# MINUTES OF REGULAR MEETING

Champaign County Environment DATE: November 10, 2008

& Land Use Committee TIME: 7:00 p.m.

7 Champaign County Brookens PLACE: Lyle Shields Meeting Room 8 Administrative Center Brookens Administrative Center

Urbana, IL 61802 1776 E. Washington Street

Urbana, IL 61802

MEMBERS PRESENT: Jan Anderson, Chris Doenitz, Matthew Gladney, Brad Jones, Ralph

Langenheim, Alan Kurtz, Steve Moser, Barbara Wysocki (C)

17 OTHER COUNTY

**BOARD MEMBERS** Pius Weibel (Chair)

**PRESENT:** 

**MEMBERS ABSENT**: Jon Schroeder (VP)

STAFF PRESENT: John Hall, Leroy Holliday, J.R. Knight, Susan McGrath (Senior Assistant

State's Attorney), Susan Monte (Regional Planning Commission)

OTHERS PRESENT: Michael Tague, Teri Legner, Hal Barnhart, Quesnell Hurtmann, Sherry

Schildt, John Dimit

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### 1. Call to Order. Roll Call

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

# 2. Approval of Agenda

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

# 3. Approval of Minutes (October 10, 2008)

 Mr. Langenheim stated that Page 6, Line 1 should be revised to state that "was built" should be added to the end of the sentence. He said that Page 9, Line 3 should indicate "north west."

Mr. Hall stated that the minutes should indicate that Alan Kurtz was present as a Committee member at the October 14<sup>th</sup> meeting.

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Mr. Langenheim moved, seconded by Ms. Anderson to approve the October 10, 2008, minutes as amended. The motion carried by voice vote.

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#### 4. Correspondence

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None

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#### 5. **Public Participation**

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Ms. Teri Legner, Economic Development Manager for the City of Champaign stated that on November 4, 2008, the City Council considered the proposed Enterprise Zone Boundary Amendment and approved the amendment with a vote of 6 to 1. She said that she will be available to answer any questions that the Committee may have when Item #7 is addressed.

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Mr. John Dimit, Interim CEO of the Champaign County Economic Development Corporation stated that he is present at tonight's meeting to address Item #7. He said that the proposed Enterprise Zone Boundary Amendment is not an expansion that consumes additional farmland because this is land that is already in use. He said that the company involved is a successful high-tech company that is a spin-off from the University of Illinois and it is proposed that they will double their manpower. He said that this is exactly the type of industry that we want to encourage in Champaign County and it is absolutely critical to the EDC that we support these types of companies. He said that he will be available to answer any questions that the Committee may have when Item #7 is addressed.

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Mr. Quesnell Hurtmann, President and CEO of EpiWorks, Inc, stated that his company is located in the proposed enterprise zone expansion. He said that his company was established in 1997 and is a spin-off of the University of Illinois. He said that currently they are expanding their facility and employ 31 people. He said that they plan to add 10 to 15 people per year for the next couple of years to their current 31 employees. He said that they plan to double production space and invest approximately \$4.5 million dollars into the facility this year and expect to invest more as the company grows. He said that most of their sales are in the United States but they do compete against a lot of international companies located in Taiwan and Japan. He said that the company is very competitive in price and the enterprise zone will allow the company to expand as affordably as possible to receive the state tax and use credits for bringing in equipment and machinery. He said that he will be available to answer any questions that the Committee may have when Item #7 is addressed.

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Ms. Sherry Schildt distributed and read a prepared statement regarding Item #10, Champaign County Zoning Ordinance requirements for wind turbine developments. (See attachment to November 11, 2008, minutes)

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Ms. Schildt stated that attached to her prepared statement is an article dated October 24, 2008, from Business Week titled "Wind turbine blade crashes down in Illinois field"; and an article from www.windaction.org titled "Searsburg windmill collapses"; and an article from USA Today titled "Neighbors at odds over noise from wind turbines."

Ms. Wysocki asked the audience if anyone desired to speak about Item #8, Zoning Case 638-AM-08 at this time and there was no one.

Ms. Wysocki stated that this is the last meeting of this particular ELUC session and she thanked all of the members for their service on the committee. She said that the Committee has performed admirably although it does not mean that all of the members have always agreed or satisfied each other or the public. She said that she has been very pleased with the diligence that each member has exercised in doing the work of this committee and has been impressed with the level of conversation that has occurred on some very difficult issues and appreciates the effort that everyone has put in to being members of the Environment and Land Use Committee. She said that she hopes to have some of the same members back on the Committee because continuity on a committee such as this is extremely important although she welcomes any new members who may want to join this committee. She said that a good pattern has been established and she hopes that the same tradition will continue.

# 6. Updates:

# A. Champaign County Land Resource Management Plan

 Steering Committee meetings because of harvest. She said that for the most part harvest is over and the Steering Committee will resume their review of the County Land Use and Resource Management Goals, Objectives and Policies. She said that it is expected that the Steering Committee will schedule some additional meetings between now and the next ELUC meeting to expedite their careful review of the agriculture and other land use policies.

Ms. Monte stated that since the October, 2008 ELUC meeting there has not been any additional LRMP

# B. Champaign County Hazard Mitigation Plan

Ms. Monte stated that they are identifying mitigating actions to be considered by each participating jurisdiction and have developed a public preference survey which will be distributed on line and are expecting contact with representatives from each jurisdiction to discuss what they currently are doing and what they might consider as a mitigating action to address natural hazards.

# 7. Enterprise Zone Boundary Amendment

Mr. Langenheim moved, seconded by Mr. Moser to recommend approval of the Enterprise Zone Boundary Amendment. The motion carried by voice vote.

8. Zoning Case 638-AM-08: Dewey State Bank and Craig Horsch, Senior Vice President Request: Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the B-2 Neighborhood Business Zoning District. Location: The Northwest 5 acres of 80 acres located at the West Half of the Northwest Quarter of Section 3 of Condit Township and commonly known as the farm field at the Southwest corner of CR 900E

and IL 136.

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Mr. Doenitz moved, seconded by Mr. Moser to recommend approval of Zoning Case 638-AM-08. The motion carried by voice vote.

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9. Zoning Case 583-AT-07: Zoning Administrator Request: Amend the Zoning Ordinance to establish "pipeline impact radius" and restrict certain development within a pipeline impact radius.

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Mr. Moser moved, seconded by Mr. Doenitz to recommend approval of Zoning Case 583-AT-07. The motion carried by voice vote.

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# 10. Champaign County Zoning Ordinance requirements for wind turbine developments

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Mr. Hall distributed a memorandum dated November 10, 2008, to the Committee for review. He said that the memorandum outlines alternative fees. He said that the November 6, 2008, memorandum indicated that the Zoning Administrator would have a fee recommendation at tonight's meeting. He said that in September the Committee reviewed fees and at that time he was thinking that if the basic area fee for rezoning was applied to the Special Use Permit it would generate a fee that is comparable to what other counties charge for wind farms. He said that this approach may not work for Champaign County because we are defining the area of the wind farm much better than most counties define it. He said that after rethinking this issue and the way that Champaign County is defining the area of the wind farm, instead of the fee being comparable with what other counties have charged, \$70 thousand dollars per 100 unit wind farm, we might only end up in the low twenties which is not a reasonable fee considering the complexity and magnitude of a wind farm development. He said that it would also be difficult to access that fee quickly because staff would need to review the application. He said that he would recommend that the County go with a per turbine fee. He said that with wind turbine farms, because they are so complex, just going through the list of standard requirements is a lot of work. He said that he would recommend a 50% increase over the County's current Special Use Permit fee of \$400 therefore charging \$600 per wind turbine and for a 100 unit farm the County would receive \$60 thousand dollars. He said that this is less than what McLean County would charge for a similar scale but it is difficult to compare because they go by an area basis, and they are not real clear about the area of the wind farm, which makes him uncomfortable. He said that staff's proposal outlines exactly how staff will determine the area of the wind farm and it will be smaller than what a county like McLean County considers the area of the wind farm therefore he prefers the per wind turbine fee. He said that the County is discussing the possibility of reviewing all fees in the coming year and his recommendation would be that the Committee go with the fee that they are comfortable with currently and if we get this general review of our fees later in the year we can revisit this if necessary. He said that with this fee and the list of recommendations that went out in the packet staff is ready to proceed with an advertisement for public hearings. He said that the public hearings would start no later than February. He said that this is a big text amendment to draft and it will be a top priority but it will not restrict staff from working on other cases. He said that this will be a challenge for staff to get this done and in the old days we would assign this to our Special Projects Planner but we do not have a Special Projects Planner and the

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Planner is working full-time on the LRMP. He said that this is the first time since we have started working on the LRMP that we are doing a major text amendment therefore staff will get it done as quickly as possible but it will be a challenge.

Mr. Moser asked Mr. Hall if he knew what Ford County is going to do. He said that he received a letter which indicated that the wind farm east of Paxton is probably going to proceed and 3500 acres have been optioned for a wind farm. He said that there is a meeting on November 22<sup>nd</sup> which will fill in the blanks on a lot of issues.

Mr. Hall stated that Ford County adopted the *Model Ordinance* almost verbatim and are requiring the 1,000 foot separation from dwellings but only the lesser separation from the property lines. He said that he would not recommend that Champaign County adopt what Ford County adopted and would recommend greater separations.

15 Mr. Moser asked Mr. Hall if he knows what Ford County is going to use for fees.

Mr. Hall stated that Ford County adopted a special fee but he cannot remember what that fee was. He said that if the Committee desires staff could come back with a review of the various fees.

Mr. Moser stated that he does not have a problem with what Mr. Hall is recommending for fees but he did wonder what other counties, other than McLean County, are charging for the wind farm development.

Mr. Hall stated that Woodford County and LaSalle County have fees similar to McLean County. He said that all of the counties have taken the approach that they are not going to subsidize this because it is a big headache and they want to recapture as many fees as they can. He said that with their fee approach he wishes them good luck because if they receive a legal challenge hoping that the fees charged for the wind farm development covers the cost of their attorney fees.

Mr. Langenheim asked Mr. Hall what the rationale of the fee would be.

Mr. Hall stated that the fee would be subsidizing the cost of the zoning case from the rest of the general corporate fund.

Mr. Langenheim asked Mr. Hall if this would be considered a tax.

36 Mr. Hall stated that he would not consider this a tax but a fee.

38 Mr. Jones asked Mr. Hall if he knew how many wind turbines were proposed to be constructed near Gifford.

40 Mr. Hall stated that it is his understanding that approximately 100 wind turbines are proposed.

42 Mr. Jones asked Mr. Hall if staff has received any complaints or concerns.

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Mr. Hall stated that staff has received at least one call from a landowner who was wondering what the County was going to do about this proposed wind farm development.

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Mr. Jones stated that the proposal is for such a massive amount of wind turbines which will affect surrounding landowners. He asked Mr. Hall if there is compensation for surrounding landowners in the Ordinance.

Mr. Hall stated no, and he would not recommend such in the Ordinance and would leave it up to the private sector. He said that when you require the 1,000 foot separation from the wind turbine to the edge of the development some how they have to get that landowner to agree to be part of the development. He said that he would hope that the landowner makes it worth their while but he would not recommend writing anything as such in the *Ordinance*.

 Mr. Hall stated that he has discussed this issue with Christina Papavasiliou (Assistant State's Attorney) and they are both comfortable with the Special Use Permit approach but if the Committee is not comfortable with this approach then we could justify including a map amendment. He said that a wind farm is unlike anything else and he really believes that we could go either way but staff is comfortable with a County Board Special Use Permit.

Mr. Jones asked if the map amendment would have protest rights attached.

Mr. Hall stated that a map amendment would have protest rights but you shouldn't go with a map amendment just to give protest rights. He said that if the County goes with a map amendment we are saying that this is materially different than what we want to have happen throughout our AG-1 District and it needs to be a map amendment because it is so materially different. He said that in his view the only thing that is compatible with a wind farm is agriculture because what other land use could go up to the base of a tower and not be a problem.

Mr. Moser stated that he does not know this for a fact but some of those cases where an adjacent landowner does not want the wind tower in the proposed location was compensated the same amount of money as the subject property landowner from the company. He said that this only makes good sense on the part of the developer because if they want to share the wealth then that is fine and in some of the cases they almost have to in order to keep this project moving forward.

Mr. Hall stated that he would like to point out two things about the proposed location in northeast Champaign County: 1. there is an isolated tract of CR zoning that the proposed wind farm will include and he would never propose to allow wind farms in the CR district. He said that he is aware of that particular tract and he would recommend that the tract be rezoned at whatever time the wind farm is actually proposed; 2. the proposed wind farm will completely surround the area of Dailey where there is a grain elevator and a fertilizer plant. He said that one special use permit completely surrounding other land uses makes him eager to see what they are actually proposing in the way of tracts of land that are part of the special use permit. He said that out of 1,000 square miles of Champaign County where they could have proposed the wind farm he is sorry that those two things are right in the middle of the wind farm.

Mr. Moser stated that the Dailey Grain Elevator is closed and he believes that they will be glad to close the fertilizer plant also.

Ms. Anderson requested clarification of the proposed location of the wind farm.

Mr. Hall stated that the Dailey Grain Elevator is 2.5 miles north of Royal on the slab between Royal and Penfield. He said that the property is an old pasture and it appears to be much eroded in places and is along a stream.

Ms. Wysocki asked if the area would eventually be rezoned to an industrial district.

Mr. Hall stated that he would not propose wind farms in the CR district and if there is any portion that is suitable for a wind farm it should be rezoned to AG-1.

16 Mr. Jones asked Mr. Hall how the 1,000 foot separation distance was derived.

Mr. Hall stated that the 1,000 foot separation is recommended by the *Model Ordinance* and one of the promotional brochures talks about 750 to 1,000 feet being the distance that is normally required for the sound to diminish enough to where it is not distinguishable from other landscape sounds. He said that 900 feet is also what he would recommend for the buffer from the wind turbine tower to the edge of the special use permit. He said that the average lot width in the AG-1 district is 200 feet therefore there will be some flexibility on placement of a home on a new parcel of land. He said that this will have to go through a public hearing at the Zoning Board of Appeals and the Board will be looking at these numbers a lot and what comes back to ELUC may be somewhat different based on the Zoning Board.

Mr. Hall stated that he agrees with the point that Ms. Schildt made earlier that the distance from the wind turbines to the perimeter of the development is just as important as the distance from the wind turbines to any existing or future homes because the concerns are the same.

Mr. Langenheim stated that the wind turbines are so large and excessive that they completely alter the aspect of the environment for miles around and people that are within sight of it should have some route for expressing their opinions.

Mr. Hall stated that, from a staff level, one reason why we did not go with a map amendment is because the wind turbines are so tall whether you are right next to it or two miles away.

Mr. Langenheim stated that he agrees that people who are two miles away from a wind turbine are affected. He said that the wind turbines also effect the environment such as wildlife, bats, birds, bees, etc. He said that anyone that is affected by the wind turbine should have an input on the permitting process.

Ms. Wysocki asked Mr. Langenheim if he would like to make a motion.

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Ms. McGrath stated that it is not appropriate for the Committee to take any action on this agenda item until the ZBA has made a determination. She noted that the Committee must be very careful as to what they direct the Zoning Administrator to do before this issue goes to the ZBA.

Mr. Hall stated that staff receives direction from ELUC every time a text amendment is proposed.

Ms. McGrath stated that direction can be given but not by the means of a motion.

Ms. Wysocki clarified that once the ZBA has made a final recommendation the text amendment will return to ELUC and if the map amendment is not part of that recommendation then ELUC may make a motion to that effect.

Ms. McGrath stated yes. She said that ELUC can give the Zoning Administrator its input on the information
that the Committee has reviewed at this point regarding the text amendment. She said that ELUC may voice
their concerns and it may or may not make any difference to the ZBA.

17 Mr. Hall asked Ms. McGrath if she understands that there is no text amendment at this time.

19 Ms. McGrath stated yes, but you are close to a text amendment.

Mr. Hall stated that this preliminary process is what is done every time a text amendment is being considered so that ELUC is not surprised when it comes back to them but the last time a text amendment was prepared and no direction was given by ELUC the text amendment was rejected.

Ms. McGrath stated that the Committee can give direction but not in the form of a motion. She said that the whole purpose of the public hearing by the Zoning Board of Appeals is to give the opportunity for changes and clarifications before it returns the this Committee.

Ms. Wysocki stated that at this point there is only one Committee member who is indicating that he would like to see a map amendment included with the text amendment regarding wind turbines.

Ms. Wysocki stated that the text amendment must go to the Zoning Board of Appeals through public hearings and make changes pursuant to the comments and issues which come from staff and the public. She said that once the ZBA has taken action they will forward their recommendation to ELUC for comments and changes. She said that ELUC is not bound by what the ZBA determines but without a draft of the text amendment ELUC does not want to prejudge whatever action that the ZBA may take therefore compromising ELUC's position and authority on how this process works.

Mr. Moser stated that Vermilion County is only one mile away from the proposed location of the wind farm development and if Champaign County does not want the wind turbines the developer will find a way to tie in to the power line which is north of Royal and they will use the road that Champaign County helped build for an ethanol plant that was never built. He said that it isn't going to make any difference whether it is one mile inside of Champaign County or a mile east in Vermilion County because the wind turbines are going to

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be seen and heard and they will exist. He said that if Champaign County doesn't want the wind turbines then fine, but they are going to be one mile north of the forest preserve near Penfield. He said that if the other counties want the wind turbines and Champaign County doesn't then fine but they are going to exist where you can see them whether you want to or not.

Mr. Langenheim stated that the road that was built for the ethanol plant that was never built occurred because there was a lot of enthusiasm for the plant when it was being proposed. He said that there is a lot of enthusiasm for the wind turbines also but this enthusiasm must be tempered with careful analysis and caution.

Mr. Moser noted to Mr. Langenheim that he can tell a landowner in Compromise or Kerr township what they can do with their ground. He said that it is just wonderful that Mr. Langenheim can make a decision like that for someone who owns a farm in this area who is interested in having a wind turbine on their land. He said that the wind turbine would generate income for the people who own the ground and it is pretty damn petty that the people on the Board can make decisions that affect the landowner's livelihood as much as these wind turbines will.

18 Ms. Wysocki asked the Committee if anyone else had any comment regarding the map amendment.

Mr. Gladney stated that he is in agreement with the map amendment approach.

22 Ms. Wysocki stated that she would add her voice as well.

Ms. Anderson stated that the map amendment approach seems reasonable.

Ms. Wysocki asked the Committee if there were any other directions for Mr. Hall regarding this proposal.

Ms. Wysocki asked Mr. Hall if he required additional direction from the Committee.

Mr. Hall stated no.

# 11. Monthly Report (June, July, August, September and October, 2008)

Mr. Hall stated that staff has been accumulating a backlog of monthly reports that were to be reviewed at tonight's meeting. He said that he distributed June, July, August and September to the Committee for review. He said that he did not have the time to complete October's. He said that he is going to start spending more time on the monthly report and updating the Committee on our compliance inspections. He said that before 1998 there was always a list of compliance inspections that were completed in the previous month and at the end of 1998 there was a major change in staffing in the department and the Committee has not received a monthly report with compliance inspections attached since. He said that last year during the budget process he made a goal that the department complete five inspections on average per week and this summer the Zoning Technicians have had time to go out and complete inspections and if the October

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monthly report was available for the Committee's review it would be apparent that the department has met that goal. He said that this is a minor thing but what it does indicate, and he is very proud of this, is that the restructuring of the department which happened in January 2006 has benefited the County because we now have been doing compliance inspections again and have met our goal for the year and he has every reason to believe that this pattern will continue. He said that staff is not doing much better on enforcement due to our Zoning Officer being out for a major surgery for the last six weeks but she is back and getting back up to speed. He said that some enforcement was completed during her absence and he hopes that within the next year the Committee is able to see that staff is continuing to focus on inspections and finally making a dent on enforcement. He said that his goal for this year is to stop the growth in the backlog of enforcement cases. He said that this goal will be a challenge but he does believe that staff can stop the growth and hopefully start to make those numbers go down.

Mr. Hall stated that permitting in September dropped off but zoning cases did not. He said that staff took in twice as many zoning cases in September as was taken in last September. He said that if the Committee reviews the number of cases completed by the ZBA the report indicates that the same number of cases were completed this year as in last year. He said that what this means is that we are starting to build up a ZBA docket again. He said that currently staff is docketing cases for January 2009 which is much better than what it has been in previous years. He anticipates a drop in case load but it hasn't happened yet.

Ms. Wysocki stated that she just realized that the Committee did not give the Zoning Administrator direction regarding the fees for the wind farm development.

Mr. Hall stated that he is not sure at this point what type of direction he can ask for from the Committee therefore he is going to go with the recommended alternative included in the November 10, 2008, memorandum regarding Zoning Ordinance requirements for wind farms. He said that if ELUC members would like to make any comments he will make note of those comments.

Ms. Wysocki stated that the fees are subject to the public hearing at the ZBA and after their determination the entire package will return to ELUC for recommendation.

Mr. Hall stated that Ms. Wysocki was correct.

#### 12. Old Business

A. County Board Chair Discussion of Ordinance No. 836 Amending the Enterprise Zone on property located at 1400 Anthony Drive, Champaign, also known as the International Society of Arboriculture (ISA)

Mr. Weibel stated that at the time of the request for the Enterprise Zone Amendment there was a buyer for the property but the buyer backed out. He said that the City of Champaign has indicated that there is another buyer in mind but they wanted to make sure that the County had no concerns regarding this issue. He said that if no one has any concerns he will sign Ordinance No. 836 and move forward.

**ELUC AS APPROVED JANUARY 12, 2009** 11-10-08 1 Mr. Kurtz stated that since the property is located in the middle of the Enterprise Zone it is still a good incentive for someone to come in and purchase the property and improve the one lot. He said that he sees no 2 3 reason why the designation should be changed. 4 5 **13. Other Business** 6 7 None 8 9 14. Determination of Items to be placed on the County Board Consent Agenda 10 11 The consensus of the Committee was to place Items #7, 8 and 9 on the County Board Consent Agenda. 12 13 **15.** Adjournment 14 15 The meeting adjourned at 7:58 p.m. 16 17 18 19 Respectfully submitted,

Secretary to the Environment and Land Use Committee

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