

Minutes of the Land Use and Development Committee

The Land Use and Development Committee of the McLean County Board met on Thursday April 2, 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: Member Renner

Staff Present: 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. Michael Brown, Director of the Ecology Action Center, Mr. Mike Behary, County Planner, Department of Building and Zoning, Ms. Susan Schafer, Bloomington Resident

Chairman Gordon called the meeting to order at 4:50 p.m.

Chairman Gordon presented the Minutes of the March 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 March 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 \$10,360.90. He asked for a motion to approve the bills as presented by the County Auditor.

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

Chairman Gordon informed the Committee that the first Item for Action is a resolution from the McLean County Solid Waste Management Technical Committee requesting approval to fund \$20,000 for Electronics Recycling, \$5,000 for partial funding of a feasibility study of the Underwood House, which will be the future home of the Ecology Action Center, and \$500 for a Community Recycling Assessment. Chairman Gordon invited Mr. Michael Brown, Director of the Ecology Action Center, to address the Committee.

Mr. Brown presented the recommendations of the Solid Waste Technical and Policy Committee. He recommended that the following grant applications be approved for funding from the County's Solid Waste Management Fund:

- Electronic Recycling program administered by the Town of Normal - \$20,000
- Underwood House Feasibility Study by the Town of Normal - \$5,000
- Community Recycling Assessment coordinated by the Ecology Action Center - \$500

Mr. Cavallini asked what is done with electronic equipment collected. Mr. Brown responded that the electronic recycling contract is with, Recycling for Illinois, a not

for profit organization based out of Peoria, Illinois. He noted that recoverable electronics are repaired for reuse.

Mr. Segobiano stated that he was impressed with Heartland College's program to repair electronics for reuse. He asked if the Ecology Action Center partners with Heartland Community College in any recycling programs. Mr. Brown answered that directly they do not. The Town of Normal administers and coordinates the Electronic Recycling program. The Solid Waste Fund helps to fund the programs and the Ecology Action Center promotes the programs.

Mr. Segobiano asked Mr. Brown to explain the Plastic Pot Recycling program. Mr. Brown responded that the program is coordinated by a volunteer Master Gardener. He works very closely with the Ecology Action Center. Drop off sites are located at garden centers throughout the area.

Mr. Soeldner asked if the Town of Normal helps to fund the Electronic Recycling program. Mr. Brown stated that the Electronic Recycling program is totally funded by the Solid Waste Management fund.

Mr. Rankin questioned how the amount of \$5,000, for the Underwood House Feasibility Study was determined. Mr. Brown stated that the Town of Normal requested \$5,000.

Chairman Gordon asked for further comments or questions.

Motion by Cavallini/Segobiano to recommend approval of the Recommendation of the McLean County Solid Waste Management Technical Committee to Fund \$20,000 for Electronics Recycling, \$5,000 for partial funding of feasibility study of the Underwood House and \$500 for a Community Recycling Assessment.
Motion carried.

Chairman Gordon stated that the first Item for Information is the Ecology Action Center Quarterly and 2008 Annual Solid Waste Report.

Mr. Brown referred the Committee to the 2008 McLean County Solid Waste Program / Recycling Education Report. Mr. Brown reviewed the Ecology Action Center Fourth Quarter Solid Waste Report. He stated that the report details efforts by the Ecology Action Center to provide solid waste and waste reduction services to residents of McLean County, the City of Bloomington and the Town of Normal from October 1, 2008 through December 31, 2008. The activities include events, educational programs, public presentations, small grant programs through the Solid Waste Technical Committee, operation of the information center 40 hours a week, and promotion of recycling programs throughout the county.

Mr. Segobiano asked if, the Ecology Action Center had been approached to make any cuts in the current recycling programs. Mr. Brown responded that, at this time, he had not been asked to consider any cuts to the recycling programs.

Mr. Segobiano suggested that a Holiday recycling program be considered. During the holidays, there is such an increase in curb side trash. Mr. Brown pointed out that during the holidays the Ecology Action Center increases the recycling education in the area. He agrees that there is a need for additional drop off sites and larger receptacles; however, this increase would require additional funding.

Mr. Brown informed the Committee that the Solid Waste Management Technical Committee received a report from Andrews Engineering. Andrews Engineering conducted a study of the McLean County landfill. The study included a capacity report. The results of the capacity report indicate that the landfill has approximately 4 ½ years of capacity left. He stated that an expected closure date for the landfill is 2013. At that point, if nothing changes, the hosting fees that currently fund the Solid Waste and Recycling programs as well as the grant programs will cease. Mr. Brown noted that in 2013 when the Landfill reaches its capacity, the municipalities should be prepared to fund the recycling and solid waste program.

Chairman Gordon thanked Mr. Brown.

Chairman Gordon stated that the Committee will continue with item C of Items of Information, discussion of Enbridge Pipeline. He asked Mr. Terry Lindberg, Assistant County Administrator, to address the Committee

Mr. Lindberg pointed out that after the March 17, 2009 Land Use and Development Committee meeting, all the information provided by Enbridge was shared with Ms. Anne McGowan, who appeared at the February 17, 2009 County Board meeting. He stated that Ms. McGowan has posed another concern. She questioned if Enbridge had considered that, during certain needy periods, water is pumped out of the Mackinaw into Evergreen Lake as part of the City of Bloomington Water supply. He referred the Committee to the letter from Mr. Joseph Martucci, Enbridge. Mr. Martucci responded that additional safeguards are in place for the Mackinaw crossing including: the horizontal directional drilling construction technology, use of heavy wall pipe and the Mackinaw crossing being designated as a High Consequence Area (HCA) segment, requiring that the Mackinaw crossing be included in Enbridge's ongoing Pipeline and Hazardous Materials Safety Administration's (PHMSA) mandated management program.

Chairman Gordon asked Mr. Lindberg his opinion of Mr. Mariucci's response. Mr. Lindberg responded that Enbridge has addressed any concerns that have been presented to them.

Mr. Segobiano noted that the pipe stored on Wylie Drive is no longer there. Mr. Lindberg stated that Enbridge does not expect to begin construction until sometime in 2010.

Chairman Gordon asked Mr. Pablo Eves, Assistant State's Attorney, if he had any additional comments. Mr. Eves stated that he was present at all the meetings and teleconferences with Mr. Lindberg and Enbridge. He noted that Enbridge has no interest in losing any petroleum. The County does not want any petroleum in our water and Enbridge does not want to lose a drop of petroleum. He stated that our interests are alike when it comes to the actual pipeline.

Mr. Segobiano does not believe Enbridge has a right to just come in and take control of landowner's property. Mr. Eves responded that recently National Geographic had an article on the harvesting of underground petroleum in Canada and how the petroleum is being moved down through the United States in the pipelines. He is amazed at the fact that the County has no authority legally in this matter. Looking at the intended pathway of the pipelines, there are already petroleum pipelines across Illinois. Enbridge is not the first and is not likely to be the last. The pipeline companies do avoid HCA's because of the added expense, but they basically take the shortest route from point A to point B and McLean County is in that pathway.

Mr. Renner, County Board Member, agreed that, clearly, we do have the same preferences, Enbridge does not want to lose any of their oil and we do not want to ruin our environment. The intensity of our preferences is greater in insuring that there is going to be a much more lasting impact. We need to be as proactive as possible to ensure that, because there is a gap in intensity of preferences, ours being much higher, to protect our environment, that we continue to stay proactive. He thanked Mr. Lindberg and the Committee for keeping the communication and updates with Enbridge open.

Mr. Soeldner stated that it is not only the damage a leak would cause to farm land, the water supply, and the cost of the clean up. The County is also looking at the possible cost of litigation.

Mr. Segobiano agreed and referred to a case in Wisconsin that cost the taxpayers millions of dollars. He stressed the responsibility that is due to the landowners and the residence of McLean County.

Chairman Gordon agreed and stated that it is unfortunate but the U.S. Department of Transportation's Pipeline and Hazardous Materials safety Administration (PHMSA) is designated under the Federal Pipeline Safety Act as the exclusive agency responsible for regulating interstate pipeline safety. The County has no legal authority.

Chairman Gordon stated that the Committee will continue with item B of Items of Information, discussion of a text amendment of the Zoning Ordinance to change

the regulations of gravel pits. He referred to the packet which contains the current Zoning Ordinance, the Zoning Ordinance prior to the amendment approved in 2000, the Zoning Ordinance Amendment proposal by Board Member Tari Renner, and the Zoning Ordinance Amendment proposal by Erick Rankin (distributed at the meeting). Chairman Gordon recognized concerned citizens at the meeting. He noted that the Zoning Ordinance Amendment is at the information stage. The bulk, if not all, of the conversation at this meeting will take place at the Committee table. He apologized if he was misunderstood at the March 5, 2009 Committee meeting. The opportunity for the public to take an active part will be when the proposal reaches Action Item stage. Chairman Gordon pointed out that when the Committee has reached an agreement of what they want to do, the next step is to run the options decided by the Committee past the Building and Zoning staff and the Administrator's office. An action item proposal would then come back to the Committee at the May meeting. At this time the public would be allowed to make comments for the Committee's record. He stated that the decision the Committee is looking at is, what, if anything, does the Committee want to send forward to the Zoning Board of Appeals (ZBA). At the ZBA, if you wish to be part of the public hearing process, you can sign up to be a witness. Your testimony will become part of the record, from which the County Board would make its decision on the Zoning Ordinance Amendment recommended by ZBA. Chairman Gordon noted that because he was not as clear as he should have been at the March meeting, he would accept questions from the public.

Mr. Segobiano pointed out that this is an informational item, not a public hearing. He stated that the discussion should be restricted to the Committee. Chairman Gordon agreed, but stated that, on the chance that he was misunderstood at the March meeting, he wanted to at least allow a procedural question. Ms. Susan Schafer, Bloomington resident, wanted to clarify that after the zoning ordinance amendment is decided, at the May meeting, the public would be allowed to speak on the zoning ordinance amendment. Chairman Gordon responded that once the proposal is presented for Action, the public would be heard.

Chairman Gordon recognized Mr. Renner.

Mr. Renner addressed the Zoning Ordinance Amendment presented to the Committee at the March meeting. He pointed out that his intention was to clarify his interpretation of the current Zoning Ordinance E-1A, "Mines and quarries involving the crushing, loading hauling, storage or cutting of stone shall not be located within one and one-half mile of an R-1 or R-2 zoned property. (2-20-01)" He noted that it could be interpreted differently than staff interpreted it. Mr. Renner stated that it is his intent is to make the language more clear. He noted that we do not want landfills any closer than one and one-half mile from schools. His conclusion is that this is what the Zoning Ordinance currently is says. He noted that, if this is the intention of the Legislative body, and what the County Board wanted, then it is important to clarify the legislative intent if there is majority support.

Chairman Gordon noted that Mr. Renner used the word "landfill" in reference to the Zoning Ordinance E 1A. He stated that E 1-A is in reference to mines and quarries. Mr. Renner stated that "landfill" was not in his proposed amendment.

Chairman Gordon referred to Mr. Rankin's proposed amendment. He stated that Mr. Rankin's proposal is an effort to meld some things from the current zoning ordinance and language from the old ordinance, prior to 2000. Mr. Rankin pointed out that in his proposal; the only thing that has changed is the underlined portion, E 1-C. Sections E 1-A and E 1-B remain as currently established in the Zoning Ordinance.

Chairman Gordon asked the Committee for discussion of Mr. Rankin's proposed amendment, E 1-C.

Ms. Ahart asked Mr. Phil Dick, Director of Building and Zoning, if a geological study of McLean County has been done to determine the location of possible gravel pits that could be compared to the residential development and where schools are being built. Gravel extraction can only be done where the mineral deposits are located.

Mr. Dick answered that there is information from a U.S. Geological Survey that shows where gravel resources are located in the County. The current location of gravel pits in the County show that gravel runs along the Sugar Creek area, the Fox Creek School area southwest of Bloomington to the Stark pit. Gravel is also located along the Kickapoo and Downs area, past the Towanda Barnes Road towards Heyworth to DeWitt County. Wherever the gravel crosses a major road is where the gravel pit will likely be located. Roads are a big part of the operation of a gravel pit. Because of the weight of the trucks used to haul the gravel, 80,000 lb roads are necessary to haul the gravel. Mr. Dick noted that, in some areas, the pits are located, close to residential areas.

Mr. Rankin suggested that, when building schools, is the location of gravel taken into consideration. Mr. Dick responded that the department is not a part of determining where the schools are located.

Mr. Soeldner stated that he would like to see churches along with schools added to the proposed amendment to the zoning ordinance. Mr. Rankin noted that if schools were added it would also cover church affiliate schools. Mr. Soeldner pointed out that a church could also be free standing.

Mr. Soeldner referred to Mr. Renner's amendment. He asked why is "extraction of minerals for use and consumption on-site only" differentiated in E 2. Mr. Dick responded that we will probably never have a gravel operation where you never haul anything off site. He believes the language "extraction operations only" should be clarified. He noted that his understanding of the intent here involves most sand and gravel mining operations. Mr. Dick stated that the intention here was meant to include most gravel operations is because prior to this time, there

was a set back from residential districts of 500 feet. The intention was to double the set back requirement to 1,000 feet. The more intensive type of gravel operation of blasting and stone cutting would require a greater setback. He informed the Committee that it really does need to be amended to clarify the intended requirements.

Mr. Soeldner asked if a church has a zoning designation. Mr. Dick answered that a church in McLean County can be built in almost any district. It is one of the few things that is a permitted use in the agricultural district. Schools need public water and sewers to function properly.

Mr. Renner stated that it is clear that the language needs to be cleaned up. He noted that his main intent was to make clear guidelines so that everyone is on the same page and the legislative intent is clear. In the process, it is necessary to balance the need for economic development. Mr. Renner acknowledged that we need gravel, but do we really have to have it within a few hundred feet of a school. He stated that McLean County can surely come up with reasonable guidelines to balance these needs and concerns to avoid situations such as the recent dispute involving the Fox Creek school. Mr. Renner encouraged the Committee to direct staff to develop a Zoning Ordinance Amendment to be presented to the Zoning Board of Appeals.

Chairman Gordon pointed out that the language we are looking at today, including the current ordinance and the Zoning Ordinance Amendment proposals, does not include other points that may need examining. It is his thought that the Committee individually consider the Zoning Ordinance and contact Mr. Dick with your ideas.

Mr. Cavallini asked if we had access to the set back requirement from other counties. Mr. Dick answered that he would check with Peoria and Champaign Counties.

Mr. Dick recommended that the Committee look at the regulations prior to 2000. The regulations were reasonable and effective. The current zoning ordinance needs to be reconsidered and clarified for the following reasons:

- The idea of having a gravel pit “involving extraction only” will never happen. You will never have a mining operation where you do not haul anything from the site.
- There was never any intent to change the set back requirements from 500 feet to one and one-half mile. Mr. Dick stated it was conceivable that the intent was to change if from 500 feet to 1,500 feet.
- The current zoning ordinance does not talk about the different types of mining operations. The three types of mining operations - coal mining, mining with blasting and mining that is a typical sand and gravel operation - mentioned in the ordinance prior to 2000 need to be clearly understood.

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- Zoning does not regulate landfills when they are a Regional Pollution Control Facility. Landfills today are always going to be a Regional Pollution Control Facility.

Mr. Dick stated that he would take the input from the Committee and prepare a Zoning Ordinance Amendment proposal.

Chairman Gordon asked if when the current Zoning Ordinance was proposed and adopted, was there anything magical about the one and one-half mile distance. One and one-half mile is a long distance, might one mile be enough. He stated that 1,500 feet is almost one third of a mile. Mr. Dick responded that it is his opinion that it was copied from some other ordinance and it was not thoroughly evaluated.

Ms. Ahart noted that to go from 500 feet to one and one-half mile is a huge change.

Mr. Rankin stated that he had the understanding that the one and one-half mile had some sort of logic. If the distance was just pulled out of thin air, certainly this needs to be taken into account. He stated that he wants to clarify, that when you have a situation close to a residential area, a school would supersede. Mr. Rankin pointed out that this is his intent with the Zoning Ordinance Amendment proposal. He stated that the Committee was given an idea of just how close 800 feet can be during the tour of the various subdivisions, commercial areas and County roads and bridges in the unincorporated area.

Chairman Gordon thanked Mr. Dick for coordinating the joint field trip with the Transportation Committee. He stated that when the group visited the Stark gravel pit, Mr. Roger McDonald, Stark Excavating, stated that when the sand is blowing, it blows an estimated 800 feet. Mr. McDonald noted if it is really windy the roads are watered down to control the dust.

Mr. Rankin asked Mr. Dick to clarify the understanding that the difficulty recently discussed was that the measurement from where the mining operations begin was to be to the center, not from the actual boundary line. Mr. Dick responded that, to some extent, the mining is not where you have the intensity of negative impact. During the mining operations, you are dealing with wet material. The negative impact occurs where the sorting is done.

Mr. Rankin emphasized that the overriding interest is in the protection of our citizens now and in the future. He noted that the protection of our schools and public safety should be taken seriously.

Mr. Segobiano stated that he has already taken the opportunity to speak not only to Mr. Dick but also to Mr. John Zeunik, County Administrator. He stated that the County has been blessed with gravel deposits. He agreed with Mr. Dick that the Zoning Ordinance in effect prior to 2000 should be looked at. He referred to Old

Farm Lakes, Fox Creek subdivision and the fact of three gravel pits within 2,000 feet of Sheridan School. There were no objections and no outcry from the citizens. The deposits were there and they were extracted for the benefit of McLean County. Mr. Segobiano explained that there is a school within one and one-half mile of the gravel pit in Downs. He noted that if we have to import gravel the costs will increase. Mr. Segobiano stated that we need to go back to the prior 2000 Ordinance. The deposits are here and we should not strangle McLean County. He pointed out that there are major contractors concerned that the actions taken by the County, the City of Bloomington and the Town of Normal, will increase costs of sand and gravel and their ability to move forward in McLean County. Mr. Segobiano stated that we have a responsibility to the continued growth of this Community under safe conditions; however, we also cannot strangle the growth of McLean County.

Mr. Rankin noted that the protection of children is the most important consideration in the growth of the community. Not mining gravel within 800 feet from Fox Creek does not mean that the development can't go there. It simply means that the development's lake can't go there. He stated that he totally supports growth in McLean County. The question is, at what cost.

Mr. Cavallini stated that we have had a good chance to consider a wide variety of ideas and we have all gained some perspective. He noted that we have reached a point where we are no longer being productive. Mr. Cavallini suggested each member meet with Mr. Dick and move on from there.

Chairman Gordon stated that the Committee should take advantage of the same opportunity that Mr. Segobiano did by talking to Mr. Dick and Mr. Zeunik. He thanked all those who were in attendance.

Chairman Gordon stated that the next Land Use and Development Committee meeting will be on Thursday, May 7, 2009. Chairman Gordon asked if there were other items of information to come before the Committee. Hearing none, he adjourned the meeting at 6:00 p.m.

Respectfully Submitted

Diana Hospelhorn
Recording Secretary