

## Minutes of the Land Use and Development Committee

The Land Use and Development Committee of the McLean County Board met on December 4, 2003 at 4:30 p.m. in Room 700, Law and Justice Center, 104 W. Front Street, Bloomington, Illinois.

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

Members Absent: None

Other Board Members Present: None

Staff Present: Mr. John Zeunik, County Administrator,  
Mr. Terry Lindberg, Assistant County  
Administrator; Ms. Christine Northcutt,  
County Administrator's Assistant

Department Heads/  
Elected Officials  
Present:

Mr. Phil Dick, Director, Building and Zoning;  
Mr. Mike Behary, County Planner, Building and  
Zoning Department; Mr. John Hamann, Zoning  
Enforcement Officer, Building and Zoning  
Department; Mr. Brian Hug, Assistant State's  
Attorney; Mr. Jeff Tracy, Project Manager,  
County Highway Department

Others Present: Ms. Christine Brauer, McLean County Regional  
Planning Commission; Mr. Frank Miles;  
Mr. Joe Scharf; Mr. Don Adams, The  
Farnsworth Group; Mr. Jim Finnegan, Zoning  
Board of Appeals

Chairman Gordon called the meeting to order at 4:32 p.m. Chairman Gordon stated that he would first like to welcome the Land Use and Development Committee's newest member, Mr. Chris Kalapp.

Chairman Gordon stated that the first order of business is the approval of the November 6, 2003 minutes. Hearing no corrections, Chairman Gordon placed the Land Use and Development Committee minutes of November 6, 2003 on file as presented.

Chairman Gordon presented the bills from November 30, 2003 which have been reviewed and recommended for transmittal to the Land Use and Development Committee by the County Auditor. The total is \$24,157.86 with the prepaid total being the same.

Motion by Cavallini/Rackauskas to recommend approval of the bills as presented by the County Auditor. Motion carried.

Chairman Gordon presented the first item for action which is a request by Mr. Edward S. Brown, Jr. for a waiver of preliminary plan requirements and a one lot final subdivision plat for the Edward S. Brown, Jr. Subdivision, File No. S-03-14. Chairman Gordon stated that he would turn this over to Mr. Phil Dick, Director, Building and Zoning. Mr. Dick stated that this is essentially a farm house set aside. This property is located in Blue Mound Township. Mr. Dick passed out photos and a plat map. Mr. Dick informed the Committee that there are other farm buildings located on the property. Mr. Dick noted that farm buildings do not have to meet any set-back requirements. However, Mr. Dick informed the Committee that the buildings located on this particular plat do have to meet set-back requirements due to the easement of access located on the property. Mr. Dick stated that the Illinois Department of Transportation has signed off on the existing entrances and they have signed the Plat Access Certificate. The County Health Department and the County Highway Department both recommend approval. Mr. Dick stated that he would be happy to answer any questions that that Committee may have.

Motion by Segobiano/Ahart to recommend approval of waiver of preliminary plan requirements and a one lot final subdivision plat for the Edward S. Brown, Jr. Subdivision, File No. S-03-14. Motion carried.

Chairman Gordon stated that the second item for action is a request by Nord Enterprises, Inc. for a waiver of preliminary plan requirements and a three lot final subdivision plat for the Flatbush Subdivision, File No. S-03-15. Chairman Gordon asked Mr. Dick to present this application. Mr. Dick handed out a plat map and aerial photos.

Mr. Dick stated that this request involves the property that was discussed at length at the last County Board Meeting. The property is owned by Mr. Tom Kirk. Mr. Dick informed the Committee that one of the conditions for approval is that a subdivision plat be approved. Because this property is within a mile and a half of the City of Bloomington, it was required to be approved by the City of Bloomington as well. The City Council has approved this proposal with some minor changes. For example the subdivision will be required to have city water facilities and they will have to add some easements. The plans presented to the Committee are the original plans and will be slightly amended. The Bloomington Township Road Commissioner has required that an easement added be added on lot 2 to the south so that the entrance does use Tri-Lakes road, as the Township Road is not designed for heavy traffic. There are no septic systems on the property, so the Health Department has no problems with this request. The County Highway Department is supportive of this request as well.

Motion by Segobiano/Rackauskas to recommend approval for a waiver of preliminary plan requirements and a three lot final subdivision plat for the Flatbush Subdivision for Nord Enterprises, Inc., File No. S-03-15.

Mr. Kalapp asked if there was any intention to include the Illinois Central Gulf Rail Road in a green way or bicycle path. Mr. Dick replied that is an excellent question. Mr. Dick noted that we have learned an unfortunate lesson from this experience. When this railroad was vacated, the County was not prepared to make an immediate request that it be made into "rails for trails" or something of that nature. It is, unfortunately, too late for that. Mr. Cavallini asked how much time there is to make such a request. Mr. Dick responded that you must be ready with the request as soon as the railroad announces plans to vacate.

Motion carried.

Chairman Gordon stated that the third item on the agenda is a request by the McLean County Regional Planning Commission to approve a Regional Planning Service Agreement. This contract is for the same dollar amount as last year. Chairman Gordon informed the Committee that the contract can be found on the page 3 of the agenda packet.

Motion by Cavallini/Rackauskas to recommend approval of a request by the McLean County Regional Planning Commission to approve a Regional Planning Service Agreement.

Mr. Segobiano asked if the Planners on-staff for the Town of Normal, the City of Bloomington and McLean County were all employees of the Regional Planning Commission.

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Mr. Dick replied that the City, Town and County all have Planners who are part of each local government and who are paid out by the individual government.

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

Chairman Gordon informed the Committee that the last item on the agenda will take the form of a Public Hearing. This is a request by the Land Use and Development Committee to amend fees in the Department of Building and Zoning as discussed in the October 9, 2003 meeting of the Committee. The proposed fee increases appear in the Committee's agenda packets. Chairman Gordon declared the Public Hearing in order at 4:44 p.m. He asked Mr. Phil Dick to give a brief explanation of the fee increases.

Mr. Dick stated that this item was discussed in detail at the October 9<sup>th</sup> Meeting of the Land Use and Development Committee. It has been established that there was a need for an increase in fees due to the fact that they have not been increased since 1997. Mr. Dick commented that the Department of Building and Zoning has not received any public comment on the proposed increases. *The Pantagraph* published notice of this Public Hearing. The proposed fee increases were first announced at the September, 2003 County Board Meeting. Mr. Dick noted that the County's fees are considerably lower than the City of Bloomington and comparable or lower than neighboring Counties. Mr. Cavallini asked Mr. Dick about the proposed fees for Temporary Permits and Administrative Variance. Mr. Dick stated that these two items were added into the Zoning Ordinance in the year 2000, but there were no fees approved at the time that they were passed. Mr. Cavallini asked in what circumstances would a Temporary Permit be issued. Mr. Dick responded that Temporary Permits are issued for things like flea markets. Mr. Cavallini asked where would an Administrative Variance be issued. Mr. Dick replied that it is a variance that can be approved administratively, rather than having to go through the Zoning Board of Appeals. For example, if a 30 foot set back is required, you could get a 3 foot variance by sending registered letters to any adjacent property owners. If no one objects, that particular set back can be issued administratively.

Mr. Kalapp asked if there is any intention of raising these fees in the future. Mr. Dick stated that he has not considered how this will be handled in the future. Mr. Kalapp suggested that, perhaps, incremental annual increases may be more consumer friendly, rather than making a 20% jump at once. Chairman Gordon stated that proposal has been given consideration by Administration and he added that it is a very valid point.

Chairman Gordon asked why the charge for Zoning Maps has doubled. Mr. Dick replied that increase is cost driven. It now costs more to produce a zoning map since the County has moved toward digital maps that have to be printed in full

on special plotters. They cannot be taken out to a copy shop and printed from a mylar. Mr. Dick stated that the quality of the current maps is much better than they previously were. But, the cost has increased significantly.

Chairman Gordon asked if there were any other parties that wished to be heard on this matter. Hearing none, Chairman Gordon declared the Public Hearing closed at 4:51 p.m.

Chairman Gordon stated that he would entertain a motion on this matter. Chairman Gordon stated that the chair will vote.

Motion by Cavallini/Kalapp to recommend approval  
of an Ordinance to amend fees in the Department of  
Building and Zoning. Motion carried.

Chairman Gordon stated that the only item for information is discussion of the Scharf Gravel Pit. Ms. Rackauskas asked if work was still continuing to bring it back into code. Mr. Dick replied that they are still working and noted that he has current photos for the Committee to compare with the photos that were taken last month. Mr. Dick noted that it is more difficult to see the progress in today's photos because it is very wet and the photographer was not able to get the same angle as before. Mr. Dick asked if Mr. Scharf would comment on the work that was being done.

Mr. Frank Miles, Mr. Scharf's attorney, stated that he would be happy to comment on the progress. Mr. Miles noted that he began representing Mr. Scharf after the Zoning Board of Appeals meeting several months ago. Mr. Miles stated that Mr. Don Adams, Engineer, The Farnsworth Group is also here and can give input if necessary. Mr. Miles stated that when he met with Mr. Brian Hug, Assistant State's Attorney, and Mr. Dick, regarding this matter, a plan was developed to get this property into compliance with the conditions of the Special Use permit. Mr. Miles stated that Mr. Scharf is building this berm from both ends toward the center and is gradually moving the berm back to the set-back line. An engineering analysis determined that there was *not* excavation underneath the slope which would have caused additional sloughing. Mr. Miles informed the Committee that the fill work is weather dependant. Mr. Miles noted that Mr. Scharf's opinion is that he has made good progress this fall and not much more will happen this year. Actual restoration of this sight will come next spring. It will be seeded and restored. Mr. Miles stated that he would be happy to come back and report periodically to the Committee or to Mr. Dick. Ms. Rackauskas asked if restoration will be complete by the summer of 2004. Mr. Miles stated that it should be.

Ms. Rackauskas stated that she sees this progress as acceptable and that it is happening in a timely fashion. She is pleased with the progress. Chairman Gordon stated that he echoes that sentiment.

Mr. Segobiano stated that some members of the Zoning Board of Appeals (ZBA) have shared their concerns with him regarding violations of Special Use Permits. Mr. Segobiano noted that he understands that Mr. Scharf is spending a considerable amount of money to amend this situation, but he has also extracted a substantial profit from this area that he mined. Mr. Segobiano stated that he feels that this Committee and the County Board need to be put on notice that there must be some "teeth" put into the Special Use Permit. As it stands now, people violate the Special Use Permit regularly. It serves no purpose if this is allowed to happen again and again. Mr. Segobiano stated that his intentions are not to make an example out of anyone, but the rules need to be adhered to moving forward. Mr. Segobiano stated that there is a gentleman from the ZBA in attendance at this meeting and invited him to address the Committee with his concerns.

Ms. Rackauskas stated that she agrees because there are multiple factors at risk when there is non-compliance. There is safety and land-restoration and others. Ms. Rackauskas stated that she agrees with Mr. Segobiano's concerns and feels that this is an issue that the Committee needs to look at more closely.

Chairman Gordon stated that both Mr. Segobiano and Ms. Rackauskas raise legitimate points. The Committee should explore its enforcement capacity and the limits of the County's ordinances. Chairman Gordon also noted that there are constraints on administrative capacity and other issues at hand in this matter. Ms. Rackauskas replied that is precisely what she would like to explore further. What legal power does this Committee have to enforce these ordinances. Ms. Rackauskas stated that she would like to have a special meeting to discuss ordinance violations and consequences. Mr. Segobiano stated that he feels that the ZBA Members should be invited to that meeting so they can give their input into this situation.

Chairman Gordon asked if the member of the ZBA would like to address the Committee. Mr. Jim Finnegan, member of the ZBA, stated that he and others on the ZBA feel that if this type of blatant violation persists, it is very counterproductive to the workings of the Committee and the County as a whole. Mr. Finnegan stated that he echoed Mr. Segobiano's sentiment that the laws need to be more strictly enforced. There need to be consequences for people's actions instead of letting these issues constantly slide. Mr. Finnegan stated that when an Enforcement Officer finds a problem on a site, and he issues a notice to that individual to rectify the problem, he needs to know that his warnings will be enforced.

Chairman Gordon stated there are many issues that need to be addressed and explored. Chairman Gordon noted that he will begin conversations with Mr. Dick, Mr. Zeunik and Ms. Sally Rudolph, Chairman, ZBA to organize a work-session so that these issues can be addressed.

Ms. Rackauskas stated that she would like to ask Mr. Scharf a question directly. She asked when was he first notified that he was not in compliance. Mr. Scharf replied that it was probably about two years ago. Ms. Rackauskas asked how he was notified that he was not in compliance. Mr. Scharf replied that a representative from the Department of Building and Zoning came out to the site and informed him that he was not in compliance. Mr. Scharf added that he feels that this came about because he is a non-union business and there are union efforts to drive him out of business.

Mr. Dick stated that in October, 1998 he personally notified Mr. Scharf that the berm was too close to the road, and Mr. Scharf responded that he was reading the map incorrectly and that he would fix the situation. Mr. Dick added that the Department of Building and Zoning does not have the ease of access to legal enforcement as it may appear. Ms. Rackauskas asked Mr. Dick if the Department of Building and Zoning ever sent Mr. Scharf a written notice. Mr. Dick replied that they have notified him in writing.

Chairman Gordon asked the Committee members to send him an e-mail with the topics that they would like to discuss at the proposed work session. Chairman Gordon stated that he will inform the Committee of more details on the work session meeting as they become available.

Chairman Gordon asked if there was any other discussion. Mr. Zeunik stated that he was contacted by Mr. Chuck Schanaberger of Central Catholic High School. Mr. Schanaberger noted that because of the Thanksgiving holiday, Central Catholic forgot to send the application for their "Dream House" Raffle. Mr. Zeunik informed the Committee that this raffle requires a special raffle license. This license requires approval by this Committee and by the County Board. Mr. Zeunik noted that Mr. Schanaberger has assured him that they will have all of the legal paper work to Mr. Eric Ruud, Assistant State's Attorney as soon as possible for his review. Mr. Schanaberger has asked the Committee to consider this item at a Stand-up Committee Meeting on December 16, 2003.

Motion by Segobiano/Ahart to recommend approval of consideration of this special Class D raffle permit at a Stand-up Committee Meeting on December 16, 2003, Contingent upon the review of the application by the Civil Assistant State's Attorney. Motion carried.

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There being no further business to come before the Committee, Chairman Gordon adjourned the meeting at 5:24 p.m.

Respectfully submitted,

Christine Northcutt  
Recording Secretary

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