

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

The Land Use and Development Committee of the McLean County Board met on Thursday June 4, 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. Terry Lindberg County Administrator, Mr. Bill Wasson, Assistant County Administrator

Department Heads/  
Elected Officials  
Present: Mr. Phil Dick, Director, Building and Zoning, Mr. Eric Schmitt, County Engineer, Mr. Jerry Stokes, Assistant County Engineer

Others Present: Mr. Pablo Eves, Assistant States Attorney, Mr. Mike Behary, County Planner, Department of Building and Zoning

Chairman Gordon called the meeting to order at 4:49 p.m.

Chairman Gordon presented the Minutes of the May 7, 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 May 31, 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 March 31, 2009 is \$40,177.80. He asked for a motion to approve the bills as presented by the County Auditor.

Motion by Cavallini/ Rankin to recommend approval of the May 31, 2009 bills as presented by the County Auditor.  
Motion carried.

Chairman Gordon informed the Committee that the first Item for Action is a request by the Department of Building and Zoning and the McLean County Highway Department to approve an application for a storm sewer discharge permit and an update of the Storm Water Management Plan to be submitted to the Illinois Environmental Protection agency (IEPA).

Mr. Jerry Stokes, Assistant County Engineer, stated that the County is required, every 5 years, to submit a Storm Water Management Plan (SWMP) for the unincorporated part of the urbanized area, as delineated in the 2009 U.S Census Map, to the IEPA by June 30, 2009. As a follow up, a yearly report is submitted. The areas, a total of 2 square miles, included in the SWMP that involve McLean County are:

- along Old Colonial Road
- Crestwicke Subdivision
- Village of Shirley
- a portion along Towanda-Barnes Road

The SWAMP has six control measures to reduce pollutants discharged in McLean County:

1. Public Education/Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection/Elimination
4. Construction Site Runoff Control
5. Post-Construction Runoff Control
6. Pollution Prevention/Good Housekeeping

Mr. Eric Schmitt, County Engineer, reiterated that the County is required to submit the SWMP to the IEPA every 5 years. He noted that only a very small area is impacted by the County. The majority of the urbanized area is located either in the Town of Normal or the City of Bloomington. Mr. Schmitt pointed out that the Town of Normal and the City of Bloomington currently have a contract with the Ecology Action Center (EAC) to conduct educational programs in the local schools. He noted that Tri Valley School, and Heyworth School will be included this year, involving the unincorporated part of the urbanized area of McLean County.

Mr. Phil Dick, Director of Building and Zoning, stated that the City of Bloomington and the Town of Normal are considered in the urbanized area.

Chairman Gordon asked if monitoring of the involved areas is required. Mr. Schmitt responded that the Highway Department monitors all of the County roadways for unnecessary discharges and works to eliminate those found. Mr. Dick added that the Department of Building and Zoning require an Erosion Control Plan be included with all building permits.

Motion by Cavallini/Rankin to recommend approval of the request by the Department of Building and Zoning and the McLean County Highway Department to approve an application for a storm sewer discharge permit and an update of the Storm Water Management Plan to be submitted to the Illinois Environmental \ Protection agency (IEPA).  
Motion carried.

Chairman Gordon stated that the next Item for Action is the request of the Land Use and Development Committee for a text amendment of the Zoning Ordinance regarding regulations of the "Mining and Quarrying". An application for a text amendment to the Zoning Ordinance goes to the Zoning Board of Appeals (ZBA)

for a public hearing. The ZBA would then make a recommendation to the McLean County Board, who would make the final decision. Chairman Gordon clarified that any action taken by the members of the Land Use and Development Committee will proceed next to the County Board on June 16, 2009. Upon the approval of the County Board, the text amendment will go to the Zoning Board of Appeals (ZBA).

Mr. Dick presented to the Committee a map of Bloomington-Normal pointing out the Sugar Creek Flood Plain. Most of the mining in Bloomington-Normal takes place along this Flood Plain. He noted areas of gravel mined in the County with respect to residential and commercially zoned properties. He pointed out the location of gravel deposits within the urban areas of the County. Mr. Dick stated that, in McLean County residential development has never been incorporated with excavations. Mining and development have always been viewed as completely separate facilities. Mr. Dick compared gravel mining operations in Carmel, Indiana and Palm Beach County, Florida. He stated that development can be enhanced by mining.

Mr. Rankin asked if the homes were there at the time of the mining, or were they built after the mining. Phil Dick responded that, at some locations, the homes were built following the mining and at other locations the homes were being built during the mining. Mr. Rankin noted that the homeowners were probably aware that gravel mining was in the area. Mr. Dick agreed. Mr. Dick concluded by noting that, in the past, McLean County has always separated mining from the development; if the mining is incorporated into the development, it enhances the facility.

Mr. Dick presented the proposed changes to the Zoning Ordinance:

1. Deleting landfills as part of these regulations.
2. Requiring the submittal of a development plan that includes more information than was previously requested.
3. Classifying mining and quarrying into three types of mines with three different sets of requirements.
4. Changing separation distance requirements for typical gravel pits from residence districts and schools to 1,000 feet from and area to be mined and 2,000 feet from storage piles and other accessory uses and activity areas.
5. Clarifying the width and use of buffer areas.
6. Requiring a residential concept plan if the mining operation is in a growth area.

He stated that when considering the proposed changes, especially #4, the setback is not what he would recommend, however he believes it is a compromise that would be acceptable to both sides.

Ms. Ahart asked Mr. Dick to explain how the change in the Zoning Ordinance went from a 500 foot setback to the 1 ½ mile setback. Mr. Dick explained that consultants made recommendations that would never apply. He stated that you would never have a gravel pit where there is no excavation of materials from the site. He stated that he believes changing the distance from 500 feet to 1 ½ miles was a mistake. Mr. Rankin stated that there must be some reason for the change, if it has been nine years and the distance is just now being questioned. Mr. Dick stated that the reason it has not been brought to the Department's attention before is that an application for mining anywhere near a residential district has never been requested. Mr. Rankin asked if Mr. Dick would be partial to returning to the pre-2000 Zoning Ordinance. Mr. Dick responded that, under certain conditions, it is his opinion that mining should be allowed within 500 feet of a residential district.

Mr. Rankin questioned if the excavation setback is 1,000 feet, under the proposed ordinance, the storage piles would be a distance of 2,000 feet. Under this idea, they could not be used as a buffer. The storage piles could not be placed between the gravel pit and the school because it would be closer than 1,000 feet. The benefit of having them as a noise break would be null and void. Mr. Dick noted that the mining is not what generates the noise. The noise is generated by the trucking, the crushing, and the sorting; past the 2,000 feet. The actual mining is a wet process.

Mr. Soeldner stated that the storage piles, acting as a berm, would still have to be at least 2,000 feet. He asked if there would be a required height. Mr. Dick responded that in this Zoning Ordinance there is nothing that says there has to be a berm. What is often needed is a place to store top soil. The top soil would be the berm and when the mining is complete, the top soil would be used for planting and shaping the property, reclaim the gravel pit.

Mr. Rankin pointed out that required fencing would not be able to be placed in a drainage area. Would this not require a further separation? Mr. Dick stated that fencing is only placed around the excavation area. Mr. Soeldner noted that, with the Fox Creek proposal, the excavation area was substantial. Mr. Dick stated that the Fox Creek excavation area was 26 acres.

Mr. Rankin asked how Zoning Ordinance requirements are enforced. Mr. Dick answered that ordinance violations are either reported or noticed by staff. Mr. Rankin stated he knows it is difficult to effectively monitor the County. He stated

that the issue of the 1,000 to 2,000 feet would be difficult to identify if not in compliance with the ordinance. Mr. Dick responded that the Department is very efficient with the use of area mapping and GIS.

Mr. Soeldner asked for clarification of the site restoration requirements. Mr. Dick explained that, if the site is within a growth area as shown in the County or municipal comprehensive plan that is designated for development, a concept plan showing the future development is required.

Mr. Rankin referred to 19C - Hours of Operation. "Uses shall not operate before sunrise or after sunset if located within ~~1,000~~ 2,000 feet of the boundaries of a residence district R1 or R2 zoned property or any existing dwelling. He stated that the way this is written, the only thing that could not happen would be the actual extraction. In other words, the hours of operation are when ever you want. Crushing, hauling, loading would occur past the 2,000 feet. Mr. Dick stated that crushing hauling and loading would have to take place 2,000 feet from a residence district. Mr. Rankin stated that there is no reason to have hours of operation if they can operate at any point in time. Mr. Dick noted that it is possible that a residential development or district would be approved after the approval of the gravel pit. It would then be within 2,000 feet. Mr. Rankin suggested the the hours of operation be reworded.

Chairman Gordon clarified that the "Hours of Operation" section is a protection for residential or other development if the gravel pit is established after the residential structures are established. Mr. Dick explained that the purpose of "Hours of Operation" is to allow some protection in case residential zoning gets closer.

Chairman Gordon referred to 19 E1 "side slope no steeper than three to one" and J 1 "slope of three to one". He asked Mr. Dick to explain what "three to one" means. Mr. Dick stated that for every foot of rise you have three feet of run.

Mr. Ranking noted Paving and Dust Control (F) "The operator is required to provide additional dust control when requested to do so by the Director of Building and Zoning." He asked what the penalty is if someone denies to follow through. Mr. Dick answered that the Department would shut down the operation.

Chairman Gordon asked for further discussion or questions.

Ms. Ahart stated that doing something that makes development not so transportation heavy is positive for McLean County. If we can take the gravel and use it near the site of the extraction, we have accomplished something that fosters

sound use of our land and resources. It is our responsibility to think broader, to encourage and make affordable good development within the community.

Mr. Rankin informed the Committee that, in his brief time on the County Board, he has not come upon too many serious issues. He stated that because of this zoning issue his phone has not stopped ringing. Mr. Rankin noted that he represents the individuals of a specific district, and McLean County at large. He feels that it is his responsibility to represent the views and opinions of those who elected him. Mr. Rankin stated that, in his understanding, as well as the understanding of those individuals who have contacted him, the proposed Zoning Ordinance with its 1,000 – 2,000 foot setback is confusing. He stated that the ordinance, as written, is not as obvious as it needs to be. Mr. Rankin voiced that he does believe a compromise is absolutely necessary, however he would also like the ordinance to be easily interpreted and enforced. He stated that he does appreciate the work set forth by Mr. Dick and his staff. Mr. Rankin asked the Committee if the proposed ordinance is compromising too much. To go from 1 ½ miles to 1,000 – 2,000 feet is a serious compromise. He recommended the ordinance be amended to reflect ½ mile from property line to property line, making it easier to enforce and understand. The amendment is still 1/3 the prior Zoning Ordinance.

Chairman Gordon asked Mr. Rankin for specific wording to his proposal. He clarified that Mr. Rankin is moving to amend 19-C Hours of Operation, to read, "if located within ½ mile of the boundaries of a resident district." In 19-E, each reference of 1,000 feet would read ½ mile. Mr. Rankin confirmed the motion.

Mr. Cavallini asked if the reference to 2,000 feet would also be changed to reflect ½ mile. Mr. Rankin confirmed.

Chairman Gordon presented the amendment as proposed to the Committee.

Mr. Soeldner asked if, when this Zoning Ordinance is approved by the Committee and is presented to the County Board, will the County Board be able to make changes. Chairman Gordon replied that the County Board does have the power to amend.

Mr. Terry Lindberg, County Administrator noted that the Committee needs to keep in mind that, only when the proposed amendment gets to the Zoning Board of Appeals, will there be an on the record hearing. Only then will there be the opportunity for expert testimony and for resident testimony to be on the record. The Zoning Board of Appeals can take the proposed text amendment, whether it is this version or a modified version, and deliberate further. He explained to the

Committee that what they are doing today is signaling that the Committee believes this part of the zoning ordinance needs some work. At the hearing everyone has an opportunity for on the record input. It will then come back to the full County Board for approval.

Mr. Gordon stated that the County Board does not have amending authority over what the ZBA recommends.

Motion by Rankin/Soeldner to recommend amending 19-C "Hours of Operation" to read "if located within ½ mile of the boundaries of a resident district." and in 19-E, each reference of 1,000 feet and 2,000 feet to read ½ mile.

Mr. Segobiano noted that he would be voting against this proposed amendment. He was disappointed the issue was not debated at the May 4, 2009 Committee meeting. He stated that he met with Phil Dick and Mr. John Zeunik to present the question as to where the 1,000 feet originated. Mr. Segobiano informed the Committee that, when the consultants were hired, it was not their concern where the County's property was located, but the expansion of the City of Bloomington. It was their intent to keep gravel pits 1,000 feet from the city limits of Bloomington. He stated that, based on his conversation with Mr. Zeunik and Mr. Dick, he is in total support of Mr. Dick's recommendation. Mr. Segobiano stated that he is apposed to amending the text amendment to the Zoning Ordinance.

Chairman Gordon asked for a roll call vote. He stated that the Chairman will be voting.

Chairman Gordon	Yes
Member Ahart	No
Member Cavallini	No
Member Rankin	Yes
Vice Chairman Segobiano	No
Member Soeldner	Yes
Motion failed.	

Mr. Segobiano called for the question.

Chairman Gordon asked for any objection to coming to a vote. Hearing none, he noted there would be no further discussion on the text amendment to the Zoning Ordinance. Chairman Gordon called for a roll call vote, with the Chairman voting on the request of the Land Use and Development Committee for a text amendment of the Zoning Ordinance regarding regulations of "Mining and



Quarrying.” An application for a text amendment to the Zoning Ordinance goes to the Zoning Board of Appeals (ZBA) for a public hearing. The ZBA would then make a recommendation to the McLean County Board who would make the final decision.

Chairman Gordon	Yes
Member Ahart	Yes
Member Cavallini	Yes
Member Rankin	No
Vice Chairman Segobiano	Yes
Member Soeldner	No
Motion carried.	

Chairman Gordon noted that text amendment to the Zoning Ordinance goes to the County Board and if the County Board is in support, it will go to the ZBA for a public hearing on the record. He reminded the public present, if this text amendment goes to the ZBA, witnesses may sign up at the public hearing to testify.

Chairman Gordon stated that the next Land Use and Development Committee meeting will be on Thursday, July 2, 2009. Chairman Gordon asked if there were other items of information to come before the Committee. Hearing none, he adjourned the meeting at 5:55 p.m.

Respectfully Submitted

Diana Hospelhorn  
Recording Secretary