

1 **MINUTES OF REGULAR MEETING**

2 **Champaign County Environment** **DATE:** **August 11, 2008**
3 **& Land Use Committee** **TIME:** **7:00 p.m.**
4 **Champaign County Brookens** **PLACE:** **Lyle Shields Meeting Room**
5 **Administrative Center** **Brookens Administrative Center**
6 **Urbana, IL 61802** **1776 E. Washington Street**
7 **Urbana, IL 61802**

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11
12 **MEMBERS PRESENT:** Jan Anderson, Chris Doenitz, Matthew Gladney, Brad Jones, Ralph
13 Langenheim, Carrie Melin, Jon Schroeder (VC), Barbara Wysocki (C)

14
15 **OTHER COUNTY**
16 **BOARD MEMBERS**

17 **PRESENT:** Pius Weibel (County Board Chair)

18
19
20 **MEMBERS ABSENT:** Steve Moser

21
22 **STAFF PRESENT:** John Hall, Leroy Holliday, Susan Monte (Regional Planning Commission)

23
24 **OTHERS PRESENT:** Roger Meyer, Ed Peterson, Rex Bradfield, Tony Becker, Guadalupe Guzman,
25 Carroll Goering

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27
28
29 **1. Call to Order, Roll Call**

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31 The meeting was called to order at 7:00 p.m. The roll was called and a quorum declared present.

32
33 **2. Approval of Agenda**

34
35 **Mr. Schroeder moved, seconded by Mr. Langenheim to approve that agenda. The motion carried by**
36 **voice vote.**

37
38 **3. Approval of Minutes (June 9, 2008)**

39
40 **Mr. Doenitz moved, seconded by Ms. Anderson to approve the June 9, 2008, minutes as submitted.**
41 **The motion carried by voice vote.**

42
43 **4. Correspondence**

44
45 None

46
47 **5. Public Participation**

48

1 Mr. Anthony Becker, who resides at 3205 E. Airport Rd, Urbana, stated that he is the gentleman that Mr.
 2 Guzman takes care of at the subject property in Zoning Case 606-FV-08. He said that it has been a long
 3 three years that they have been trying to get the subdivision approved and apparently the property requires a
 4 variance due to its location in the floodplain. He said that he is not sure what type of questions that the
 5 Committee may have for him to answer.
 6

7 Ms. Wysocki stated that when the Committee gets to Item #8 on the agenda the Committee will, at that time,
 8 ask Mr. Becker any questions regarding Case 606-FV-08. She informed Mr. Becker that if he would like to
 9 make any formal statement at this point then he was welcome to do it at this time.
 10

11 Mr. Becker stated that a few months ago the area received one of the worst rains in 30 years and the water
 12 did not make it up to the concrete on the left side of the house. He said that the water would have to rise
 13 approximately 12 more inches above the concrete slab to reach the floor of the house. He said that he and
 14 Mr. Guzman have spent a lot of time and money attempting to have the subdivision approved. He said that
 15 they were not informed that the property was in violation of the County requirements when Mr. Guzman
 16 purchased the house. He said that when a neighbor informed them of the violation they contacted Mr. Hall
 17 and requested a copy of the violation and the required documentation for correcting it. He said that they had
 18 a lawsuit with the previous owner of the property but it appears that the previous owner does not have very
 19 much money therefore no money will be collected from the lawsuit.
 20

21 Mr. Carroll E. Goering, who resides at 2606 N. Highcross Rd, Urbana, stated that he has lived at his current
 22 residence for over 30 years and his property abuts Mr. Guzman’s property. He said that he has given
 23 testimony three times regarding this matter and hopefully this will be the last. He said that the floodplain
 24 variance that has been requested has two conditions attached: a. that the variance should be recorded with
 25 the Recorder of Deeds; and b. no additional floor area in the subject dwelling shall be converted to living
 26 space. He said that he agrees with both of the conditions because there is only a small risk of flooding in to
 27 the apartment. He said that the present owners are willing to take the risk of flood damage but recording the
 28 variance would protect any future owners. Mr. Goering stated that he supports both of the conditions for
 29 approval and assuming that the case is approved it would resolve the problems that the owner and the
 30 neighborhood has been dealing with for several years. He thanked the Committee for their time.
 31

32 Mr. Rex Bradfield, a Licensed Professional Engineer in the State of Illinois who has been hired by the
 33 petitioner, stated that he will defer his comments at this time and will present his testimony when the
 34 Committee addresses Item #8 on the agenda.
 35

36 Ms. Wysocki declared the Public Participation portion of the meeting closed.
 37
 38

39 **6. Updates:**

40 **A. Champaign County Land Resource Management Plan**
 41
 42

43 Ms. Monte of the Champaign County Regional Planning Commission stated that on July 24, 2008, a steering

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1 committee meeting was held and discussion occurred regarding the goals, objectives and policies that are
2 being considered in Draft 1. She said that at the present time the Steering Committee has a very full agenda
3 and there was not the amount of progress made at the July 24, 2008, meeting as was hoped therefore an
4 additional meeting has been scheduled for September 4, 2008. She said that there will be two Steering
5 Committee meetings held prior to the September 8th, ELUC meeting. She said that the next regularly
6 scheduled meeting will occur on August 28, 2008 and at that time the very controversial topic of landowner
7 interest, specifically “by-right” development allowance, will be considered under the goal that includes
8 agricultural protection. She said that ELUC members will receive a packet which will include a draft of
9 goals for agricultural protection and goals #3 and #5 which pertain to economic vitality, quality of life and
10 urban types of land use, specifically focusing on transitional areas. She said that at the September 4, 2008,
11 meeting the remaining goals, objective and policies will be considered which include one of the most
12 controversial topics which pertains to natural resource protection.
13

14 Ms. Wysocki stated that there are three appointments being considered at the Policy Committee meeting in
15 August. She said that there are three members who need to resign from the Steering Committee due to
16 relocation or unavailable time to commit to the Steering Committee. She said that all three of the open
17 appointments represent the urban areas of the County which included incorporated areas that have
18 comprehensive plans. She said that these areas include Savoy, Mahomet and St. Joseph. She said that she
19 spoke to either the elected officials of the three communities or the heads of the planning commissions for
20 each of the three communities and requested that they identify someone who would well represent their
21 community on this particular committee. She said that she followed up with each of the suggested
22 individuals and they expressed interest and desire to serve on the Steering Committee. She said that each of
23 the appointments conforms to the original definition of Steering Committee members that was established
24 when the committee was first formulated and if the Policy Committee approves their appointment request
25 then the full County Board will consider the Policy Committee’s recommendation. She said that once
26 approved the new members will take their seat at the August 28th meeting.
27

28 Mr. Doenitz stated that it was his understanding that the County Board members would have a stake as to
29 who would be placed on the Steering Committee.
30

31 Ms. Wysocki stated that the County Board does have a stake as to who would be placed on the Steering
32 Committee in the sense that they have to approve the appointments.
33

34 Mr. Doenitz stated that he is speaking of the initiation of the applicants.
35

36 Ms. Wysocki stated that this route could be taken.
37

38 Mr. Doenitz stated that it appears that the rules of the game are being changed if the County Board is not
39 involved in the initiation of the applicants.
40

41 Ms. Anderson stated that it was her understanding that the appointee’s names were to be forwarded to Mr.
42 Weibel and once he approved those applications he was to forward those names to the County Board.
43

- 1 Ms. Wysocki stated that once Mr. Weibel made the choices then his recommendations are forwarded to the
2 County Board.
3
- 4 Mr. Langenheim asked how Mr. Weibel received the names of the appointees originally.
5
- 6 Ms. Wysocki stated that there was a process where the County Board members were invited to recommend
7 people who met one or more of the categories.
8
- 9 Mr. Langenheim asked Ms. Wysocki if these appointments differed from any other process which normally
10 occurs for such a committee.
11
- 12 Ms. Wysocki stated that in an essence no, but she does understand what Mr. Doenitz is saying. She said that
13 unlike a year ago the process is well under way and moving through a series of meetings and without those
14 three individuals the process will not be served well. She said that rather than devoting a period
15 encouraging 27 County Board members to solicit individuals to submit an application the three new
16 appointees were recruited with the assistance of the administrators of their respective villages.
17
- 18 Mr. Doenitz asked Ms. Wysocki why the County Board members of those respective municipalities were
19 not notified of the three vacancies and solicited for recommendations.
20
- 21 Ms. Wysocki stated that the process can be backed up suspending the three approvals.
22
- 23 Mr. Doenitz stated that he would suggest that suspension.
24
- 25 Ms. Anderson stated that since substantial issues are to be discussed at the August 28th and September 4th
26 meetings it would be better to have representation from those areas.
27
- 28 Mr. Doenitz stated that the County Board members in the respective areas should have been informed of the
29 vacancies when the municipalities were informed.
30
- 31 Mr. Jones requested the names of the recommended appointees.
32
- 33 Ms. Wysocki stated that Dee Shonkwiler of Savoy, Tiffany McElroy-Smeltzer of St. Joseph and Jay Roloff
34 of Mahomet are the recommended appointees.
35
- 36 Ms. Melin stated that these recommendations have been forwarded to the Policy Committee and have been
37 considered.
38
- 39 Ms. Anderson stated that if a County Board member believes someone should be considered for the vacancy
40 then they should bring that recommendation to the County Board for review.
41
- 42 Ms. Monte asked if there was a specific category or profile that Mr. Roloff fit into.
43

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1 Ms. Wysocki stated that by definition the Steering Committee needs five urban people and Mr. Roloff fills
2 that characteristic.

3
4 Mr. Langenheim stated that the County Board Chair has made these recommendations and the Policy
5 Committee has approved those appointments therefore it is incumbent on this Committee to add comment
6 because this issue will come before the County Board next week. He asked at which time it would be
7 appropriate to address this procedural issue because it is not in the venue ELUC.

8
9 Mr. Doenitz stated that this issue is in the venue of ELUC because this Committee had a hand in the
10 procedural process to begin with therefore how can ELUC change the rules in the middle of the game.

11
12 Mr. Langenheim asked Mr. Doenitz what he proposed to do about this issue.

13
14 Mr. Doenitz stated that at a very minimum the County Board members from the affected districts should
15 have the opportunity to submit names for the vacancies although since these particular appointments are
16 already approved by the Policy Committee and forwarded to the County Board it is pointless to complain
17 after the fact.

18
19 Ms. Wysocki stated that an option is to pull the nominations off of the full County Board agenda.

20
21 Mr. Langenheim asked Mr. Doenitz if he desired to take this option.

22
23 Mr. Doenitz stated that it is not only up to him because his district is not the only district affected by these
24 vacancies.

25
26 Ms. Wysocki stated there are possibly only two districts affected by these vacancies.

27
28 Mr. Gladney asked why this issue was not placed on the County Board Consent Agenda.

29
30 Ms. Wysocki stated that one of the Policy Committee members did not believe that one of the three changes
31 was appropriate for the vacancy. She requested the Committee's preference for this issue.

32
33 Mr. Doenitz stated that he would like see the approval of the appointments delayed to allow the original
34 opportunity that we started with. He asked Ms. Wysocki when the vacancies occurred.

35
36 Ms. Wysocki stated that it is her understanding that the vacancies occurred in late June after the June
37 County Board meeting. She said that there were no meetings held in July and her hope was that the
38 vacancies could be filled shortly.

39
40 Mr. Doenitz stated that it is important to have the vacancies filled but it would have been nice to have
41 known about those vacancies at the time that they occurred because if the affected districts would have
42 known then recommendations could have been made and this matter would have been taken care of a long
43 time ago.

1
2 Ms. Wysocki asked for the Committee's preference regarding this issue.
3
4 Mr. Hall stated that Ms. Monte made it very clear that the August 28th meeting will have a very full agenda
5 and the original schedule did not call for this but at a staff level it has been discussed that the Steering
6 Committee could recommend the policies and land use plan in January. He said that if this is a serious issue
7 he would not be concerned about the schedule at this point but be more concerned that we have support of
8 everyone going forward. He said that there will be a time when there will be no time for flexibility in the
9 schedule but we are not at that point yet.
10
11 Mr. Langenheim stated that it is very difficult to find candidates for these vacancies.
12
13 Mr. Doenitz stated that for lack of being able to come up with something better in light of what Mr. Hall
14 said about the time line he would move that we wait until the Policy meeting or give the County Board
15 members in the affected districts the opportunity for input.
16
17 Ms. Wysocki asked Mr. Doenitz if he desired to keep the three applications for the vacancies active.
18
19 Mr. Doenitz stated yes, because those applicants may be fine.
20
21 Ms. Anderson asked if there was any background information on the applicants.
22
23 Ms. Monte stated yes.
24
25 Mr. Schroeder stated that he is on the Policy Committee and he does agree with Mr. Doenitz. He said that
26 he is wondering if the policy for selection has any language for replacement of members of a particular
27 committee. He said that for some reason he reviewed the appointments and it didn't raise a red flag. He
28 said that perhaps those appointments should be suspended and double check on the policy before the County
29 Board meeting. He said that if the vacancies were made apparent in late June then a special ELUC meeting
30 should have been held before the July County Board meeting.
31
32 Mr. Jones stated that perhaps the applicant for Mahomet should be suspended and move forward with the
33 recommendations.
34
35 Mr. Langenheim stated that we should be concerned about the fact that these folks have committed
36 themselves to this committee.
37
38 Ms. Melin asked if it would be possible for the Policy Committee to hold a special meeting prior to the
39 County Board meeting.
40
41 Ms. Wysocki stated that she would like to speak with the County Board Chair, the Policy Committee Chair
42 and the County attorney. She said that she is getting the impression that ELUC would like time to review
43 the credentials of the three recommendations for the vacancies to the steering committee and perhaps

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1 suggest additional recommendations prior to the County Board meeting. She said that if this could not be
2 accomplished then ELUC would like to hold off the approval of these recommendations until September.

3
4 Mr. Doenitz stated that this would be fine but he is not only concerned with the vacancy for Mahomet.

5
6 Ms. Wysocki stated that she does not believe there was any consideration in the resolution regarding
7 replacement of steering committee members.

8
9 Mr. Hall stated that, not to add more tasks, this may be the time to amend the original resolution so that it is
10 very clear in moving forward.

11
12 Mr. Doenitz stated that he agrees with Mr. Hall in amending the resolution regarding replacement of the
13 steering committee members because this is a situation that can happen again in the near future.

14
15 Mr. Hall stated that staff can come back in September with a recommendation for amending the resolution
16 for future appointments.

17
18 Ms. Wysocki stated that she would like to await Mr. Weibel's arrival to the meeting prior to making a
19 decision on this matter.

20
21
22 **B. Champaign County Hazard Mitigation Plan**

23
24 Ms. Monte stated that the risk assessment stage of the plan is nearly complete with the process of risk
25 assessment to be completed in September. She said that the next meeting will be held September 4th. The
26 risk assessment stage includes assessing vulnerability which includes identifying critical facilities and
27 estimating potential losses. She said that the report that is being completed includes the first half of the
28 project, documentation and risk assessment stages, and that draft will be circulated to the planning team
29 shortly before the next meeting for their review.

30
31 Ms. Monte stated that after the risk assessment stage they will be moving in to identify mitigation and
32 implementation measures and during that stage we expect to have a public participation event in either an
33 open forum or an open house.

34
35 Mr. Weibel arrived at the meeting.

36
37 Ms. Wysocki informed Mr. Weibel that the method that was used to replace the three vacancies on the Land
38 Resource Management Plan Steering Committee is not consistent with the intention of the process that was
39 originally lined out. She said that some ELUC members would like some additional time to identify some
40 other candidates in their perspective areas that may be interested in serving in this capacity.

41
42 Mr. Weibel stated that he would be willing to remove the item from the County Board Agenda for August
43 and delay the approval of these recommendations. He said that he would like to review the geography and

1 specialties of the applicants.

2
3 Ms. Wysocki stated that in this case these are all urban appointments.

4
5 Mr. Weibel stated that if ELUC would like to delay the approval of these appointments for one month then
6 he would be willing to remove this item from the agenda.

7
8 Mr. Doenitz stated that he just found out at tonight's meeting that there was a vacancy in his district. He
9 said that he may not have a problem with the appointment of Mr. Roloff to the Steering Committee but he
10 does have a problem with the method of that recommendation.

11
12 **The consensus of the Committee was to request that the recommendations to fill the three vacancies**
13 **on the Land Resource Management Plan be removed from the August County Board Agenda and**
14 **deferred to the September County Board meeting.**

15
16 Mr. Weibel requested that any recommendations for appointment to the Steering Committee be submitted by
17 the end of August.

18
19 **C. Proposed Intergovernmental Agreement regarding development pursuant to municipal**
20 **annexation agreement that is more than one-and-one half miles from the municipality**
21 **and House Bill 2518**

22
23 Mr. Hall stated that no new information is available at this time.

24
25 **D. Senate Bill 2022**

26
27 Mr. Hall stated that no new information is available at this time.

28
29 Mr. Schroeder asked Mr. Hall what the status of House Bill 2518 and Senate Bill 2022 were at the present
30 time.

31
32 Mr. Hall stated that Senate Bill 2022 was sent to the Rules Committee and House Bill 2518 was passed at
33 the House of Representatives and forwarded to the Senate but as far as he knows it was not read.

34
35 Mr. Schroeder asked Mr. Hall if Mr. Frerichs is carrying the water on this issue.

36
37 Mr. Hall stated that he does not know.

38
39 Mr. Schroeder stated that he would have thought that Mr. Frerichs would be.

40
41 Mr. Hall stated that Mr. Frerichs, although arriving late, did make it to the event that was held at the
42 Champaign Library. He said that the only comments offered were from Senator Righter.

43

1 Mr. Doenitz asked Mr. Hall if any other municipality indicated interest other than the City of Champaign.

2
3 Mr. Hall stated no. He said that this does not mean that this is a non-issue because the representatives from
4 Sangamon County had proposed a bill that did not make it as far as ours and he had heard that McLean
5 County and Sangamon County were interested in being added to our bill. He said that the story that he is
6 receiving is that when the legislature amended the act last year one of the agreements to get that act passed
7 was to not make any changes for a couple of years to evaluate how the change worked out. He said that
8 apparently the bill from Champaign County, even with the support of the municipalities, was not enough to
9 break that agreement.

10
11
12 **7. Zoning Case 602-AM-07: Petitioner: Mark and Julie Hardy d.b.a. Hardy’s Reindeer Ranch**
13 **and Richard Hardy. Request: Amend the Zoning Map to change the zoning district**
14 **designation from AG-1 Agriculture Zoning District to AG-2 Agriculture Zoning District.**
15 **Location: The South 58.88 acres except for the South 233.71 feet of the West 203.71 feet in the**
16 **West Half of the Southeast Quarter of Section 5, Township 21 North, Range 9 East, Rantoul**
17 **Township and commonly known as Hardy’s Reindeer Ranch and the field north all located at**
18 **1356 CR 2900N, Rantoul.**

19
20 **Mr. Jones moved, seconded by Mr. Schroeder to recommend approval of Zoning Case 602-AM-07:**
21 **Petitioner: Mark and Julie Hardy. The motion carried by voice vote.**

22
23 **8. Zoning Case 606-FV-08 Petitioner: Guadalupe Guzman Request: Authorize as a variance**
24 **from the Champaign County Special flood Hazard Areas Ordinance the conversion into and**
25 **occupancy of a dwelling in which the top of the lowest floor is 0.02 feet above the Base Flood**
26 **elevation (100-year floodplain) instead of 1.0 foot above the Base Flood Elevation and which**
27 **has an enclosed area below the Flood Protection Elevation that does not allow the automatic**
28 **entry and exit of flood waters in lieu of the requirement for the automatic entry and exit of**
29 **flood waters. Location: Lot 1 of Leonard’s Farmett’s Subdivision in Section 2 of Urbana**
30 **Township and commonly known as the structure south of the house at 3207 East Airport**
31 **Road, Urbana.**

32
33 **Mr. Schroeder moved, seconded by Mr. Gladney to recommend approval of Zoning Case 606-FV-08:**
34 **Petitioner: Guadalupe Guzman.**

35
36 Ms. Anderson stated that after reviewing the memorandum she wondered how this type of situation could
37 have happened. She said that she does support the request.

38
39 Mr. Doenitz asked Mr. Hall if there were any further issues which should be presented to the Committee.

40
41 Mr. Hall stated that this Zoning Case is only the tip of the iceberg on this case. He said that the Petitioner
42 has been required to apply for two variances and in order to divide the property the Petitioner is going
43 through the subdivision process with the City of Urbana. He said that this property was discussed at ELUC

1 on more than one occasion and the Committee decided not to amend the Ordinance to allow this type of
2 situation. He said that it could be said that the ball was dropped when ELUC finally decided that they did
3 not want to authorize two homes on one lot but it didn't take long for the previous owner to sell the property
4 therefore with the type of systems and regulations that the County currently has these type of situations will
5 periodically appear.

6
7 Mr. Hall stated that when all is said and done, pending County Board and City of Urbana approval, the
8 Petitioner will have two good zoning lots which will meet all of the *Ordinance* requirements as modified by
9 the variances.

10
11 Ms. Anderson stated that the property appears to be in a low spot.

12
13 Mr. Hall stated that he would not just say the property is located in a low spot but it is located in the mapped
14 flood plain. He said that the property is located in an old subdivision that was created before adoption of the
15 *Champaign County Zoning Ordinance*.

16
17 Ms. Melin asked if the Petitioner is aware of the possibility of flooding. She asked if the electric generator
18 is located in an area where it was safe from damage if a flood occurred.

19
20 Mr. Rex Bradfield, Engineer for the Petitioner stated that normally we speak of flooding events in terms of
21 50-year or 100-year events. He said that rain can be considered in two factors: 1. how much rain was
22 received; and 2. what effect did the rain have on the existing area during that event. Mr. Bradfield said that
23 in this case when the area received the two substantial rainfalls he spoke with Jim Angel of the Illinois State
24 Water Survey and Mr. Angel indicated that the two substantial rainfalls which were received were not 50-
25 year or 100-year events. Mr. Bradfield said that the conditions of the ground at the time of the rain events
26 almost made the ground impervious because the runoff was almost 90%. He said that the first rain event
27 came upon frozen ground which allowed the rain to immediately runoff and the second rain event came after
28 the area had received several previous rain storms therefore the ground was saturated. He said ub a 100-year
29 event the runoff would be 30% and the difference between the rainfall of a 50-year flood event and a 100-
30 year flood event is two-inches of rain. He said that he had estimated a particular flood elevation for the
31 subject property based upon the original FEMA maps and since then there have been other studies done for
32 water surface profiles. He said that he predicted that if the area received a very significant rainfall the water
33 would back up from the Saline Branch. He said that he has no personal or financial interest in the project
34 other than his fees as an engineer. He said that his clients have done everything that they can to rectify this
35 situation and have gone as far as to install flood vents which were recommended by the County to protect
36 the structure. He said that fill has also been placed around the structure to protect it from flood waters. He
37 said that he is confident in placing his professional seal on the project.

38
39 Mr. Weibel asked how the County could ensure that the structure will not be expanded in the future.

40
41 Mr. Hall stated that the notice which would be recorded at the Champaign County Recorder's Office could
42 include a notation indicating that the structure could not be further expanded. He said that the County does
43 not require a permit for interior remodeling although a permit is required when there is a conversion in the

1 use. He said that converting barn space to living space would require a permit. He said that the Notice of
2 Flood Variance could have the following additional statement: As a special condition of the approval, no
3 additional floor area in subject dwelling shall be converted to habitable living space.
4

5 Mr. Langenheim asked how habitable space and non-habitable space is determined in regard to this building.
6

7 Mr. Hall stated that he would go back to the records of the case. He said that the engineer has indicated the
8 current amount of space that has been converted to habitable space. He said that violations can never be
9 prevented but if this statement is added to the notice then there is no reason why someone would not know
10 about the condition.
11

12 Mr. Weibel stated that this would help a future buyer of the property.
13

14 Mr. Bradfield stated that it was his understanding that this statement was included in the previous approval.
15

16 Mr. Hall stated that the Notice of Flood Variance only indicates the flood insurance aspects but does not
17 give notice about no further interior conversion. He said that Item #12.B of the Finding of Fact would be
18 added to the notice.
19

20 **The motion carried with one opposing vote.**
21

22 **9. Subdivision Case 192-08: Hughes-Race Street First Subdivision. Minor Plat approval for a**
23 **one-lot subdivision in the AG-1 Zoning District in Section 17 of Philo Township with the**
24 **following waivers: a. Waive requirement of paragraph 9.1.2.q. for percolation test data at a**
25 **minimum frequency of one test hole for each lot; and b. Waive requirement of paragraph**
26 **9.2.2.r. for certification on the plat by a Registered Professional Engineer or Registered**
27 **Sanitarian that the proposed land use, the proposed lot, and the known soil characteristics of**
28 **the area are adequate for a private septic disposal system.**
29

30 **Mr. Doenitz moved, seconded by Mr. Schroeder to approve Subdivision Case 192-08: Hughes-Race**
31 **Street First Subdivision.**
32

33 Mr. Doenitz asked if the request is to remove the existing structure from the farm ground.
34

35 Mr. Hall stated yes.
36
37

38 **The motion carried by voice vote.**
39
40

41 **10. Champaign County Zoning Ordinance requirements for wind turbine developments.**
42

43 Mr. Hall stated that he wanted to make the Committee aware that a wind turbine developer has contacted

1 landowners in the northeastern part of the County with a proposal for a many thousand acre development
2 which would stretch in to Vermillion County. He said that the *Ordinance* amendments, which the County
3 Board approved in 2001, established requirements for wind turbine developments and as amended the
4 *Ordinance* would allow up to three wind turbines on one parcel in the AG-1 zoning district as a simple
5 Special Use Permit. He said that more than three wind turbines on one parcel would require rezoning to the
6 I-2 zoning district and he can't imagine Champaign County approving the rezoning of thousands of acres to
7 merely allow wind turbine development. He said that more than likely there will not be more than three
8 wind turbines per parcel and the County could move forward with the existing *Ordinance* and not change a
9 thing. He said that the ZBA would be presented with 50 to 70 Special Use Permits with one company being
10 the co-petitioner for each landowner and a wind turbine development involving thousands of acres is going
11 to be a logistical problem. He said that one thing that the current *Zoning Ordinance* would not allow, if left
12 as it currently is written, would be that the County Board would have no say in the thousands of acres that
13 are likely to end up with wind turbines. He asked if this is what the County Board really intended when they
14 amended the Ordinance in 2001. He said that from what he understands McLean County has a density of
15 one per 80 acres. He said that since the County amended its Ordinance the State added requirements in the
16 statutes and grandfathered our existing *Ordinance* therefore the existing *Ordinance* stands on its own and it
17 could be left as a Special Use Permit decided by the Zoning Board of Appeals.

18
19 Mr. Hall requested guidance from the Committee on how to proceed with this issue.

20
21 Mr. Doenitz stated that it appears that there is a flaw in the existing *Ordinance* because a 40 or 80 acre
22 parcel has the same requirements as an entire section of ground. He asked Mr. Hall if he has any idea what
23 McLean County did for their development.

24
25 Mr. Hall stated that McLean County has two wind farm developments one of which is underway and one
26 which is involved in lawsuits. He said that McLean County required the development as a Special Use
27 Permit approved by the McLean County Board under one case. He said that one case received approval and
28 proceeded with construction but the other case has been tied up in a legal battle from the beginning.

29
30 Mr. Doenitz asked why the one project is involved in a legal battle.

31
32 Mr. Hall stated that there were enough disgruntled landowners on adjacent five and ten acre tracts that were
33 not happy with the proposed development that they took the McLean County Board and the Zoning
34 Administrator to court suing that the wind farm development did not meet the requirements of the *McLean*
35 *County Zoning Ordinance*.

36
37 Mr. Schroeder stated that he believes that the *Ordinance* does need to be reviewed and amended in regard to
38 this issue. He said that if we are looking at 400 acres as one parcel and someone wants to put more than
39 three wind turbines on 400 acres then the *Ordinance* would not allow that development without rezoning
40 and that does not make any sense. He said that we need to see what McLean County has done and make this
41 a County Board decision and not a ZBA decision.

42
43 Mr. Langenheim stated that the spacing that is currently being used may get stretched or tighter in the future

1 and some type of provision should be written for the removal of the wind turbines when they are not being
2 used. He said that he has traveled through several inactive wind farms that have decayed and were left
3 standing.

4
5 Mr. Weibel stated that he agrees with Mr. Langenheim regarding the spacing of the wind turbines on a
6 parcel. He said that if the wind turbines are abandoned or taken down the use of land should go back to
7 agriculture.

8
9 Mr. Doenitz asked Mr. Hall if he was aware of the spacing requirements in McLean County. He said that it
10 was his understanding that the wind farm close to Saybrook is one per 40 acres.

11
12 Mr. Hall stated that when he spoke with the main staff person at McLean County he was informed that the
13 spacing was one wind tower per 80 acres. He said that McLean County does have more detailed standards
14 in their ordinance than ours but our *Ordinance* frankly was drafted at a time when we wanted to leave things
15 as open as possible. He said that having the *Ordinance* as open as possible makes every case a very
16 significant research project and he would like to have things nailed down a little better so that the Petitioner
17 and staff is aware of what to expect. He said that in regard to the removal of the wind turbine most people
18 are not opposed to such a requirement and our *Ordinance* already includes this requirement in the form of a
19 reclamation agreement.

20
21 Mr. Weibel stated that there is an operating wind farm north of Mendota. He asked if spillage of hydraulic
22 fluid is a concern of the County or would that be an issue for the EPA.

23
24 Mr. Hall stated that he has not seen any discussion regarding concerns about the spillage of hydraulic fluid.
25 He said that the biggest concern is the damage that occurs to the roads during the construction process of the
26 wind turbines. He said that Jeff Blue, Champaign County Highway Engineer has contacted the McLean
27 County Engineer and has received a copy of the agreement that they required.

28
29 Mr. Doenitz stated that the road concern is not just with the trucks hauling in the turbines themselves and the
30 blades but also with the amount of concrete that is being hauled in to each site. He said that most of the time
31 there are on-site concrete plants near the proposed wind farm.

32
33 Ms. Wysocki asked Mr. Hall if this proposed site is materialized and it puts the wind farm within the reach
34 of Vermillion County would that mean that Champaign County and Vermillion County would have to be on
35 the same page on how these properties are being zoned.

36
37 Mr. Hall stated no. He said that when this proposed project is completed he would doubt that someone
38 could stand on the county line and tell a difference between either county.

39
40 Ms. Anderson requested the location of the proposed wind farm in Champaign County.

41
42 Mr. Hall stated that the proposed wind farm will be located north of Royal and east of Rantoul.

1 Mr. Doenitz stated that it is proposed mainly in Compromise Township.

2
3 Mr. Hall stated that he is not sure if the incorporated Village of Gifford is within the area of the proposed
4 wind farm but if it is they will have some input to this project.

5
6 Mr. Schroeder asked if the proposed wind farm is a continuation from Ford County.

7
8 Mr. Hall stated that any plans that he has seen does not clearly indicate that it is an obvious continuation.

9
10 Mr. Schroeder stated that it is his understanding that they want to keep the wind farm on the same power
11 grid. He said that staff should probably contact the counties of Ford, McLean and Vermillion counties to
12 see if they have anything regarding zoning for the wind farms so that there is some sort of continuity.

13
14
15 **11. Requirement that a current land owner pay the zoning fee for a structure built by a previous**
16 **owner without a permit.**

17
18 Mr. Hall stated that someone came to the office to apply for a Zoning Use Permit and during the background
19 research of the property it appeared that there was unauthorized construction. He said that the background
20 research is based on *Ordinance #650* which indicates “the Zoning Administrator shall not approve a Zoning
21 Use Permit on property in which there is a violation unless the construction is necessary to correct the
22 violation.” He said that subsequently it was discovered that there was a miscommunication and the
23 construction had been previously authorized. The new landowner contacted a County Board member and
24 the County Board member requested that this item be placed on the ELUC agenda for discussion.

25
26 Mr. Hall stated that what is at issue is that a person purchases a property with existing construction and
27 applies for a Zoning Use Permit for additional construction and they suddenly discover that there was
28 unauthorized construction on the property. He said that the State’s Attorney’s opinion is that the Zoning
29 Ordinance requires that the new owner is required to pay for the permit that should have been authorized at
30 the current fees. He said that in order to have a different practice regarding unauthorized construction the
31 *Zoning Ordinance* would have to be amended. He said that frankly the current rules act as a deterrent
32 because there is no incentive to by-pass the process because eventually staff will catch up with them and
33 they will be required to pay the current fees.

34
35 Mr. Weibel asked Mr. Hall why the new landowner would be required to pay the current fees rather than the
36 fees that existed when the construction took place.

37
38 Mr. Hall stated that such an issue was brought to ELUC in the past and the Committee determined that the
39 fee, for the unauthorized construction by a previous owner, should be based on the fee that would have
40 originally been charged.

41
42 Mr. Weibel asked Mr. Hall what the current fee is for an accessory structure.

43

- 1 Mr. Hall stated that the current fee is \$16 dollars per 100 square feet.
- 2
- 3 Mr. Gladney stated that he does not understand why a new owner is required to pay the permit fees for
- 4 unauthorized construction on the property.
- 5
- 6 Mr. Hall stated that in many instances it is not a new owner but the same owner.
- 7
- 8 Mr. Doenitz stated that he agrees with Mr. Gladney and he is the County Board member that brought this
- 9 issue to Mr. Hall. He said that if the current property owner is the person who failed to obtain a permit for
- 10 new construction then he would agree that they should be required to rectify the violation but if it is a
- 11 different property owner then it appears unfair for them to pay for the unauthorized construction.
- 12
- 13 Mr. Schroeder stated that when the new owner purchased the property he purchased it with the intent to
- 14 enjoy the existing structures. He said that he agrees that it doesn't seem fair to require the new owner to pay
- 15 for unauthorized construction but the old saying goes "buyer beware". He said that when someone buys real
- 16 estate the new owner needs to be responsible and make sure that everything is legal. He said that he is
- 17 opposed to amending the *Zoning Ordinance*.
- 18
- 19 Mr. Langenheim asked if the only recourse that the new owner has is to go back on the previous owner or
- 20 the real estate agent.
- 21
- 22 Mr. Hall stated that he would suppose that the new owner would have that option.
- 23
- 24 Ms. Anderson asked if the situation which originated this discussion was rectified.
- 25
- 26 Mr. Hall stated yes. He said that, after much research, staff finally tracked down a previous permit for the
- 27 structure and the applicant received his permit for his addition. He said that this is not a rare event and does
- 28 occur very often.
- 29
- 30 Ms. Melin asked if it is an easy process for a new owner to investigate whether all structures on their
- 31 property are authorized.
- 32
- 33 Mr. Hall stated that everyday of the year people purchase property without checking on the zoning. He said
- 34 that, for an example, as with the case that was before this Committee tonight the new owners had an attorney
- 35 and that attorney trusted that if there were any problems with zoning status that there would be a record of it
- 36 in the Champaign County Recorder's Office, but that is not the case. He said that the common sense thing
- 37 to do is to call the Champaign County Planning and Zoning Office to see if all structures have been
- 38 permitted.
- 39
- 40 Mr. Doenitz stated that there are a lot of farmsteads which are being divided from the farm ground therefore
- 41 if someone from town moves out to the country are the farm buildings exempt or must the new owner pay a
- 42 permit fee for those existing structures.
- 43

1 Mr. Hall stated staff does a lot of research during the processing of a Zoning Use Permit and at that time it is
2 determined if the buildings were agricultural buildings and no fee is charged if the building were agricultural
3 buildings. He said that staff understands the reaction that people are going to have therefore we do not treat
4 this lightly when we inform someone that they need to pay a fee for an existing building. He said that this
5 item could be continued to next month for additional discussion.
6

7 Ms. Wysocki stated that she agrees that this item should be on the September agenda for further discussion.
8

9 Mr. Doenitz asked Mr. Hall how frequently this situation occurs.
10

11 Mr. Hall stated that perhaps twice a month. He said that, for instance, he completed a site visit for the
12 subdivision case tonight and during this visit he found a very large commercial building that had not
13 received a permit and this particular large commercial building will require a lot more than a Zoning Use
14 Permit.
15

16 Mr. Schroeder stated that it has been experience in the rural area that people have the belief that when they
17 escape the urban area they escape everything including zoning. He said that the root cause for these
18 occurrences is that, in some cases, people are ignorant of the *Zoning Ordinance* and in other cases some
19 people just don't care whether they need a permit or not. He said that some people believe that if they move
20 out in the rural areas of Champaign County then they can do whatever they want to do on their property. He
21 said we can try to educate people until we are blue in the face and there will still be violators and what it is
22 going to take is either someone is going to have to turn them in to the zoning office or staff discovers the
23 violation.
24

25 Mr. Weibel stated that the big misconception is that if someone can get by with building a structure in
26 Champaign County without getting caught then why not go ahead and build it. He said that if there is no
27 incentive to obtain a permit then why get one. He said that if people would check in to the zoning status of a
28 property then they would know up front if everything is legal and if it isn't then they could negotiate with
29 the seller regarding the fees.
30

31 Mr. Schroeder stated that if enough disgruntled people start talking then perhaps people will realize that
32 there is zoning in the rural areas.
33

34 Mr. Jones stated that he doesn't understand why the County does not go back to the original owner rather
35 than the new owner for any unauthorized structures.
36

37 Ms. Anderson stated that the unauthorized construction could go back to several different owners of the
38 property over a period of several years or the owner may not even live in Illinois.
39

40 Mr. Hall stated that if that is the case it may not be worth the resources that the County would have to
41 expend in trying to obtain a permit for the unauthorized construction.
42

43 Mr. Gladney stated that if the building is not a safety hazard and was built by a different owner several years

1 ago then perhaps the issue should just be let go.

2
3 Mr. Hall asked Mr. Gladney how far that type of logic would go.

4
5 Mr. Gladney stated that he really does not understand the situation.

6
7 Mr. Jones asked Mr. Hall how much money is actually lost by unauthorized construction.

8
9 Mr. Hall stated that over a 20 year time span with this policy in place it is hard to say how much fees could
10 be lost. He said that in any given year it is probably hardly noticeable depending on if we start waiving fees
11 for residences. He said that he has not seen a fee for a residence that was less than \$500 dollars and if we
12 start talking about residences that are built without fees, \$500 dollars here and there at the end of the year
13 would degrade the whole program because we would literally not be enforcing it.

14
15 Mr. Doenitz stated that it was his understanding that we were talking about outbuildings not homes.

16
17 Mr. Hall stated that Mr. Gladney did not limit his comments to outbuildings.

18
19 Mr. Schroeder stated that if we begin waiving fees for one person then we will have to waive the fees for
20 everyone.

21
22 Mr. Doenitz stated that the County government is not very tax payer friendly.

23
24 Ms. Anderson stated that the tax payers need to be responsible.

25
26 Ms. Wysocki requested that this item be placed on the September agenda.

27
28
29 **12. Monthly Report (June and July, 2008)**

30
31 Mr. Hall apologized to the Committee but no monthly reports are available for review at this time. He said
32 that he will have June, July and August, 2008 available for the next ELUC mailing packet for September.

33
34
35 **13. Determination of Items to be placed on the County Board Consent Agenda**

36
37 Ms. Wysocki stated that Items #7 and #9 will be placed on the County Board Consent Agenda. She said that
38 Item #8 will be placed on the regular County Board agenda.

39
40
41 **14. Adjournment**

42
43 **Mr. Doenitz moved, seconded by Mr. Langenheim to adjourn the meeting. The motion carried by**

ELUC

AS APPROVED SEPTEMBER 08, 2008

8/11/08

1 **voice vote.**

2

3 **The meeting adjourned at 8:45 p.m.**

4

5

Respectfully submitted,

Secretary to the Environment and Land Use Committee

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