

## **Minutes of the Land Use and Development Committee**

The Land Use and Development Committee of the McLean County Board met on Thursday March 5, 2009 at 4:45 p.m. in Room 400, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Chairman Gordon, Members Ahart, Cavallini, Rankin, Segobiano and Soeldner

Members Absent: None

Other Board Members Present: None

Staff Present: Mr. John Zeunik, County Administrator, Mr. Terry Lindberg Assistant County Administrator, Mr. Bill Wasson, Director of Administrative Services and Ms. Diana Hospelhorn Recording Secretary

Department Heads/  
Elected Officials  
Present:

Mr. Phil Dick, Director, Building and Zoning

Others Present:

Mr. Pablo Eves, Assistant States Attorney, Mr. Mike Behary, County Planner, Department of Building and Zoning, Mr. Brian Hug, Attorney at Law, Mr. Robert Lenz, Attorney at Law

Chairman Gordon called the meeting to order at 4:45 p.m.

Chairman Gordon presented the Minutes of the February 17, 2009 Land Use and Development Meeting to the Committee for approval. Hearing no objections or corrections, Chairman Gordon accepted and placed the minutes on file as submitted.

Chairman Gordon presented the bills from February 28, 2009 which have been reviewed and recommended for transmittal to the Land Use and Development Committee by the County Auditor. The prepaid total and fund total for February 28, 2009 is \$18,164.00. He asked for a motion to approve the bills as presented by the County Auditor.

Motion by Segobiano / Cavallini to recommend approval of the February 28, 2009 bills as presented by the County Auditor.  
Motion carried.

Chairman Gordon informed the Committee that there are no Items for Action.

Chairman Gordon stated that the first Item for Information is the Discussion of a High Consequence Area (HCA) designation for the area the Enbridge Pipeline is proposed to cross the Money Creek and the Mackinaw River. He invited Mr. Terry Lindberg, Assistant County Administrator, to address the Committee.

Mr. Lindberg stated that Ms. Anne McGowan appeared before the February 17, 2009 County Board meeting. She expressed several concerns with the proposed Enbridge Pipeline project. She urged the County Board to do all that they could to get Enbridge to designate the areas where the pipeline crosses the Mackinaw River and Money Creek as High Consequence Areas (HCA). He stated that, with the assistance of Mr. Eric Ruud and Mr. Pablo Eves, they have talked with federal officials at the Pipeline Hazardous Materials Safety Administration, read the relevant parts of the Code of Federal Regulations, viewed areas known as Unusually Sensitive Areas (USA) which automatically become HCA's, and have had some very productive discussions with Enbridge. Mr. Lindberg referred to the

letter circulated from Enbridge. He noted that he has already responded to the letter by requesting additional information on two specific concerns:

- More accurate stream flow rates at Money Creek
- Threatened and Endangered Species concerns at the Mackinaw

Mr. Lindberg continued by noting that, from a statutory and regulatory standpoint, County Boards do not have any authority over pipeline operators. He stated that he has taken the approach to open the lines of communication, to get educated and to see how much the operator might be willing to do on a constructive basis. Mr. Lindberg noted that the results have been successful. He referred the Committee to the letter from Enbridge. The Mackinaw River has been designated as an HCA and will be treated as such. The segment of pipeline under the Mackinaw River will be installed 25 feet below the river bed. Money Creek is not identified as an HCA. The crossing at Money Creek is 14 miles downstream from the designated HCA. Precautions are being taken, however, we have asked them to go back and look at this area again. We are waiting for an updated response. Mr. Lindberg recommended that once a response is received concerning the stream flow rates at Money Creek and the threatened and endangered species at the Mackinaw, the additional public steps to be taken, can be discussed at either a stand-up prior to the County Board or at a regular Committee meeting in April. He pointed out that construction is not scheduled to begin until 2010.

Mr. Soeldner voiced his concern that, by placing the pipeline under the river-bed, how long before a leak would be noticed. Mr. Lindberg stated that there are several requirements for inspection. When a leak would be known and when the leak would be reported, is hard to determine. The first time federal inspection is done is about a year after the pipeline has been in operation. It is important to rely on the knowledge of Enbridge. Mr. Soeldner asked if the County would be responsible for monitoring the HCA. Mr. Lindberg answered that regulations require that the operator is responsible for monitoring and the reporting of the HCA. He informed the Committee that Enbridge has welcomed the chance to meet in person with local emergency responders, County Board members or Committees to discuss the inspection and emergency preparedness measures the Enbridge undertakes.

Motion by Segobiano/Cavallini to recommend  
that the information be placed on file and  
action be taken when Mr. Lindberg has received  
all of the information needed to present his final report.  
Motion Carried.

Chairman Gordon stated that the Committee will continue with item C of Items of Information, discussion of a text amendment of the Zoning Ordinance to change the regulations of gravel pits.

Mr. Phil Dick distributed to the Committee a section of the existing Zoning Ordinance. He referred to Use Standard 19, Section E, Separation Distances. Mr. Dick stated that the proposed change is to require all gravel pits to be 1 ½ mile from any school or residence district. He noted that the Committee could propose a text amendment. The text amendment would go before a public hearing at the County Zoning Board of Appeals (ZBA). The ZBA would consider the evidence presented and then prepare a findings of fact and recommendation to the County Board for review and approval.

Chairman Gordon referred to section 19 – E. He asked how the proposed change differs from the current wording. Erik Rankin responded that the change is in the wording: extraction, for sale, offsite, crushing, loading, hauling or storage. He stated that the changes only apply to section E-1 and 2 with the addition of schools to the current language of E-1a.

Mr. Segobiano asked to see the text amendment. He stated that most of the Committee does not even have a copy of the amendment; nothing has been presented in writing.

Mr. Dick stated that he received a request by Board member Tari Renner to bring before Committee, for discussion only, a possible text amendment concerning gravel pits. He stated that he informed Mr. Renner of the proper procedure in filing a text amendment. Mr. Renner chose to have it presented as an information item. Mr. Dick noted that if the Committee wanted a staff review of the existing gravel pit regulations to go before the ZBA, it could be done. He stated that this is the first issue concerning a gravel pit operation since the Text Amendment was adopted in 2000 with this language. This language is not as clear as it should be, so when the gravel pit southwest of town went to public hearing at the ZBA, an interpretation of what the Zoning Ordinance said and how it should be regulated had to be made. Mr. Dick stated that there is a need for a Text Amendment to clarify the set-back requirements and to establish a clear understanding of the different types of mining operations.

Mr. Segobiano pointed out that McLean County is blessed with mineral deposits. Restricting the mining of those minerals would force the County to go outside the County to procure those minerals. He stated that the Committee needs to be very cautious in making decisions restricting the mining these minerals.

Mr. Rankin stated that nobody is against the extraction of minerals; the question is at what expense? He pointed out that it is rational for people to be concerned about the placement of a gravel pit so close to a school. Mr. Segobiano stated that there are currently schools within 6 blocks of a gravel pit. Mr. Rankin is aware that this has been done in other areas, but is the research adequate? He noted that the concerns are legitimate.

Mr. Segobiano explained that, for the continued development of McLean County and the future mining of minerals, the Committee needs to be very cautious when increasing the regulations on gravel pits.

Mr. Rankin stated that there is a level of common sense regulations. He does not want to see business injured or development hindered, but at what costs.

Mr. Soeldner stated that he believes churches should be included in the proposed text amendment.

Chairman Gordon stated that in section E-1a the wording "crushing, loading, hauling, or cutting of stone" is not included in the proposed text amendment. He stated that if it was included in 2000, it should be included in the proposed text amendment.

Mr. Dick stated that the amendment of 2000 was not well thought out. He believes that there were a number of changes made in the 2000 Zoning Ordinance when it came to applying the regulations. Mr. Dick suggested that the Committee look at the regulations before 2000, the current zoning ordinance, and the proposed text amendment.

Chairman Gordon suggested that the Committee carefully look at all implications. He stated that when questioning distance, in the absence of evidence, it is better to error on the side of caution. He stated that it is not the intent to restrain business operation, but to regulate with a margin of safety.

Chairman Gordon stated that as a matter for information, no action can be taken. He stated that the proposed text amendment can be held over as an information item or can be put on April's agenda as an Item of Action. He suggested that it be held as an information item until all of the necessary information is available. The Committee was in agreement. He stated that he would get the proposed text amendment to each Committee member.

Mrs. Ahart asked if, at any point, citizens would have the opportunity to voice their opinions. Chairman Gordon stated that citizens are given the opportunity to present their opinions before the ZBA. He stated that as long as the Committee is formulating what they may present to the ZBA, the public will be given the opportunity to voice their opinions.

Mr. Dick stated that for the next meeting, he will provide the Committee with a copy of the regulations prior to 2000 along with the Mr. Renner's proposed text amendment.

Chairman Gordon invited the citizens present at the Committee meeting to return in April for further discussion. He stated that he believes that the procedure has been handled in a manner reflective of the Committee's interest to come up with solid

language that meets the needs of the citizens of McLean County. The Committee meeting will be on Thursday, April 2, 2009 at 4:45 p.m.

Chairman Gordon stated that the Committee will continue with the discussion of follow up on the Lake Bloomington and the Lake Evergreen Watershed Plans. He invited Mr. Bill Wasson, Director of Administrative Services, to address the Committee.

Mr. Wasson stated that he was asked to review the Watershed Plans that were developed by the McLean County Soil and Water Conservation District. He distributed Executive Summaries of the plan. Newly elected members were also given CD copies of the entire Watershed Plan. Mr. Wasson explained that the Watershed Plans were initiated in 2005. The Watershed Plan was triggered when the Environmental Protection Agency (EPA) designated both Lake Bloomington and Lake Evergreen as impaired bodies of water. He stated that the Federal EPA set limits for the amount of phosphorus and nitrates in the water. Lake Evergreen currently exceeds the limits of phosphorus. To meet the current federal standards, the phosphorus levels would need to be reduced by 85%. Lake Bloomington would need to reduce the phosphorus levels by 66% and reduce the nitrate levels by 34% to meet the current federal standards. Mr. Wasson noted that almost every man-made body of water in the State of Illinois is on the impaired list because of the geological nature of the state. The state is in the process of evaluating every impaired body of water, starting with water supply lakes. Evergreen Lake was one of the first, followed by Lake Bloomington. The Illinois EPA is not required to recommend plans to address the watershed levels; they have chosen to do so and have supplied the funding to local soil and water conservation districts to establish watershed planning processes.

Mr. Wasson explained that the negative impact on bodies of water with increased levels of phosphorus is increased algae content. He stated that we have not seen significant negative impacts on recreational use on Lake Bloomington or Evergreen Lake. If the phosphorus levels continue to increase, there is a chance that increased levels of algae could become a problem.

Mr. Wasson noted that the nitrate level is a different situation. An increased nitrate level is a higher concern. The nitrate level at Lake Bloomington significantly affects the City's ability to use the water as a water supply. When the nitrate levels reach a certain level, the City shifts over to the use of Evergreen Lake. Pumping water from Evergreen Lake to the water treatment plant is much more costly than pumping from Lake Bloomington to the water treatment plant. Mr. Wasson noted that the majority of McLean County's watersheds are crop land.

Mr. Wasson stated that both the Evergreen Lake Summary and the Lake Bloomington Summary address very similar implementation strategies. Shoreline stabilization is the responsibility of the City of Bloomington. Other strategies include stream bank stabilization, increased filter strips along agricultural land,

or expanding buffers and grass ways. He noted that these are all recommendations for private land owners within the watershed. These types of conservation efforts should be undertaken through the cooperative efforts of land owners and through the education and support of the Soil and Water Conservation District. The cost estimates are dramatic. The likelihood of these processes being accomplished will be through a cooperative effort, where governments work together with private individuals and not for profit organizations, along with federal agencies to provide assistance in funding the programs. Mr. Wasson noted that the city controls both Evergreen Lake and Lake Bloomington. The process will continue to use community involvement, and citizen participation through the Soil and Water Conservation District. This gives us a plan to use and monitor the current and future conditions of the Lake Bloomington and Evergreen Lake.

Mr. Soeldner stated that DeWitt County, informed him the Illinois EPA has viewed the process in McLean County as a model. They believe that McLean County's plan and process is the best in the state. He thanked Mr. Wasson.

Chairman Gordon asked if the U.S. EPA standards will rise as the standards are met. Mr. Wasson responded that it is extremely unlikely that we will ever meet the standards as they exist today. It is much more likely that the standards will be raised in the future than lowered.

Chairman Gordon stated that the field trip for the Land Use and Development Committee and the Transportation Committee to residential development areas of the County is on Friday, March 13, 2009.

Mr. Dick stated that the Committee would visit Apollo Acers, Deer Ridge, Crestwicke and Charter Wood Farms. The ShowBus will leave the parking lot on the east side of the Government Center at 1:00 p.m. and returning by 3:30 p.m.

Mr. Dick stated that the American Planning Association Spring Conference registrations need to be completed if you are planning on attending.

Mr. Dick noted that Ms. Connie Griffin, City of Bloomington Planning and Code Enforcement, asked him to inform the Committee that the City of Bloomington has applied for funding through the Neighborhood Stabilization Program Grant.

Chairman Gordon asked if there were other items of information to come before the Committee. He stated that the next Land Use and Development Committee meeting will be on Thursday, April 2, 2009. Hearing none he adjourned the meeting at 6:00 p.m.

Respectfully Submitted

Diana Hospelhorn  
Recording Secretary