

Minutes of the Land Use and Development Committee

The Land Use and Development Committee of the McLean County Board met on Thursday June 3, 2010 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. Bill Wasson, Assistant County Administrator, Ms, Diana Hospelhorn, Recording Secretary

Department Heads/
Elected Officials
Present: Mr. Phil Dick, Director, Building and Zoning

Others Present: Mr. Eric Schmitt, County Engineer, Mr. Jerry Stokes, Assistant County Engineer, Mr. Mike Behary, Building and Zoning Planner, Mike Hall, Director of Public Works, Town of Normal, Mr. Scott Hoeft, President, McLean County Farm Bureau, Mr. Rick Nolan, Regional Planning Commission.

Chairman Gordon called the meeting to order at 4:45 p.m.

Chairman Gordon presented the Minutes of the May 6, 2010 Land Use and Development Meeting to the Committee for approval.

Motion by Soeldner/Cavallini to recommend approval of the Minutes of the May 6, 2010 Land Use and Development Committee Meeting.
Motion carried.

Chairman Gordon presented the bills from May 31, 2010 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 May 31, 2010 is \$16,569.70. 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, 2010 bills as presented by the County Auditor.
Motion carried.

Chairman Gordon stated that the first item to be presented to the Committee is in the form of a Public Hearing.

Chairman Gordon called the Public Hearing to order at 4:47 p.m. He advised that the Public Hearing is for the Application of the Land Use and Development Committee to approve a text amendment in case S-10-06 to amend Chapter 36 of the McLean County Land Subdivision Ordinance to add a new section regulating stream buffers. He declared the hearing open and asked Mr. Phil Dick, Director of Building and Zoning, to address the Committee.

Mr. Dick stated that a public notice was published in the Pantagraph on May 15, 2010 as provided by law. The process of adopting the Stream Buffer Ordinance has been years in the making. The Town of Normal adopted the ordinance in 2008. Mr. Dick acknowledged the presence of McLean County Farm Bureau, Town of Normal and McLean County Regional Planning Commission. He noted that he has had contact with McLean County Farm Bureau and has amended this document to incorporate one of their concerns.

Mr. Dick noted that the stream buffer amendment aims to protect the vegetated areas adjacent to waterways. He referred to the maps pointing out the different zoning areas of McLean County and the streams within those areas.

Mr. Dick advised that Evergreen Lake and Lake Bloomington, both drinking water lakes for the City of Bloomington, are currently under Total Maximum Daily Load status because they have excessive amounts of phosphorous and nitrogen. Contribution of these pollutants within the watersheds for both lakes could be mitigated in the future by a stream buffer amendment.

Mr. Dick pointed out the benefits of a stream buffer ordinance::

- mitigate erosion problems by slowing down the upstream water and by reducing the amount of water entering the waterways.
- help to mitigate the need to continually run basement sump pumps.
- protect and improve water quality.
- enhance waterway aesthetics
- improving local wild life habitat.
- Improve flood mitigation.

He stated that the County worked with the Town of Normal, City of Bloomington and McLean County Regional Planning Commission to draft this amendment, based on a model ordinance provided by the Illinois Environmental Protection Agency. Mr. Dick stated that staff from the County Health Department, County Highway Department and Assistant State's Attorney, Hannah Eisner have reviewed the proposed stream buffer regulations and recommend its approval.

Mr. Dick presented the recommendations from the County Health Department he recently received. The Health department believes the subsurface restriction in 7.04 B.5 is too restrictive. They support the restriction for "surface" discharging wastewater treatment plants and recommend changing the "subsurface" to the term "surface" with no amendment if it is not the intent to restrict "subsurface wastewater treatment systems". They also recommend changing the wording of Section 7.07 A(5) of Buffer Management & Maintenance to the following:

"Use, storage, or application of pesticides, except for spot spraying of noxious weeds and non-natives species consistent with recommendation of the County and the approved use of pesticides to mitigate or prevent risks to the public's health applied by an authorized person.

Mr. Dick noted that the added language is based upon the effort to stop the spread of West Nile Virus in McLean County. He stated that he fully supports these proposed changes.

Mr. Cavallini asked how this would affect what he would call, mini canals that flow through Normal. Mr. Dick stated that this Stream Buffer Ordinance will have no impact on the Town of Normal. He noted that generally, unless existing development is rezoned and or subdivided, the property is exempt.

Mr. Segobiano stated that the Committee was forewarned that the Health Department would possibly be making some changes to the Ordinance. He

advised that he is not ready to vote on this because too often the Committee is asked to make decisions based on a ten minute discussion. Mr. Segobiano would like to see the changes incorporated into the Stream Buffer Ordinance before it comes before the Committee. He stated that the information states "agriculture operations are exempt from Stream Buffer requirements..." We are then informed that, "County has collaborated with staff representatives from the Town of Normal, the City of Bloomington and the McLean County Regional Planning Commission..." He noted that we are a County government not a city government. Mr. Segobiano would like to know if the McLean County Farm Bureau was asked to review this and comment in writing on what impact, if any, the ordinance would have on agriculture, even if it is exempt.

Chairman Gordon asked what would be the implications of holding this over. Mr. Dick responded that there is nothing coming up that would be affected by the Stream Buffer Ordinance.

Mr. Dick responded to Mr. Segobiano's concerns. He stated that the draft was distributed two months ago and was given to the Farm Bureau as well, even though they were not mentioned in the information given to the Committee. Mr. Dick advised that the Farm Bureau is not interested in having stream buffer regulations impact farming. They are concerned that if we adopt stream buffer regulations, that it may affect farm land. He noted that stream buffer regulations will have minimal affect on farm land except where farm land is developed.

Mr. Segobiano asked if the Farm Bureau would support that in writing. Mr. Dick responded that they have indicated this in writing. He pointed out that the Farm Bureau is represented and suggested they address the Committee. Mr. Segobiano reiterated that the Farm Bureau was not included in the information given to him. If they have a position on the Ordinance then include it in writing and we will discuss it.

Mr. Dick explained that the reason for a Public Hearing is to get information from concerned public. The Farm Bureau is here today. If we address concerns today, we will not need to return next month. Mr. Segobiano stated that we can hear what they have to say, but he prefers that it be included in writing and discussed by the Committee.

Chairman Gordon asked Mr. Scott Hoeft, President, McLean County Farm Bureau to address the Committee. He asked Mr. Hoeft what concerns, if any, the Farm Bureau has with the Stream Buffer Ordinance.

Mr. Hoeft thanked Mr. Dick for providing information to the Farm Bureau. He stated that he would like to have more time to digest the Ordinance. The initial concern was on not being able to graze, however the Ordinance does not affect property zoned agriculture. The Regional Planning Commission Committee expressed

some concerns on the Stream Orders. He noted that he personally has probably 15 areas on his farm that he would not consider streams, but are on the map as Order 1 streams. Mr. Hoeft stated that he has talked to Mr. Dick and is concerned these may cause problems with possible future development. He advised that the Farm Bureau would like to take a closer look at the Ordinance.

Chairman Gordon asked if the Committee had questions for Mr. Hoeft.

Mr. Soeldner asked if hay or rye grass grown in the waterways would be able to be harvested. Mr. Dick referred to the map pointing out that the only areas affected are those being rezoned and subdivided. Farm land being set aside for residence is also not affected. He pointed out that none of property Mr. Hoeft referred to will be affected by the stream buffer regulations unless it is rezoned to residential.

Ms. Ahart asked if the ordinance applies to future subdivisions and property zoned residential. Mr. Dick stated that this would not apply to any existing subdivisions, any property currently zoned residential, or any property currently zoned agriculture unless it is rezoned and subdivided.

Mr. Segobiano thanked Mr. Hoeft for his input. Mr. Hoeft remarked that the Farm Bureau is also concerned about private property rights.

Chairman Gordon asked if there were others present that wished to address the Committee. Mr. Mike Hall, Director of Public Works, Town of Normal, stated that the Ordinance has been applied to a few developments in the Town of Normal since 2008. There are also two developments under construction at this time that the stream buffer regulations are being applied to. He referred to the order 1 and order 2 streams as they appear on the map. There is a provision in the ordinance that allows a developer with an objection to the classification of a stream to demonstrate, through an engineering process, that it has been misclassified. The evaluation is taken into consideration when reviewing the development. Mr. Hall advised that there is also flexibility in the ordinance for order one and order two streams.

Mr. Rankin asked Mr. Hall if overall, in his opinion, the ordinance as written is overly burdensome or is it written as well as possible. Mr. Hall responded that a model ordinance from the Illinois Environmental Protection Agency was used in preparing the ordinance. In his opinion, Mr. Hall believes that the issues regarding storm water quality from agricultural use needs to be addressed in a different manor.

Mr. Segobiano stated that with the ability of developers to purchase large tracts of land whether in Bloomington or Normal within the 2 mile radius of city limits, what impact if any, there will be concerning these small streams. Mr. Hall stated that because of the flexibility in interpretation, the effect on these small streams would not be significant. He pointed out that the Town of Normal has a storm water utility

requiring any new development that burdens the Town with additional costs associated with storm water quality, to pay a fee.

Mr. Gordon thanked Mr. Hall. He asked if there were others that wanted to address the Committee.

Mr. Soeldner asked Mr. Dick to explain how a stream is classified as an order one or two stream. Mr. Dick stated that if the stream is classified an Order 1, there are no other streams running into it. If another stream is running into it, the waterway is classified as a Stream Order 2. If more than two streams are running into it, the waterway is classified as a Stream Order 3. Mr. Dick noted that a Stream Order 1 is not very significant and can be negotiated out of the process when it comes to drainage. The higher order streams are the significant ones that developers will have to deal with. He noted that if a Stream Buffer Ordinance had been in place when Lamplighter Subdivision, White Tail Ridge, and other areas where we have had significant drainage problems, were developed, things would have been significantly improved.

Mr. Segobiano asked if a Stream Order 1 can become a Stream Order 2. Mr. Dick responded that if a Stream Order 1 is not taken care of, significant erosion will occur. Mr. Hoeft added that not all Stream Order ones are equal. One may be 100 feet long, there may be two Stream Order ones that are 100 feet long and where they come together it will be a Stream Order 2. Each individual property is unique to itself.

Mr. Dick advised that, if parts of the Stream Buffer Ordinance seemed to negatively impact Agricultural land, we want to address and deal with them.

Mr. Soeldner asked if the Committee was to table the Stream Order Ordinance until next month, would these issues be able to be addressed. Mr. Hoeft stated that the extra time would allow them to have a better consensus.

Mr. Rankin agreed with Mr. Segobiano. He stated that it would be helpful to have the information from the Health Department reflected in the Ordinance.

Mr. Segobiano added that he would also like to see the concerns of the Farm Bureau addressed in the Ordinance. The Committee would then be able to make an informed recommendation to the County Board. He would like to see these in writing before the Committee votes.

Chairman Gordon stated that the Committee will continue the Public Hearing for the Application of the Land Use and Development Committee to approve a text amendment in case S-10-06 to amend Chapter 36 of the McLean County Land Subdivision Ordinance to add a new section regulating stream buffers over to the July 1, 2010 Land Use and Development Committee Meeting.

Minutes of the Land Use and Development Committee Meeting
June 3, 2010
Page Seven

Mr. Gordon thanked the Committee and all of the public represented for their participation.

Chairman Gordon asked for further questions or comments. Hearing none he declared the Public Hearing closed.

Chairman Gordon stated that the next Land Use and Development Committee meeting will be on Thursday, July 1, 2010 at which time the Public Hearing for the Application of the Land Use and Development Committee to approve a text amendment in case S-10-06 to amend Chapter 36 of the McLean County Land Subdivision Ordinance to add a new section regulating stream buffers will continue.

Chairman Gordon asked if there were other items of information to come before the Committee. Hearing none, he adjourned the meeting at 5:30 p.m.

Respectfully Submitted

Diana Hospelhorn
Recording Secretary