

Minutes of the Land Use and Development Committee

The Land Use and Development Committee of the McLean County Board met on December 9, 2004 at 4:45 p.m. in Room 400, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Chairman Gordon, Members Ahart, Segobiano, Cavallini, Rackauskas and Baggett

Members Absent: None

Other Board Members Present: Member Bostic

Staff Present: Mr. John Zeunik, County Administrator,
Ms. Christine Northcutt, Recording Secretary,
County Administrator's Office

Department Heads/
Elected Officials
Present:

Mr. Phil Dick, Director, Building and Zoning;
Mr. Brian Hug, Civil Assistant State's Attorney

Others Present:

Mr. Jeff Tracy, Project Manager, County Highway Department; Mr. Mike Behary, County Planner, Building and Zoning Department; Mr. Tom Anderson, Staff Sanitarian, Health Department; Mr. Bob Lenz, Attorney for Wexford Subdivision; Dr. Bruce Anderson

Chairman Gordon called the meeting to order at 4:47 p.m.

Chairman Gordon stated that the first order of business is the approval of the November 4, 2004 minutes. Hearing no corrections, Chairman Gordon placed the Land Use and Development Committee minutes of the November 4, 2004 meeting on file as presented.

Chairman Gordon presented the bills from November 30, 2004, which have been reviewed and recommended for transmittal to the Land Use and Development Committee by the County Auditor. The total is \$19,878.96, with the prepaid total being the same.

Motion by Cavallini/Ahart to recommend approval of the November 30, 2004 bills as presented by the County Auditor. Motion carried.

Chairman Gordon stated that there are two items for Committee action this evening. Chairman Gordon informed the Committee that the first item is a request by Central Catholic High School for a Class D Raffle License. The application is complete and has been reviewed by the State's Attorney's Office. Chairman Gordon added that there is a note on the agenda that the bond is pending. Chairman Gordon advised the Committee that that is no longer applicable as Mr. Phil Dick has provided the Committee with a copy of the bond. Chairman Gordon informed the Committee that Mr. Eric Ruud, First Assistant State's Attorney, has reviewed the entire application and recommends approval.

Motion by Segobiano/Rackauskas to recommend Approval of a Class D Raffle License for Central Catholic High School. Motion carried.

Chairman Gordon stated that the next item for the Committee's action is a request by Mr. Robert Lenz to reinstate the preliminary plan for the Wexford Hills Subdivision. Chairman Gordon asked Mr. Phil Dick, Director, Building and Zoning to present this item to the Committee.

Mr. Dick advised the Committee that this item was briefly discussed at last month's Land Use and Development Committee meeting and then postponed until today's meeting. Since that time the County Highway Department has reviewed this request and has discussed the Department's concerns with the applicants' engineer. All concerns have been resolved. The Highway Department and Health Department both recommend reinstatement of this preliminary plan. Mr. Dick stated that the Committee had requested that Mr. Bob Lenz, Attorney for the Developer for the Wexford Hills Subdivision attend tonight's meeting. Mr. Lenz is present to answer any questions that the Committee may have.

Chairman Gordon asked if there were any questions from the Committee.

Motion by Segobiano/Cavallini to recommend approval
of reinstatement of the Preliminary Plan for the Wexford
Hills Subdivision.

Mr. Segobiano noted that he would like some clarification from the staff or the applicant's attorney as to why it has taken the Illinois Environmental Protection Agency (IEPA) over three years to approve various stages of this proposed subdivision. Mr. Lenz stated that he would like to respond to that question. Mr. Lenz stated that because the lots in this proposed subdivision are one-half acre lots, they fall under the IEPA jurisdiction. Mr. Lenz advised the Committee that the IEPA is in the process of developing new rules and regulations and this particular project was caught in the middle of the IEPA's change. The new regulations are stricter and designed to provide greater levels of public safety. Mr. Lenz stated that the three-year preliminary plan period has consisted largely of down time due to the IEPA's inability to issue permits or approve any procedures in a timely manner. Mr. Lenz added that any reviews that were scheduled to be done by the Highway Department, Health Department or the Building and Zoning Department have been done in a timely fashion.

Mr. Cavallini asked if Mr. Lenz is projecting any further delay. Mr. Lenz stated that the applicant has recently received the NPDES permit and the IEPA is reviewing the construction permit. Mr. Lenz thanked the Committee and said he would be happy to answer any further questions.

Hearing none, Mr. Segobiano called for the question.

Chairman Gordon stated that the Chair will vote.
Motion carried.

Chairman Gordon stated that there are three items for information. The first item is the progress report on the Prairieland Subdivision. Chairman Gordon asked

Mr. Jeff Tracy, Project Manager, County Highway Department to present this item.

Mr. Tracy stated that the storm sewers have been completed. There has been work on the grading for the streets. Mr. Tracy stated that a week ago he was advised that the streets were ready for a test roll, then it began raining. The weather hasn't permitted it and the test roll will probably not be possible this year. Chairman Gordon asked if there were any other questions from the Committee. Hearing none, Chairman Gordon invited Dr. Bruce Anderson to address the Committee.

Chairman Gordon advised Dr. Anderson that this is not a public hearing and asked that he direct his comments to matters not previously presented during the public hearing phase. Chairman Gordon asked Dr. Anderson to keep his comments between 10 – 15 minutes. Dr. Anderson stated that he appreciates the opportunity to speak before the Committee this evening. Dr. Anderson stated that his primary concern is that the waste water treatment systems, as they are being implemented in McLean County, are not as good as they should be. Dr. Anderson stated that some have mischaracterized him as being against development. He noted that is categorically false. Dr. Anderson stated that he does not want to stop construction on the Prairieland Subdivision, he just wants it to be developed in the best way possible. Dr. Anderson informed the Committee that the sewer problems in the Prairieland Subdivision and Wexford Hills Subdivision are not the largest sewer problems in this County. Dr. Anderson explained that a few years ago the County began issuing permits for surface discharge sewage treatment systems. Dr. Anderson noted that some of these systems discharge immediately through their neighbor's yards downstream. Dr. Anderson stated that nearly everyone agrees that a surface discharge sewage treatment system is substandard and not the best way to go. Dr. Anderson stated that the County claims that it is the decision of the IEPA as to which type of sewer system should be installed in a subdivision. Dr. Anderson stated that decision should be a zoning decision, which is a County responsibility. Instead, percolation tests are performed on the soil and if it does not perk, the decision is turned over to the IEPA. Dr. Anderson stated that the only type of system that the IEPA uses is a surface discharge sewage system. The IEPA has bigger issues to manage, so these "smaller" issues get buried in red tape and fail to be dealt with in a timely manner.

Dr. Anderson stated that Randolph & Associates is the only engineering firm that has ever been associated with the Prairieland Subdivision. Dr. Anderson stated that when he has called Randolph & Associates three times over the last three years they have informed him that they have never been hired to supervise the construction of the Prairieland sewer treatment system. This is a very specific permit requirement as per the IEPA.

Mr. Segobiano asked who is supervising this process. Dr. Anderson responded that the IEPA informs him that they rely on the developer's engineer and the County Zoning Codes. Dr. Anderson stated that, in this case, neither the County nor the IEPA wants to take responsibility for insuring that this sewage treatment system is constructed correctly.

Dr. Anderson stated that all of the issues that the Prairieland Subdivision is having are potential problems in the Wexford Hills Subdivision.

Chairman Gordon stated that he was under the impression that Randolph & Associates was working with Mr. Nesbit on the construction of the sewage treatment system. Dr. Anderson responded he spoke with a gentleman by the name of Mr. Dan Good at Randolph & Associates. Mr. Good has informed him that they have been hired to design a sewage treatment system. They have also been hired to test the sewer treatment lines, but they have not been hired to supervise the construction of the sewage treatment system.

Chairman Gordon asked the Committee if there were any questions for Dr. Anderson. Chairman Gordon asked what alternatives are available to prevent a stream from carrying effluent through the back yard of other residents. Dr. Anderson stated that if the mechanism of discharge that is chosen is surface discharge, then it goes with the natural flow of drainage. Dr. Anderson stated that other states have stopped allowing surface discharge systems. The Illinois Department of Public Health and the Illinois Environmental Protection Agency are currently working on legislation to greatly reduce surface discharge systems in Illinois. Dr. Anderson produced two manuals, one of which is published by the Tennessee Valley Authority, the other is published by the Illinois Department of Public Health. These manuals illustrate how sewage wastewater can be discharged via subsurface sewage treatment systems.

Chairman Gordon stated that Dr. Anderson stated that he believes that the sewage system should be a zoning matter. Chairman Gordon reminded Dr. Anderson that the Land Use and Development Committee does not make zoning decisions. Dr. Anderson responded that zoning and subdivision issues are all interconnected. When the Health Department does a test on the land and determines that it does not perk, they turn it over to the IEPA and rely on the IEPA to issue permits. Dr. Anderson noted that, as previously discussed, the IEPA is understaffed and does not handle issues in a timely manner.

Dr. Anderson stated that the Wexford Hills Subdivision will only be disinfecting their wastewater six months of the year. Children playing in the stream will be playing in infected water from November through April. The County doesn't seem to care about these issues and neither does the IEPA.

Ms. Rackauskas asked Dr. Anderson what he hopes to accomplish today.

Dr. Anderson stated that he would like to see the County improve their cooperation with the IEPA and for both to use a bit more vigor in enforcing the permits they issue. Dr. Anderson stated that if surface discharge sewer systems were no longer allowed, that would solve a lot of problems. Dr. Anderson stated that ultraviolet disinfection also makes the effluent much cleaner than the current method that is being used.

Mr. Segobiano stated that he appreciates Dr. Anderson taking the time before the Committee to address his concerns. Mr. Segobiano stated that Dr. Anderson noted that the County does not care and that is not true. Mr. Segobiano stated that the Committee is always learning. Mr. Segobiano stated that he would be more than happy to accept a written recommendation of the changes that Dr. Anderson is proposing for review with Mr. Zeunik or Mr. Dick. Dr. Anderson stated that he has submitted a list of suggestions before and would be happy to do so again.

Chairman Gordon stated that he would be happy to provide Dr. Anderson with all of the Committee member's e-mail addresses so Dr. Anderson could submit that list to all of the Committee members.

Chairman Gordon asked if there were any further questions from the Committee. Ms. Rackauskas stated that she would like for staff to respond to the comments that Dr. Anderson has made.

Mr. Tom Anderson, Staff Sanitarian, Health Department, stated, in short, from the Health Department's aspect, Dr. Anderson's observations are somewhat correct. However, in a real world situation, the solutions from the manuals do not always work. As an example, if all sewage treatment systems were mandated to be subsurface, the Wexford Hills Subdivision, and others, would not be possible. There are no subsoils in the Wexford Hills Subdivision plan that will accept a subsurface sewage system.

Ms. Rackauskas asked if a subsurface sewage system is the preferred method. Mr. Anderson replied that a subsurface sewage treatment system is always preferred. The type of sewage system that is used depends on the type of soil on the site. The way to determine the soil type is to perform a percolation test. In a percolation test, there are shallow holes bored into the ground. Those holes are filled with water in order to time how long that water takes to seep away. If it takes more than 360 minutes for that water to seep away, a subsurface seepage field will not work. Mr. Anderson stated that the McLean County Health Department has 9,100 active septic systems on file. Only 1,200 are surface discharge systems.

Mr. Anderson stated that under the Illinois Department of Public Health rules, the Health Department can only authorize a total of seven bedrooms to discharge

through one tile. That is the equivalent of 1,400 gallons per day. Any discharge
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over 1,500 gallons must be submitted to the IEPA for approval. That is why some developers must contend with the IEPA because what they are proposing does not fit under the local rules and regulations.

Ms. Rackauskas asked whether it is true that an engineering firm must be present to supervise the construction of a sewage system on a proposed subdivision. Mr. Anderson responded that under the Sanitary Sewer Permit issued by the IEPA, special condition #4 states that "...a licensed professional engineer will observe all sanitary sewage construction and installation, including the construction and installation of all septic tanks. Septic tanks shall be installed by a septic tank installer licensed by the McLean County Health Department..." Mr. Anderson stated that he does not know if Mr. Nesbit has a licensed engineer on site supervising the construction of the sewage system. The distributor of the wastewater treatment system has guaranteed the County and the IEPA that they would test the system before it was put on line. The distributor encouraged the County and IEPA officials not to allow any occupancy of buildings or give final permits until they receive a certificate of approval from the distributor.

**Mr. Zeunik left the meeting at 5:48 p.m.

Ms. Rackauskas asked what is the County's responsibility in order to see that Mr. Nesbit is using an engineering firm to supervise this construction. Mr. Anderson replied that the County does not have any jurisdiction over this issue, as the permit that was issued is an IEPA permit.

Mr. Jeff Tracy, Project Manager, Highway Department, indicated that the Illinois Environmental Protection Agency (IEPA) issued three different permits for this subdivision: an NPDES Permit (water discharge permit) Construction Permit, and an Operating Permit. To fulfill the requirements of these permits, the applicant's registered engineer needs to certify to IEPA that everything is done according to the approved plan and their rules. If everything is not certified by a registered engineer, IEPA will not issue the Operating Permit.

Mr. Phil Dick, Director, Building and Zoning, indicated that it is not clear that there are significant deficiencies in how IEPA is reviewing this subdivision. He indicated that an IEPA inspector called him since the last Committee meeting and indicated that they had gone over complaints received from area residents and noted that there is no evidence that groundwater is entering the sewer lines for this subdivision as was complained to them.

Mr. Lenz asked if he could address the Committee again briefly. Mr. Lenz informed the Committee that Dr. Anderson has inferred that the problems with the Prairieland Subdivision are a prelude to what will happen in the Wexford Hills

Subdivision. Mr. Lenz stated that is totally untrue. Mr. Lenz stated that he
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wanted to be certain that the Committee separates the two Subdivisions so that they are not grouped into the same category. Mr. Lenz noted that the developers of the Wexford Hills Subdivision have always done an excellent job and will continue to do so.

Ms. Rackauskas stated that the unanimous vote by the Land Use and Development Committee to reinstate the Preliminary Plan for the Wexford Hills Subdivision should show Mr. Lenz that they are not lumping the two Subdivisions together.

Dr. Anderson stated that there are some commonalities that carry over between the two Subdivisions. There are two different developers and engineering firms involved in these two projects. These factors do make a major difference. However, we are dealing with the same IEPA and the same County and the lack of accountability and responsibility for these Subdivisions and their wastewater treatment systems.

Chairman Gordon thanked Dr. Anderson, Mr. Lenz and members of staff for all of their input on this subject.

Chairman Gordon asked if there were any other items to come before the Committee. Hearing none, Chairman Gordon adjourned the meeting at 6:09 p.m.

Respectfully submitted,

Christine Northcutt
Recording Secretary
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