Mr. Fletcher asked if the recommended approval is for the case as it was originally presented or is it a
7 recommended approval with conditions recommended by staff.

8
9 Mr. Hall stated that Alternative A is the recommendation by the Zoning Board of Appeals. He said that
10 Alternative B is the recommendation by the ZBA plus all of conditions required by the City of Champaign
11 and the City of Urbana with the exception of the condition that the City of Urbana requested regarding the
12 water study. He said that Alternative B retains the water study requirement recommended by the ZBA. He
13 said that Alternative C includes all of the requirements of the City of Champaign and the City of Urbana
14 which includes the water study requirement of Urbana. He said that as he explained in the memorandum
15 dated May 4, 2006, his interpretation of the Urbana requirement is that it is asking for something that cannot
16 be done right now and he would anticipate that part of that requirement would be waived until it can be done
17 and the Water Survey states that in five years they may have the ability to assess the impacts of one
18 individual ethanol plant but currently they cannot. He said that staff has received conflicting stories in that
19 the City of Urbana maintains that this is not their intent although when he reads the requirement that is his
20 interpretation and that is what he would expect people in opposition would argue to the ZBA when there is
21 an ethanol case. He questioned that if this is not the intention of the City of Urbana then why can't staff
22 receive different language. He said that he suggested different language to the City of Urbana but he has not
23 received comments to date. He said that Mr. Webber explained that his client is comfortable proceeding
24 with Alternative C and is willing to take whatever risk there might be. He said that if the County Board
25 would recommend approval with Alternative C they would be trusting the ZBA to make the call on what
26 type of water studies will be required.

27
28 Mr. Moser asked Mr. Hall if staff has had any contact from United Seeds regarding an ethanol plant in
29 Royal.

30
31 Mr. Hall stated that the zoning office has not received any contacts from United Seeds.

32
33 Mr. Moser stated that this whole thing is going to be irrelevant and the County will be out of the picture if
34 United Seeds goes to Royal and the village annexes the tract on which they are interested in locating their
35 ethanol plant. He said that the County will not have any control over an ethanol plant located in Royal
36 because it will be out of the County Board's hands.

37
38 Mr. Hall stated that Mr. Moser was correct.

39
40 Mr. Doenitz asked Mr. Webber if his client would be comfortable with Alternative C.

41
42 Mr. Webber stated that this is a difficult question because it contains two different issues. He said that one
43 issue is how comfortable is The Andersons with Alternative C and the second issue is how comfortable are

1 they with having to go with a ¾ majority vote. He said that while Mr. Hall’s arguments are pretty clear they
2 are thinking that this is a gray question and not all black and white. He said that he came tonight with a
3 suggestion that they have confidence in the Zoning Administrator and the ZBA to interpret that in a way that
4 will be reasonable and therefore are willing to go with the more strict City of Urbana language. He said that
5 although the City of Urbana’s language is more strict at the City meeting a number of changes was made to
6 their documentation but remains strict. He said that if they had to choose between trusting the ZBA and the
7 Zoning Administrator to handle the more difficult language or receiving a positive ¾ majority vote from the
8 County Board they will take the ZBA and the Zoning Administrator.

9
10 Ms. Anderson stated that she is concerned about the amount of water which will be necessary for the ethanol
11 plant’s processing. She said that no one has an idea of how long the Mahomet Aquifer will continue to
12 provide water and a huge amount of water is being discussed during the processing.

13
14 Mr. Webber stated that the City of Urbana is interested in looking at a more broad area of the aquifer. He
15 said that one could argue that a five to ten year study would be required which was not the City of Urbana’s
16 intention but the language could be read in that manner. He said that the City of Urbana’s language is
17 broader and would probably bring in more data and more information making it harder to sift through but
18 The Andersons are confident that they can provide this information and that the ZBA and the Zoning
19 Administrator will not be confused by the facts. He said that this is a matter that he has been involved with
20 a number of times because he has worked with some peaker power plants in various locations and they also
21 require water. He said that one of the two greatest concerns is financial. He said that it is pretty clear that
22 there is going to be a number of ethanol plants proposed in the area and it is also clear that they intend to use
23 the aquifer and if that is the case the County might as well take advantage of these plants from a tax stand
24 point. He said that everyone appears to have a high regard for The Andersons as an organization and if the
25 County is going to be working with an organization for this type of project their project is one which reflects
26 history and experience in trying to improve the plants efficiency in using less water. He said that one thing
27 that strikes him with this particular location is if an ethanol plant is constructed and the water which is not
28 needed is dispersed into the Kaskaskia River it will reduce the amount of water that needs to be pumped out
29 of the aquifer to support the Tuscola chemical plant. He said that it sounds like a shell game although it
30 isn’t really but is a real savings of 600 thousand gallons of water per day for about one-half the year if the
31 plant is placed in that general location to put the overflow into the Kaskaskia. He said that the water which
32 leaves the plant has no more in it than when it came into the plant the only thing that happens to the water is
33 that as it is boiled off the minerals which were already in the water becomes more concentrated and has to
34 be treated. He said that he has come to the conclusion that as long as the County is going to have an ethanol
35 plant this is the right location and is certainly something that he would like to keep in Champaign County.

36
37 Ms. Anderson asked Mr. Moser if the County adopts this amendment would the United Seeds plant be
38 bound by the County’s specifications.

39
40 Mr. Moser stated that he believes that the Village of Royal will annex the United Seeds’ property and when
41 they build their ethanol plant it will be under Royal’s jurisdiction not the County’s jurisdiction. He said that
42 there is talk about an ethanol plant being built in Dewey, Gibson City, Tuscola and Danville and it is just a

1 matter of which company is actually going to do it.

2
3 Mr. Webber stated that it would be interesting to be thinking about whether or not the requirements which
4 the County will have under their soon to be Ordinance regarding this topic would be a part of any Enterprise
5 Zone that the County may be involved in.

6
7 Mr. Moser stated that he appreciates Mr. Hammel’s remarks because there is a lot of money to be made if
8 someone could invest in one of these facilities and if you are a farmer you may have the money to do so but
9 when you look at who is going to build these plants there is only one LLC that has any farmer owners in it
10 and it is Douglas County. He said that if an ethanol plant is built in Gibson City, Ford County will not place
11 any restriction on it and if Royal annexes the property there will not be any restrictions placed on the plant.

12
13 Ms. Greenwalt asked Mr. Fletcher if he had any comments.

14
15 Mr. Fletcher stated that there is not much law in the State of Illinois on making an amendment at this point
16 in the process. He said that a lot of other jurisdiction suggests that there is some risk associated with placing
17 additional restrictions on it after it has gone to a hearing at the Zoning Board of Appeals but in his opinion it
18 is a small risk because these would be conditions which would lessen the affect of the amendment.

19
20 Mr. Webber stated that if it is making harder not easier it would not lend toward a problem.

21
22 Mr. Hall stated that staff did receive a letter from the City of Champaign and it states something similar to
23 what the City of Urbana stated. He read the following text from the letter: The City of Champaign will
24 withdraw its protest if the above mentioned provisions are added to the text amendment. He said that
25 Alternative C would apparently not require a super majority vote.

26
27 **Mr. Doenitz moved to amend his original motion to include Alternative C. Mr. Moser concurred.**

28
29 Ms. Anderson stated that she has had several calls regarding dry milling versus wet milling.

30
31 Mr. McGinty stated that he is sensitive to the concerns which have been stated but he believes that it is an
32 important enough topic to forward to the full County Board. He said that he supported Alternative C.

33
34 Mr. Schroeder stated that he understands some of the concerns regarding water usage. He said that the
35 Mayor of Urbana was on a talk radio show regarding her uncertainties with an ethanol plant and even made
36 a comment that the old Tuscola USI Plant loaded the water supply with Benzene and that is why they have
37 to pump water out of the aquifer for drinking water. He said that currently gasoline prices are higher than
38 usual subsequently there are dollars looking for investment in energy products. He said that ADM is a
39 company which handles grain and also has ethanol plants and recently The Andersons has also started
40 ethanol production. He said that the stock in ADM has not gone up because of agriculture subsidies but has
41 gone up because of their energy stocks. He said that as of last year there has been a process started called
42 “dry milling” which uses a lot less water than “wet milling” ethanol plants. He said that dry milling is a
43 great concept but construction of an ethanol plant could take up to three years because the industry for

1 building these plants is booming. He said that he does not know the anticipated date for The Andersons’
 2 ethanol plant but it could be at least three years down the road. He said that he will support his colleagues in
 3 voting for this issue but it is very broad with a lot of loose language. He said that if the County does not dot
 4 the “i” and cross the “t” in this language someone will sue the County. He said that The Andersons is a
 5 publicly traded company although there are several cooperative grain companies in the area that are not
 6 publicly traded and are patron owned such as Grand Prairie Coop and Fisher Farmers Grain. He said that if
 7 a farmer hauls his grain to a cooperative elevator they will someday be a part of the ethanol boom that is
 8 going on but if the farmer chooses to haul his grain to The Andersons he may receive a higher price but he
 9 will have to invest in The Andersons’ stock to get any money out of their ethanol plant. He said that if a the
 10 farmer is stuck with a cooperative elevator and he hauls his grain there he will be part of the action of rising
 11 stock of the cooperative. He said that Mr. Moser indicated that there is an LLC which anticipates building
 12 an ethanol plant in Tuscola, potentially a plant in Gibson City and Royal. He said that if The Andersons do
 13 decide to build an ethanol plant in Champaign County it will help a lot of farmers because it will
 14 substantially raise the price of grain in the area. He said that if the price of grain increases then perhaps
 15 some of the government subsidies could be eliminated. He said that the only way to add value to Champaign
 16 County grain is to stop shipping it to ADM or The Andersons and having them ship it out of their elevator to
 17 a privately owned company, such as Cargill. He said that he wouldn’t mind seeing a bio-diesel plant
 18 proposed in Champaign County. He said that is a way the community could be enhanced and at the same
 19 time add value to the crops that are produced and he has no problem placing restrictions on the plants but he
 20 does not appreciate the loose language from the City of Urbana regarding water usage.

21
 22 Ms. Greenwalt stated that she received an e-mail from Barbara Wysocki, County Board Chair that the
 23 Regional Planning Commission is planning a community meeting on the subject of an ethanol plant.

24
 25 Mr. Hall stated that there is a meeting planned at the Urbana Library to discuss the issues raised if each of
 26 the three ethanol plants proposed for Champaign County wanted the incentive of an Enterprise Zone. He
 27 said that the entity that these plants will be looking at to provide the Enterprise Zone incentives is the
 28 County but the County is only a member of one Enterprise Zone, which is the joint zone with the City of
 29 Champaign, and the City of Champaign presumably does not have much interest in extending its Enterprise
 30 Zone to Royal or Tolono. He said that this meeting was primarily intended to discuss the challenges that
 31 this may bring to the County in dealing with these multiple requests when the County really has very little to
 32 do with the whole process. He said that there are specific people invited to the meeting such as the mayors
 33 from the City of Champaign, City of Urbana, Village of Rantoul, the County Board Chair and the relevant
 34 directors of planning therefore it is not a general public meeting.

35
 36 **The amended motion carried by voice vote.**

37
 38 **12. Regulation of lots in duly approved subdivision between May 17, 1977, and February 18, 1997,**
 39 **that have access to public streets by means of easements of access.**

40
 41 Mr. Hall stated that at the April 10, 2006, ELUC meeting the Committee recommended denial of Case 517-
 42 AT-05. He said that he the Committee’s denial caught him off guard therefore he was going to see if the

1 Committee would reconsider its decision but it seems much simpler to start over with a new case. He said
2 that the May 4, 2006, memorandum reviews two of the substantive considerations in Case 517-AT-05 which
3 are the number of lots and the length of easement of access shared by the lots. He said that he would like
4 the Committee to determine if there is any value in a reconfiguration of Case 517-AT-05. He said that the
5 memorandum includes four alternatives to the recommendations in Case 517-AT-05 and reviewed those
6 options with the Committee. He said that Alternative One would be to take Case 517-AT-05 and reduce it
7 to allow no more than three homes to share an easement of access that is no more than 675 feet long which
8 would eliminate the need for 14 variance cases that will have to be dealt with at some point. He said that
9 Alternative Two would take Case 517-AT-05 and reduce it to allow for two homes to share an easement of
10 access that is no more than 650 feet long and would eliminate the need for six variances. He said that this is
11 not much of a change but it would cut more than one-half of the variance cases that it would solve. He said
12 that he understands that the Committee's concern is not necessarily reducing variance cases and the concern
13 is what makes sense in these instances. He said that this is to identify what the Committee is comfortable
14 with and if the Committee is not comfortable with any of the suggested alternatives then staff will let the
15 issue drop and there will be two cases coming to the ZBA. He said that this was his last attempt to make
16 sure that staff did not ignore any opportunity for revising Case 517-AT-05.

17
18 Mr. Doenitz stated that he understands what staff is trying to accomplish but it still does not solve the
19 problem. He said that he has addressed and resolved almost all of the situations in Mahomet Township and
20 it has been a mess.

21
22 Mr. Hall stated that without something being added to the Zoning Ordinance he believes that all of these lots
23 will eventually have variances which will be approved by the ZBA because they have no other guidance at
24 this point. He said that if someone comes to the ZBA indicating that they have a perfectly legal lot and they
25 would like to be able to use it as originally intended the ZBA has nothing more than the minimum
26 requirements recommended by the NFPA which is 20 foot wide of gravel with a turn-a-round, etc. He said
27 that if this meets the minimum life and safety requirements, then that is all that they have to go on but if the
28 Committee believes that there should be a different minimum that is what should be discussed. He said that
29 if the Committee does not want to allow things accessible by any other means than by a public road then it
30 needs to be a prohibited variance.

31
32 Mr. Doenitz stated that a prohibited variance is exactly what needs to happen.

33
34 Mr. Moser stated that the Committee approved Case 187-06 which is a flag lot. He said that if the six acres
35 had two homes located on Homer Lake Road rather than creating a drive to the flag lot then that is a
36 subdivision which the Committee could be in trouble with and we just approved it.

37
38 Mr. Hall clarified that Case 187-06 did have a flag lot and that is a different situation than what is being
39 discussed. He said that with a flag lot each lot has access directly to a public road.

40
41 Mr. Moser stated that sooner or later someone will want that drive fixed and who will be responsible for that
42 maintenance.

43

1 Mr. Hall stated that may be but the drive is nothing more than a driveway for that flag lot and has direct
2 access to the public road.

3
4 Mr. Moser stated that the County needs to do something with the Zoning Ordinance to stop this type of
5 practice.

6
7 Mr. Schroeder stated that there needs to be a better standard for the easements. He said that the County does
8 not have a standard because eventually the township road commissioners will be asked to maintain these
9 easements. He said that a perfect example of this type of situation is the Sandwell's Subdivision located in
10 Philo Township. He said that the property owners purchased their lot in good faith and when the road went
11 bad they called the road commissioner requesting that they fix their private road. He said that there must be
12 criteria set on these private roads and easements because they will be taken over by township road
13 commissioner someday and there needs to be set regulations. He said that the roads need to have about one
14 foot of top soil removed, large rock placed on top of the soil, road pack placed on the large rock, and should
15 be 20 foot wide with oil and chip surfaced with ditches on each side. He said that the easements should be
16 approved by the township road commissioner because eventually they are the ones that will have to take
17 over the private road/easement and maintain it. He said that the does not want to restrict it to the point
18 where you can only build where there is only public access to a road but there should be a hard, set fast set
19 of regulations on the construction of these easements.

20
21 Mr. Hall stated that what Mr. Schroeder is taking about is a prohibition on variances on the need to have
22 either a public road or a public accessway built to the same standards as a public road and those two things
23 are what a new lot requires. He said that that there is no prohibition against requesting a variance for
24 something else and the only way to guarantee what Mr. Schroeder is saying to the make it a prohibited
25 variance. He said that he trying to deal with people who purchased lots which were approved by this
26 County and the County indicated that no public road was required but now making that a prohibited variance
27 would be indicating that the County was wrong and that a public road is required therefore the lots cannot be
28 used until a public road is constructed. He said that if this is what the Committee wants then staff can
29 prepare a zoning case to make it a prohibited variance but he is not aware of what legal issues will be raised
30 during that case.

31
32 Mr. Schroeder stated that if these proposed variances are for lots with existing homes or for vacant lots.

33
34 Mr. Hall stated that there have been some that were missed in the permitting process. He said that perhaps
35 staff could prepare variance that would grandfather the lots that have been built upon but those that have not
36 will be required to have a public street. He said that can investigate this request and report back to the
37 Committee as to whether it is feasible or not.

38
39 **13. Notice of Intent to apply for FEMA Pre-Disaster Mitigation Planning Funds**

40
41 Ms. Monte stated that she would like to apply for funding to do some planning to get a Hazard Mitigation
42 Plan that meets the FEMA requirements so that the County is in a good position to receive funds in the event

1 of a natural disaster. She said that Mr. Bill Keller, Champaign County Emergency Disaster Agency has
2 request planning assistance and since funds are available it appears that it is a good time to begin this
3 project.
4

5 **Mr. Schroeder moved, seconded by Mr. Moser to authorize the County Planner to apply for presently**
6 **available PDM funds to develop a Local Mitigation Plan. The motion carried by voice vote.**
7

8 **14. *Comprehensive Zoning Review***
9

10 Ms. Monte stated that hearings are proceeding and the ZBA is carefully deliberating each part and assessing
11 compliance with the Land Use Regulatory Policies and consistency with the Ordinance Objectives. She said
12 that staff is looking at a target date in July but it is a painstaking, careful process that the ZBA is going
13 through and she hopes that the County Board can support the ZBA and inform them that they are doing a
14 good job.
15

16 Mr. Fletcher stated that after his review of the Public Review Draft 3 there are some distinct minor changes
17 which can be made to reduce the legal risk but he is being told that the text is frozen at this time and no
18 changes are allowed at this point. He said that he would like the Committee to confirm their intent in
19 freezing the text. He said that one example would be as follows: In regards to the Drainage Setback there is
20 a requirement that if a drainage tile is discovered in the course of construction that the lot or landowner must
21 convey an easement to cover the drainage tile. He said that this raises some legal concerns regarding
22 “taking” and that this text could be easily addressed without opening up a can of worms. He requested input
23 from the Committee if it was really their intent not to allow any changes at this point.
24

25 Mr. Moser stated that anyone who is developing anything which has a tile running through it should move it
26 or reroute it so that it isn’t obstructed. He said that there is great concern regarding disturbance of existing
27 drainage tiles.
28

29 Mr. Fletcher stated that this is only one of several conditions that are in the Draft Ordinance to address but
30 there are some legal problems that he has in the way that staff went about doing that. He said that he must
31 be aware of the Committee’s intent and if he can address some of the legal fixes.
32

33 Mr. Schroeder stated that it is in the public hearing process and he does not have any problem with making
34 some necessary changes. He said that he would support any legal changes that need to be made to the text.
35

36 Mr. Fletcher stated that he is not talking about reopening any major policy decisions and there are some
37 legal risks that he has addressed before that cannot be avoided because of where the hearing is at right now
38 but he can minimize some the risks from here on out with some minor changes to the text.
39

40 **The consensus of the Committee was to avoid possible legal risks as suggested by Mr. Fletcher, Senior**
41 **Assistant State’s Attorney to allow minor changes to the text of Public Review Draft 3.**
42

43 **15. *Monthly Report for April, 2006.***

1
2 **Mr. Moser moved, seconded by Mr. Doenitz to accept and place the Monthly Report for April, 2006**
3 **on file. The motion carried by voice vote.**
4

5 **16. Other Business**

6
7 None

8
9 **17. Determination of Items to be placed on the County Board Consent Agenda**

10
11 **The consensus of the Committee was to place Item #9, Case 527-FV-05: Tim Asire on the Consent**
12 **Agenda.**

13
14 **18. Adjournment**

15
16 The meeting adjourned at 8:25 p.m.

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24 Respectfully submitted,

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28
29 Secretary to the Environment and Land Use Committee

30
31 eluc\minutes\minutes.fm