

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

The Land Use and Development Committee of the McLean County Board met on Thursday, May 3, 2001 at 5:30 p.m. in Room 700, Law and Justice Center, 104 W. Front Street, Bloomington, Illinois.

Members Present: Chairman Gordon, Members Rodman, Bostic, Nuckolls, Segobiano and Hoselton

Members Absent: None

Staff Present: Mr. John Zeunik, County Administrator; Mr. Terry Lindberg, Assistant County Administrator; Mrs. Carmen I. Zielinski, County Administrator's Office

Department Heads/  
Elected Officials

Present: Mr. Charles Wunder, Director, Building and Zoning; Mr. Phil Dick, County Planner Building and Zoning; Mr. Jeff Tracy, Highway Department; Mr. Tom Anderson, Health Department

Others Present: Ms. Christine Brauer; Mr. and Mrs. Thomas Eckolss; Mr. Frank Miles, Attorney for the Eckolss; Mr. Michael Callahan, Executive Director Bloomington\Normal Water Reclamation District; Mr. Mark Dravillas, Community Planner McLean County Regional Planning

Chairman Gordon called the meeting to order at 5:56 p.m. Hearing no objections, the minutes of the April 5, 2001 Land Use and Development Committee were approved and placed on file as presented.

Land Use and Development Committee Meeting  
May 3, 2001  
Page Two

Chairman Gordon presented the bills, which have been reviewed and recommended for transmittal to the Land Use and Development Committee by the County Auditor. These bills are for April 2001.

Motion by Hoselton\Nuckolls to recommend approval of the bills as presented by the County Auditor. Motion carried.

Chairman Gordon noted that Item 4-c of the Agenda, Request for Approval of an Amendment to the County Raffle Ordinance, will be carried over to the June 7, 2001 meeting. Parties representing this matter were unable to attend tonight's meeting.

Chairman Gordon re-opened the Public Hearing for Vacation of a Portion of the Cloverhill Circle, File Case: S-01-01, Clover Hills Subdivision, Dry Grove Township. Mr. Wunder stated that the applicant erected subdivision signs on both sides of the Cloverhill Circle, at the subdivision's entrance without getting a sign permit and having the stakeout inspection. As a result, neither sign was setback the adequate distance and the sign on the north side of the road is

actually located in the right-of-way. The applicant did have his engineer survey the area to accurately locate the signs in relation to the property lines, confirming the Building and Zoning Department's belief that the sign is currently located in the right-of-way. The applicant requested that a 2.6' x 10' area of the right-of-way be vacated and added to Lot 16 of the Clover Hill Subdivision. The Cloverhill Subdivision is in Section 34 of Dry Grove Township and it presently zoned R-1.

Mr. Jeff Tracy, McLean County Highway Department, stated that the Highway Department is not in favor of vacating any right-of-way in this area. The applicant has provided a letter of agreement with the Dry Grove Township Road Commissioner, Tommie Boitnott, (enclosed in the Committee's packet.) The agreement with the Township Road Commissioner does not vacate any of the right-of-way being requested by the applicants. Mr. Wunder stated that the Building and Zoning Department does not see a need to vacate the right-of-way. The area is relatively level and open with the signs being located at the terminuses of two shallow berms running parallel to Township Road 1000 East. Mr. Wunder explained that there is no reason why the sign cannot be moved further back and still be readily visible. The sign on the south side of Cloverhill Circle would require a setback variance before the Building and Zoning Department could issue a sign permit for it. A setback variance for the sign on the north side of Cloverhill Circle may also be needed depending on the distance it would be located off the right-of-way line.

Mr. Wunder also presented for the record the following letter received from Ms. Christine Brauer. " I have recently been appointed to the McLean County Regional Planning Commission. I also work with the group CARE (Citizens Advocating Responsible Expansion). I wanted to state my concerns to you on a case before the Land Use Development Committee, Subject S-01-01, Vacation of a portion of

Land Use and Development Committee Meeting  
May 3, 2001  
Page Four

Cloverhill Circle, Clover Hills Subdivision, Dry Grove Township. It is my understanding that the applicant is requesting a 2.6' x 10' area of right-of-way be vacated and added to Lot 16 of Clover Hill Subdivision. On behalf of CARE and myself, we wanted to inform you that we are not in favor of vacating any right-of-way. In the 2000 McLean County Regional Comprehensive Plan, page 210, a suggested revision was incorporated into the current regional plan. It states: "improve 1000- E between Washington Street and Old Peoria Road to collector status." This was added because some growth is expected off 1000-E from Washington Street to Old Peoria Road. We believe Clover Hill Subdivision to be a quality subdivision and the entrance is attractive. By protecting the right-of-way now we can avoid difficulties in the future. We feel proactive planning is critically important to McLean County. We recommend "no vacation" of the right-of-way or setback variance for any signs that might interfere with a future upgrade."

Mr. Segobiano asked if the information that is provided in the packets of the Committee members needs to be re-read publicly or can it be assumed that all are well informed. Mr. Wunder answered that this matter should be discussed with legal counsel. Mr. Rodman commented that there may be people in the audience that may not be aware of the information that the Committee members received.

Chairman Gordon invited Mr. Frank Miles, attorney for Mr. and Mrs. Eckolss, to address the Committee. Mr. Miles stated that the best explanation for the matter at hand is that a mistake was made by the developer. Mr. Miles stated that certain documents were presented to the Zoning Office at the time that Clover Hill Subdivision was proposed. Mr. Miles presented an "excerpt" from the covenants to this subdivision. These covenants were presented to Ms. Sandy Scott, the previous Director of Building and Zoning, before the subdivision was approved. They were part of her review and specifically spoke

about a berm and an entrance sign located at the southeast corner of Lot 16. The second was a drawing that shows where the monument sign was to be located at the end of the berm, and shows the pavement being 15' or 16' per lane, 7' to 8' in the middle, with a 10' separation between the pavement and the sign. Using the 15' dimensions, the result is 58', using the 16' dimensions, the result is 60'. The pavements are actually 15' or 58'. Someone added incorrectly and added two feet extra. This shows that the berm was originally intended to run along the side of the right-of-way and the sign was intended to be on the berm.

Mr. Miles presented a series of photographs to the Committee that show the grand opening event for the Subdivision. The dates on the photographs are from September 1997, May 1997 and June 1998 and provide documentation of the sequence of the construction of these signs. The signs were intended to be close to the right-of-way but never "on" the right-of-way. The suggestion that these signs be moved is not acceptable to the developer. These signs sit on poured footing, the center portion is made of marble that can't be taken out and moved. The signs cost approximately \$7,000. The applicant would not attempt to move the signs but would just take them.

Mr. Miles pointed out that the agreement reached with the Township Road Commissioner was that if the right-of-way was needed in the future, the signs could be removed at that time. Mr. Miles asked why remove the signs now if the right-of-way is not necessary at the present time. The letter that Mr. Wunder read from Ms. Brauer talks about the improvement of 1000-E. This encroachment is not into the 1000-E's right-of-way. This encroachment is into the right-of-way coming into the subdivision. The Clover Hill Subdivision has no outlet, it is a private, 24 lot Subdivision. Mr. Miles summarized that: 1) a mistake was made when the signs were placed in the right-of-way instead of near the right-of-way, 2) an agreement has been reached

with the Township Road Commissioner stating that the signs will be removed from the right-of-way at a future time, as specified by them, and 3) the signs were always intended to be on the berm.

Chairman Gordon opened the discussion to any other member of the County staff. Mr. Tracy clarified that this is not a private subdivision, because there is a future outlet for an interconnection to the west and into the future Fox Hills.

Chairman Gordon opened the discussion to Committee members pursuant to the Public Hearing rules.

Mr. Hoselton stated that considering the photos and the letter from the Township Road Commissioner agreeing to the removal of the sign at a future time if the need arises, he sees no reason not to allow the signs to stay where they are at the present time. County Government should not be so inflexible when an owner admits to making an error in judgement.

Mr. Rodman asked what the legality of vacating the land at a future time would be. Mr. Wunder replied that whomever owns Lot 16 at the time the County needs the right-of-way may willingly give it back. If the owner refuses to give up the right-of-way, the County may have to purchase it from them.

Chairman Gordon asked if this is the County's right-of-way to vacate. It is the Chairman's understanding that that area was under the jurisdiction of the Township Road Commissioner. The County can only agree to permit the sign to remain in the right-of-way.

Mr. Rodman then asked why is this on the Land Use Committee Agenda if the County has no jurisdiction on this matter.

Mr. Phil Dick, Building and Zoning Department, explained that the Building and Zoning Department is required to issue permits for this type of structure, but a permit cannot be issued if the sign is in the right-of-way. The Building and Zoning Department is responsible for enforcing the requirements of the County's Zoning Ordinance.

Mr. Miles stated that Lot 16 belongs to the developer. Mr. Miles suggested that the right-of-way can be conveyed to any entity that the Committee feels comfortable with, thus honoring the commitment.

Chairman Gordon stated that it may be appropriate to have the County's legal counsel review this issue.

Mr. Eckols addressed the Committee. He stated that neither Ms. Scott or the Eckols considered this to be a sign under the Sign Ordinance, but rather an extension of the berm with a sign on it. It was not until months after the grand opening that we heard issues regarding the sign permit. At first, the thought was that an encroachment had occurred. At that time, the Eckols negotiated an agreement with the Township Road Commissioner.

Mr. Wunder clarified that when the Building and Zoning Department approached Mr. Eckols, he was asked to move the sign. Mr. Eckols then asked if there were any other options available. The Building and Zoning Department did not suggest the vacation of a portion of land. Mr. Dick commented that the Building and Zoning Department has been working to get the Eckols in for an application for a permit for this sign for almost two years. Mr. Miles commented that the Eckols had no knowledge of the need of a permit before the signs were established. If legal counsel can shed some light on this situation and help achieve a suitable conclusion, it should be a venue that the Committee should pursued.

Land Use and Development Committee Meeting  
May 3, 2001  
Page Eight

Mrs. Cynthia Eckols stated that she is very familiar with the Building and Zoning Department. Mrs. Eckols has asked many questions of the Building and Zoning Staff about many topics, but the point regarding a permit for the signs was not mentioned by either side.

Ms. Christine Brauer addressed the Committee. She stated that if the County's Legal Counsel can arrive at a solution that will guarantee that the signs will be removed in the future, if the need arises, CARE would be comfortable with that decision.

Ms. Bostic asked if Lot 16 is a buildable lot. Mr. Eckols stated that Lot 16 is a buildable lot. Chairman Gordon commented that since Lot 16 is a buildable lot, what assurance would the County have in the future of the ownership of Lot 16. This issue should also be addressed by legal counsel.

Motion by Rodman\Hoselton to continue the Public Hearing regarding the request from TomCin, Inc., to vacate a portion of Cloverhill Circle, Clover Hills Subdivision, Dry Grove Township to the June 7, 2001 Land Use Committee Meeting. Motion carried.

Chairman Gordon opened the discussion on the request received from the Bloomington Normal Water Reclamation District to reduce the Building Permit fee for the Southwest Wastewater Treatment Facility.

Mr. Wunder stated that the request for a reduction in the building permit fee for the Bloomington Normal Water Reclamation District Plant was remanded to the Land Use Committee by the County Board on the April 17<sup>th</sup> meeting. Mr. Wunder explained that Ms. Pat Sheridan, an engineer with the Farnsworth and Wylie Group

documented the expected County cost in performing the inspection services on this project.

Mr. Wunder stated that the figures used in the calculation are a bit high because Farnsworth and Wylie used the salary of the County Planner rather than the Inspection Officer's salary. The overhead allowance factor of 2.4 is very generous to the County.

Mr. Wunder explained that the building site is seven miles from the Law and Justice Center, a twenty minute car ride. Mr. Wunder stated that three inspections will be needed. The first inspection is a "stake out" where the property corners would be staked and flagged. A couple of intermediate points along the front and west property lines would be staked out to make it easier for the County's inspectors to check the distance from the front and side property lines to the proposed structures. The stake out inspection would involve fixing three (3) points on the property with four measurements and may take approximately one hour and forty minutes, including travel time. The second inspection would occur after the concrete foundation had been poured. Because of the size and complexity of the facility, the inspection would be done after all of the concrete had been poured. The estimated time for the second inspection was two hours, including travel time. The third and final inspection would be done after the buildings and structures are completed and the plant is operational. The Project Manager would take the Building and Zoning Inspector through a walk-thru of the plant to demonstrate that the plant is operational. This final inspection is estimated to take about two (2) hours, including travel time. After the final inspection has been completed and approved, the Building and Zoning Department would issue a Certificate of Occupancy.

Mr. Wunder clarified the estimated costs for the permit fee for this project as follows: the time estimated for staking, foundation and final inspection for each of the major structures on the site was calculated; an allowance of one hour driving time and 1½ hours of inspection time were assumed for each site visit; the hourly rate was taken as a fixed cost of \$25/hr, with an overhead allowance factor of 2.4, for a rate of \$60/hr for inspection services. Building and Zoning requested that an appropriate overhead allowance be factored into the rate; five (5) hours of plan review by the Director and Planner were estimated at \$30/hr x 2.4 for a total of \$72/hr, as requested by the Building and Zoning Department. The total estimated fee is \$6,570.00.

Ms. Bostic asked Mr. Callahan for his opinion on the \$90,000.00 fee for this project. Mr. Michael Callahan, Executive Director of Bloomington Normal Water Reclamation District, stated that the \$90,000.00 permit fee is high for the inspection services that would be provided by the personnel of the McLean County Building and Zoning Department. The County does not provide complete inspections of the total project. Mr. Callahan stated that in his 15 years as Director of the Reclamation District, he has encouraged intergovernmental cooperation wherever possible. Mr. Callahan feels that Cities and Towns should not charge other governmental entities for these kinds of permits and services. Another point the Committee should take into account is that in the next five or ten years, the Water Reclamation District would be serving more than Bloomington-Normal residents. The cost estimates that Mr. Wunder explained to the Committee were based on a request Mr. Callahan made to Pat Sheridan, Farnsworth Group, to communicate with the McLean County Building and Zoning and formulate an exact cost for the inspection to be performed for this project.

Mr. Rodman asked what is the expected capacity of households to be serviced by this wastewater plant. Mr. Callahan explained that the first phase operational permit would be for May 2004, and would handle 7.5 million gallons a day. Because of the projected healthy growth of the area, the design work on phase II of this facility, would begin within four or five years of the completion of phase I. Within the next ten or fifteen years, another 7.5 million gallons a day plant would be needed.

Mr. Rodman asked how this wastewater facility was being funded. Mr. Callahan stated that the District has borrowed money through the Illinois Environmental Protection Agency Revolving Loan Fund. The Revolving Fund was capitalized by the Federal government and the State government, 80% by the Federal and 20% by the General Assembly. The money in the Revolving Loan Fund is loaned to qualifying municipalities or reclamation districts at 1/2 of the previous six month average AA GO Bond Rating, or 2.9% to borrow this money. Over twenty years, the district can use connection fees, interest earned on investments and the tax levy to build up a cash flow fund to retire this loan.

Mr. Nuckolls asked Mr. Wunder if the \$6,570.00 figure was agreeable with the Building and Zoning Department. Mr. Wunder stated that the \$6,570.00 amount was very generous, especially with the 2.4 overhead factor.

Chairman Gordon clarified that McLean County does not presently have a Building Code. Chairman Gordon was aware of at least one instance when the County paid a reduced fee for the Town of Normal permits for the Juvenile Detention Center.

Mr. John Zeunik, County Administrator, stated that it is policy for the City of Bloomington to waive all of the permit fee for local

Land Use and Development Committee Meeting  
May 3, 2001  
Page Twelve

governments. The Town of Normal may waive the building permit fees but does not waive the Code Inspection fee, such as electrical and plumbing. Normal may also negotiate a "payment in lieu of" fee, which means that the other local Government would make contributions towards infrastructure improvements which would benefit the community.

Chairman Gordon stated that two options are available: 1) follow the County ordinance regarding the assessment of a dollar figure per square footage or 2) if the County was to reduce the permit fee from the original amount of the project, the County would have to use a systematic objective basis for decreasing the permit fee. Chairman Gordon advised the Committee that the two alternatives are based on Illinois' law and case law.

Mr. Rodman thinks that a policy needs to be developed that will be used consistently for every governmental entity.

Motion by Bostic\Nuckolls to approve the Reduction of the Building Permit Fee for Bloomington\Normal Water Reclamation District's proposed Southwest Wastewater Treatment Facility from \$90,000 to \$6,570.00 as presented by the Farnsworth Group costs document for the McLean County Building and Zoning Department. The Chairman announced that he would vote on this motion. Motion carried.

Chairman Gordon asked that the Farnsworth Group document be included in the Board packet for the May 15<sup>th</sup> meeting.

Mr. Wunder briefly discussed the Permit Activity Report for April 2001. Mr. Wunder noted that the numbers have increased.

Mr. Wunder presented the Committee with copies of the Building Code Study prepared by the Building and Zoning Department. Further discussion of this study will occur at the June 7, 2001 Land Use and Development Committee meeting. Mr. Wunder offered to provide any additional information to the members of the Committee upon their request. Mr. Wunder stated that a Building Code may result in higher construction costs. If the building fees represent the County's actual costs in performing the inspections, the building permit fees may need to be raised. It seems unlikely that a \$200 fee for a single-family house would cover the twenty plus inspections that need to be done. It will also result in higher costs to the applicants to prepare and copy the significantly more complex and detailed plans required for plan review and the construction inspection process. Another cost that is difficult to quantify is the additional time it will take applicants to gain approval of the construction plans. Whether the County can perform plan reviews depends on the experience and qualifications of the staff. Some building departments send out the larger more complex structures to BOCA plan review and review residential and accessory building internally.

Mr. Mark Dravillas, Community Planner with the McLean County Regional Planning Commission, presented the Solid Waste Reduction Educational Program Quarterly Report. The Ecology Action Center provided documentation of the activities completed by Recycling Education for McLean County during the period of February 1 through April 31, 2001.

Mr. Dravillas reminded the Committee members that within the next few months, Regional Planning would be presenting a new Intergovernmental Agreement and contract for their consideration. The existing contract expires in August 2001.

Mr. Rodman commented that tipping fees were reported to the Land Use Committee on a regular monthly basis in the past. Mr. Rodman

Land Use and Development Committee Meeting  
May 3, 2001  
Page Fourteen

would appreciate receiving monthly reports on the tipping fee revenue now that the local landfill is open and operating.

Chairman Gordon opened discussion on the Orientation\Educational Workshop to be presented by the McLean County Health Department.

Mr. Tom Anderson, McLean County Health Department Supervising Sanitarian, discussed some of the information passed out during the February Land Use Committee Meeting. McLean County approves and uses two types of septic or wastewater treatment systems. One is the Sub-Surface Seepage Field and the second is a Sand Filtering System. The Sub-Surface Seepage Field is a series of trenches, about three feet wide and three feet deep that are connected and use the existing soil as the filtering medium. Through research, it was found that there is no ground water contamination as a result of using the soil as the filtering system. In the 1970's the County Board took the position to preserve agricultural land. The usage of a Sub-surface Seepage Field needs the same type of soil as used for good agricultural ground. With the economy on the rise, builders and home buyers wanted larger homes, going from two or three bedrooms homes to four, five or even eight bedrooms homes. Wastewater treatment systems are sized according to the demand for the number of bedrooms of homes. The system is based on 200 gallons of water usage per bedroom. Two hundred gallons of water is a large amount because other factors need to be considered like: storm water run off, sprinkling of lawns, etc. The second type of system used is the Sand Filtering System. A sand filtering system is a four feet deep pit, ranging in different sizes, according to the number of bedrooms in the home. They are very compact compared to the sub-surface seepage system.

Mr. Rodman asked what is the life expectancy for the sub-seepage field systems. Mr. Anderson answered that the life expectancy would be 20-25 years if the system is maintained properly. After that time,

Land Use and Development Committee Meeting

May 3, 2001

Page Fifteen

a new system would have to be put into place according to the space available.

Mr. Anderson explained that some of the restrictions with the sand filtering system are the discharge points. The water leaving the home enters the tank where the solids settle out, the remaining water goes through the tank and percolates through various grades of media gravel. Overtime bacteria grows on that gravel and the bacteria digest the contaminants in the water. The water goes to the bottom of the pit where it is collected by a collection line. The collection line goes through a chlorinator that the home owner is required to maintain, from there it is discharged to the ground surfaces such as a field tile, a lake or a stream. In many cases, those discharge options are not available in McLean County because of the flat topography. A home owner cannot discharge on a lot size less than one acre and the topography on that one acre of land has to be such that it does not produce a nuisance condition for surrounding neighbors. In 1993, the Illinois Environmental Protection Agency (IEPA) reminded the Illinois Department of Public Health that there was a statutory provision that was not being followed or enforced by Illinois Public Health, which limits local jurisdiction over sub-surface seepage and sand filtering systems 1,500 gallons per day or less. In 1993, the IEPA also enforced Title 10. Title 10 stated that common tile collectors were to be used for the discharge of wastewater systems. The enforcement of Title 10 was a good move for McLean County because it allows the developers to place the common tile collector and obtain an IEPA permit. McLean County Health Department issues permits for the wastewater system on the individual property. The IEPA issues permits for the common tile collectors that these wastewater treatments are draining into. The IEPA requires that a

Homeowner's Association be developed. The Homeowner's Association would in turn hire a wastewater treatment operator. The Land Use and Development Committee Meeting  
May 3, 2001  
Page Sixteen

operator would be responsible to sample, on a monthly basis, the discharge coming out of that one common collector. The advantage for McLean County would be that, under the IEPA jurisdiction, a developer could place as many sand filters discharges into that tile as they may want. Under local jurisdiction, the developer is limited to 1,500 gallons.

Ms. Bostic asked for clarification of the last few statements made by Mr. Anderson. Mr. Anderson explained that under local jurisdiction the Health Department requires a common collector tile, a single-solid tile that discharges to one point. The Health Department allows up to 1,500 gallons to discharge into that tile, which would convert into a combination of seven bedrooms. For example, if Mr. Wunder built a four-bedroom house in the subdivision he would be required to install a Sand Filtering System. Mr. Wunder's house would be the first home on that system, and the system does not have a NPDS Permit from IEPA. Ms. Bostic can only build a three-bedroom house until the developer acquires a NPDS Permit from IEPA for that discharge. Once the NPDS Permit is acquired, there would be no limitation to the number of bedrooms per house.

Chairman Gordon asked on what basis does the IEPA issue a permit. Mr. Anderson answered that the IEPA requirements have evolved over time since 1993. Mr. Anderson stepped into his present position in 1998, and at that time, IEPA was changing their policies, rules and regulations nearly once every two weeks. When a developer proposes to have a tile permitted by the IEPA, they are required to estimate the number of gallons that would ultimately flow through that tile. In addition, the developer was required to put in another treatment system at the end of that tile, a clarifying system.

Research from other areas of the country indicated that this proposed treatment system was very effective because it eliminated

Land Use and Development Committee Meeting

May 3, 2001

Page Seventeen

the need for the space that an individual wastewater treatment would require in a property. It would take away the Sub-Surface Seepage Field and Sand Filtering System and just leave a septic tank that goes down to the final polishing system.

Mr. Rodman asked Mr. Anderson's opinion on the County's role in approving this type of wastewater system. Mr. Anderson's replied that the Land Use Committee's role is to recommend approval of the request contingent on the IEPA issuing an NPDS Permit. If the County was to approve a subdivision prior to IEPA approval, it is possible that a house could be built and an "Occupancy Permit" would be held-up because the Health Department cannot approve a wastewater treatment system for that home due to the rules and regulations from the IEPA and the 1,500 gallon per household mandate.

Chairman Gordon commented that Mr. Anderson mentioned that the transcript of the Public Hearing was posted on the IEPA website for any Committee member who wishes to read it.

Mr. Rodman asked if Mr. Anderson foresees the County's need to be further involved in the issue of the Prairieland Subdivision Public Hearing. Short of legal action through the courts, Mr. Anderson does not believe that McLean County would be involved any further. Mr. Anderson has no knowledge of any legal action as a result of the IEPA public hearing process.

Chairman Gordon commented that this issue was governed by Illinois law and regulation and under such authority closure has been

achieved by McLean County. McLean County has approved the subdivision plan contingent on IEPA issuance of a permit.

Land Use and Development Committee Meeting  
May 3, 2001  
Page Eighteen

There being nothing further to come before the Committee at this time, Chairman Gordon adjourned the meeting at 8:16 p.m.

Respectfully submitted,

Carmen I. Zielinski  
Recording Secretary

E:\Ann\Min\LandUse\2001