

Minutes of the Land Use and Development Committee Meeting

The Land Use and Development Committee of the McLean County Board met on Thursday, July 2, 2020 at 3:30 p.m. in Room 404, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Chairman Chuck Erickson, Members Laurie Wollrab, George Wendt, Jacob Beard, and Shayna Watchinski (All via remote attendance)

Members Absent: Members Lyndsay Bloomfield and Sharon Chung

Other Board Members Present: Member Catherine Metsker

Staff Present: Ms. Camille Rodriguez, County Administrator, Ms. Cassy Taylor, Assistant County Administrator, Ms. Jessica Woods, Assistant State's Attorney – Civil Division; Ms. Julie Morlock, Recording Secretary

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

Others Present:

Chairman Erickson called the meeting to order at 3:30 p.m., declared a quorum and presented the minutes from the June 4, 2020 regular meeting for approval.

Motion by Beard/Watchinski to approve the minutes from the June 4, 2020 regular meeting.
Motion Carried.

Chairman Erickson presented bills that had been reviewed and recommended by the County Auditor with a prepaid and fund total of \$1,371.72.

MCLEAN COUNTY BOARD COMMITTEE REPORT

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AS OF 6/30/2020

EXPENDITURE SUMMARY BY FUND

Land Use Committee

FUND	FUND TITLE	PENDING TOTAL	PREPAID TOTAL	FUND TOTAL
0001	GENERAL FUND		\$1,371.72	\$1,371.72
			<hr/>	<hr/>
			\$1,371.72	\$1,371.72



COMMITTEE CHAIRMAN

Motion by Wollrab/Beard to recommend approval of the Land Use and Development Committee bills prepaid total and fund total of \$1,371.72.
Motion carried.

Chairman Erickson asked Ms. Morlock to read the following public comment into the record.

To the McLean County Board this June 16, 2020.

I am Tim Killian the Chenoa Township Highway Commissioner dealing with the Invenergy, Blooming Grove Windmill Developer.

The development spans the county from Colfax to Gridley. The townships involved are Lawndale, Lexington, Chenoa, Money Creek and Gridley. The roads that are a part of the project are a total of 47 miles.

Last year EDPR had 27 miles of roads as part of their development with 5 water trucks to control the dust. Invenergy with 47 miles of road in their development is using 2 water trucks to control the dust.

The County has issued a permit to Invenergy to operate with the understanding that Invenergy would be responsible for controlling the dust created by the traffic on the roads.

The dust issue has been a part of the weekly meeting with Invenergy. The response has been "we are going to". The dust continues to be an environmental issue for residences and a safety issue for traffic.

A request early in the development was brought to the attention of Invenergy that there is a resident infant who has been on oxygen. The dust control has been very good near her home. Dust control is possible.

Other residences have not fared so well. With little or no dust control the yards are gray, gardens are covered in lime dust, patio and deck furniture is unusable and the yards will turn your shoes white with dust when crossing them.

One contractor had over 130 truckloads of rock brought in to cover a road in one day. In a 10-hour day that would have 13 trucks per hour going by a home, however the empty trucks also pass back by the home on their return to the pit. 26 trucks per hour or a truck every 2-1/2 minutes.

During a conversation with Tim Bailey, I asked how the dust was with the traffic? His response was, "What can you do?"

Invenergy has been unwilling to respond appropriately to the requests of the highway commissioners during our weekly meetings. The dust continues to be a problem near the homes and the safety issue is always present.

I am asking the McLean County Board to look at the terms of the permit to operate for Invenergy and to respond.

Thank you listening,

Tim Killian Chenoa Township highway Commissioner,

Chairman Erickson presented for action a request by James Rafferty for a waiver of preliminary plan requirements and approval of a one-lot subdivision final plat for the Kyle Rafferty Subdivision. Mr. Dick provided information on the project including location and approvals that had been received. Mr. Dick also went over the final process for approval of this request including County Board approval.

Motion by Watchinski/Beard to recommend approval of the request by James Rafferty for a waiver of preliminary plan requirements and approval of a one-lot subdivision final plat for the Kyle Rafferty Subdivision.

Motion Carried.

Chairman Erickson indicated the next item on the agenda was an update on the collapsed building in Cropsey. Mr. Dick provided updated information and updated photographs on the condition of the lot. Mr. Beard thanked Mr. Dick for his work on this matter.

Chairman Erickson indicated he wanted to discuss the situation brought up by the Chenoa Highway Commissioner. Mr. Dick indicated Invenergy had applied a vegetable ingredient on many of the roads to help limit dust more than water, but stated Invenergy needed to do that again and planned to next week. He said he thought the situation had improved because he had not received any complaints. Ms. Wollrab asked if there was language in the contract requiring Invenergy to control the dust. Mr. Dick indicated he and Jerry Stokes are working on the dust control situation. Ms. Wollrab asked if there was specific wording in the contract as far as frequency they are to water, etc. Mr. Dick indicated they need to have enough water trucks to limit the dust but noted they will not be able to eliminate dust on the road. Mr. Dick indicated the dust situation is worse when they are putting concrete in and provided status of that part of the project. Mr. Beard stated he too wanted to know if there was language in the document or a standard Invenergy needed to be accomplishing. Ms. Jessica Woods indicated she had pulled up the Road Use Agreement for the County and it states that they need to provide dust control and grading work to the reasonable satisfaction of the County Engineer on County Roads. She said it also says they need to keep the roads clear of dust, mud, and tracked material. Ms. Woods stated those are the subjective standards for the County Agreement. Ms. Wollrab asked if this is causing crop damage as she felt we want to make sure that does not happen and asked if they could get some input from Jerry Stokes on this matter.

Chairman Erickson recognized Ms. Metsker. Ms. Metsker thanked him for allowing her to speak. Ms. Metsker stated that Ms. Woods was referring to the contract with the County and Invenergy and pointed out there are contracts with each road district. She stated County Roads are not gravel whereas the township roads are gravel so are having issues with the dust. She stated she, Mr. Killian and Chairman McIntyre went out, toured the project, had a conversation with the project manager in which he assured them the dust situation would be correct, but it has not. She indicated Invenergy only has four water trucks for 47 miles. She stated would like to shut down the roads so that Invenergy will start working to help them out. Mr. Erickson asked Jessica if the County has any authority to do anything regarding the township roads. Ms. Woods stated they would have to defer to language in those Road Use Agreements that might discuss dust mitigation to the satisfaction of the township road commissioner perhaps. She stated that if Invenergy violates those agreements then that would be between township and company. Ms. Woods asked Mr. Dick if there is language in the permit that requires Invenergy to be in compliance with the Township Road Use Agreements. Mr. Dick confirmed permit just states Invenergy must have road use agreements in place. He indicated the Road Commissioner has the authority to stop vehicles on their roads; however, there is dust on the roads no matter what.

Mr. Erickson asked if we could give them any assistance. Ms. Woods indicated she was not sure we could give them much assistance since we are not a party to the road use agreement. Ms. Metsker indicated she was frustrated because residents have to police the

situation and constantly complain. She stated it is frustrating for constituents as the company does not care that residents have to live in conditions that could be controlled. Mr. Wendt stated this is the jurisdiction of the road commissioners not the County and the Road Commissioners have the power to shut traffic down on their roads if Invenergy is not meeting agreement conditions.

Ms. Watchinski asked Ms. Morlock to confirm the date on the email. Ms. Morlock confirmed June 16th. Ms. Watchinski asked if things had been resolved since then. Ms. Morlock approached and indicated that Ms. Rodriguez asked her to follow up with Mr. Killian to make sure he still wanted comments read and Ms. Morlock stated that Mr. Killian indicated he wanted them read at both Land Use and County Board. Mr. Erickson asked if any Land Use member had any suggestions, but again stated that we first need to know whether the Committee and Board has the power to do anything. Ms. Woods again indicated that if the issues are with the Township roads then the County does not have much power. She stated we would not be the ones to enforce any violations to a township road use agreement but the Township could tell the Company they could no longer utilize the roads or take further legal action against them assuming there is something in the road use agreement that has been violated. Mr. Beard asked about pulling permit if there is no violation on County Roads. Ms. Woods stated if Invenergy is not violating any part of our permit or our road use agreement then she would advise against taking any adverse action against them as there could be legal consequences to the County. Mr. Beard suggested that Mr. Dick and the Road Commissioners continue to meet with Invenergy and put on the table shutting down their roads if Invenergy does not step up.

Ms. Metsker stated the County provides the permit and holds the power to pull permit but won't because they do not have an agreement with the townships. She stated the townships recourse is to shut down roads but that is hard for them to do with one or two road commissioners. Ms. Metsker stated this has happened before, but people get tired of complaining and no one listening. Ms. Wollrab asked if our permit references that Company has to abide by the township agreements. Ms. Woods stated it requires them to have agreement and the Townships are free to negotiate those agreements separately. Mr. Dick indicated that in the past we have suggested an attorney that had done agreements in past, but this time the Townships did not want to use that attorney. Ms. Woods stated we do not have jurisdiction to negotiate on their behalf. Ms. Wollrab stated that maybe need to update permit to include language that says we can pull permit if they are not meeting requirements of townships agreements. Ms. Woods stated that was something that they could look at adding. Mr. Dick stated they need to figure out a way to help with dust control and holding legal action over them is probably not the best way to do it and suggested coordinated effort to pressure them for more dust control. Mr. Dick stated not enough employees to monitor the roads daily, so they need to have residents let them know about conditions.

Ms. Metsker stated that people want to live their lives and get tired of complaining and policing the project. Ms. Metsker stated that she felt the project could be monitored more than it had been. She also stated that she did not feel the company would do anything as the project manager said they would, and nothing has been done.

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Mr. Erickson asked the County Administrator if there would be value in bringing Mr. Killian in and asking him what his issues are. Ms. Rodriguez said she is willing to convene and discuss but would have to learn more about our authority because as Ms. Woods noted the County may not be able to hold the company accountable through the road use agreements the townships have. Ms. Rodriguez suggested reaching out to some of the residents instead of waiting for them to call us could help. Mr. Erickson asked them to determine our legal authority, if any, in this situation. Ms. Wood and Ms. Vazquez indicated they would look into the question.

Mr. Beard stated dust control is not an unsolvable problem, but just a matter of figuring out best way to solve it. Ms. Wollrab stated we have had some hot dry weather so the company may need to go outside their normal procedures. Mr. Erickson asked Ms. Vazquez to send answer to himself and Ms. Wollrab as we do not want to make promises we can't keep. Mr. Beard asked if Mr. Dick would have a conversation with all parties this week. Mr. Dick stated he would get in touch with Mr. Stokes right away to start working on the issue.

Chairman Erickson stated the next meeting would be on Thursday, August 6, 2020 at 3:30 p.m.

Chairman Erickson asked if there was anything else to come before the Committee, hearing nothing he adjourned the meeting at 4:26 p.m.

Respectfully Submitted,

Julie A. Morlock

Julie Morlock
Recording Secretary