

MINUTES OF REGULAR MEETING

<b>Champaign County Environment &amp; Land Use Committee</b>	<b>DATE:</b>	<b>March 13, 2006</b>
<b>Champaign County Brookens Administrative Center</b>	<b>TIME:</b>	<b>7:00 p.m.</b>
<b>Urbana, IL 61802</b>	<b>PLACE:</b>	<b>Lyle Shields Meeting Room Brookens Administrative Center 1776 E. Washington Street Urbana, IL 61802</b>

**MEMBERS PRESENT:** Jan Anderson, Chris Doenitz, Tony Fabri, Nancy Greenwalt (VC), Ralph Langenheim (C), Steve Moser, Jon Schroeder

**MEMBERS ABSENT:** Patricia Busboom, Brendan McGinty

**STAFF PRESENT:** Connie Berry, John Hall, Leroy Holliday, Susan Monte

**OTHERS PRESENT:** Orin Hutchcraft, Kathy Hutchcraft, Charles Sadler, Paul Cole, Louis Schwing, Jr., Cheri Manrique, Bill Beckon, Hal Barnhart, Larry Seefeldt

**1. Call to Order, Roll Call**

The meeting was called to order at 7:02 p.m. The roll was called and a quorum declared present.

**2. Approval of Agenda**

**Mr. Doenitz moved, seconded by Ms. Anderson to approve the agenda as submitted. The motion carried by voice vote.**

**3. Minutes of Previous Meeting (February 13, 2006 and February 23, 2006)**

**Ms. Anderson moved, seconded by Mr. Doenitz to approve the February 13, 2006 and February 23, 2006, minutes as submitted. The motion carried by voice vote.**

**4. Public Participation**

Mr. Orin Hutchcraft, who resides at 2584 Homer Lake Road, Ogden addressed Agenda Item #8. He said that Case 187-06: Wolf Creek Subdivision is proposed to subdivide the last lot in their subdivision. He said that the proposal indicates that the lot will be subdivided into 3 separate lots although according to the covenants, which were recorded with their Warranty Deed, only one single family dwelling is allowed per lot. He said that the approval of the subdivision of the last lot would allow three single family dwellings.

1 He said that when they and others purchased their lot they had the intent of one single family dwelling per  
2 lot.

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4 Ms. Kathy Hutchcraft declined to speak.

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6 Mr. Charles Sandler, who resides in rural St. Joseph addressed Item #8. He said that when the lots were set  
7 up the covenants indicated that only one single family home per lot was allowed. He said that if the County  
8 Board allows the division of the last lot other property owners may decide to do the same with their lot. He  
9 said that he would like to see the lot remain as it currently exists with only one home allowed.

10  
11 Mr. Paul Cole responded to Mr. Sandler with regards to restrictive Covenants by saying the ELUC approves  
12 certain matters with property without getting into the legality of any restrictions of Covenants.

13 Mr. Cole went on to say he would not have bought the property if he had known there was such an issue.  
14 Mr. Cole stated there was no mention of any subdivision covenant or restriction on the policy from Chicago  
15 Title Co. Mr. Cole said 16 yrs. ago someone planned to establish a subdivision called Wolf Creek but it had  
16 not occurred yet. Some owners in that area however, did agree to restrict the uses of their property in the  
17 future. Mr. Cole stated he talked to Mr. Hutchcraft and he provided a copy of the deed to his property and  
18 there were some restrictions attached to his property. Mr. Cole said he would be interested in knowing if  
19 there were any restrictions on any deed in the chain of title to the property that Mr. Cole Had purchased and  
20 if they were then it may affect his right to do what he plans to do regarding the property but he thinks that's  
21 for the county to decide. Mr. Cole said ELUC has a proposal and a set of findings from Mr. Hall that say in  
22 affect there is no reason why we can't do this. Mr. Cole stated Mr. Hall's recommendation is that it can be  
23 done

24 subject to a couple of waivers that had been requested. Mr. Cole said the waivers that were not specifically  
25 requested but have to do with the technical aspect of showing on the plat of subdivision where soil  
26 examination for testing was done on the three proposed lots. Mr. Coles said the subdivision plat does not  
27 show where those tests were done and it should but we will have the location of those soil testing spots  
28 shown on the plat and withdraw the request of waivers. Mr. Cole said the only thing that's coming before  
29 the board that's troublesome is the question whether or not he may take this lot down to three smaller pieces.  
30 Mr. Cole said if there is something in the public record similar to the restriction which appears attached to  
31 Mr. Hutchcraft's deed in his chain of title then he will talk to the title company about that if they in fact  
32 missed something, then the county board may say no, we are not going to allow a subdivision that violates  
33 private restriction but that's for the county board to decide. Mr. Cole asked that the committee approve the  
34 request as recommended by Mr. Hall.

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36 Mr. Moser stated since there are 17 days before the board meeting he suggested a special meeting before the  
37 full board meeting, to allow time to investigate further.

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39 Louis Schwing, General Manager of Fisher Farmer's Grain asked the Committee to approve the rezoning of  
40 their property from Agriculture to Light Industrial because they would like to build a storage area at their  
41 Dewey facility. Mr. Schwing also said he was available to answer any question regarding the property and  
42 what they plan to do with it.

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1 Cheri Manrique spoke regarding her neighbors burning of household trash and home construction materials.  
 2 Ms. Manrique said she lives about 75 feet from the city limits of Urbana. Ms. Manrique said she has  
 3  
 4 respiratory illness. Ms Manrique said she contacted the EPA and they told her the only thing that can be  
 5 burned is yard waste. Ms. Manrique said she contacted the fire protection district about this on going  
 6 problem but they don't return her calls. Ms. Manrique stated she thinks it's a waste of the volunteer fire  
 7 fighters time to continue to come out to put out these fires. Ms. Manrique stated she had contacted the  
 8 emergency medical technicians on a health related issue and the fire department came also and they  
 9 indicated that they had several calls due to burning in the area.

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 11 Mr. Schroeder said Ms. Greenwalt brought this issue up at the last County Board meeting. Mr. Schroeder  
 12 went on to say that his fire protection district came up with a non-burning ordinance unless given specific  
 13 permission by the fire protection district. Mr. Schroeder suggested Ms. Manrique contact her fire protection  
 14 district trustees and talk to them about this matter. Ms. Manrique said the fire protection district will not  
 15 return her calls nor does she know who the trustees are. Mr. Schroeder said they have meetings that are open  
 16 to the public and you can address your problem to them then. Mr. Schroeder asked if there is burning within  
 17 the city limits. Ms. Manrique said it's outside the limits but its close.

18  
 19 Mr. Schroeder again suggested Ms. Manrique go to the next fire protection district meeting and tell them her  
 20 problem.

21  
 22 Mr. Langenheim asked Ms. Manrique if the EPA has regulations against burning.

23  
 24 Ms. Manrique said five years ago you could not burn within 1000 ft of the city limits. Now, the only thing  
 25 you can burn is yard waste.

26  
 27 Mr. Langenheim asked if there was an enforcement agency to look after this.

28  
 29 Ms. Manrique said there is someone and they have come out and will fine them but the only way they could  
 30 do anything is if they have a report from the FPD but they refuse to write a report.

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 33 **5. Correspondence**

34 **A. Mahomet Aquifer Consortium Meeting No. 46, March 7, 2006, Agenda**

35 **B. Mahomet Aquifer Consortium Meeting No. 45, January 17, 2006, minutes.**

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 37 Mr. Langenheim said the state is setting up 3 districts of joint supervision of ground water usage and one of  
 38 those units is the Mahomet Aquifer from Vermilion County to Macon County. Mr. Langenheim also  
 39 explained that a water district was set up in Missouri in a situation similar to ours.

40  
 41 **The consensus of the Committee was to place the Mahomet Aquifer Consortium Meeting Minutes No.**  
 42 **46, March 7, 2006, Agenda and the Mahomet Aquifer Consortium Meeting Minutes No. 45, January**  
 43 **17, 2006, minutes on file.**

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Ms. Schroeder asked in #6 what educational programs are referred to.

Mr. Langenheim said the programs are about the nature of Aquifers with regards to their use and possible regulations.

**6 County Board Chair's Report**

None

**7. Zoning Case 530-AM-05 Petitioner: Fisher Farmer's Grain & Coal and Louis Schwing, Jr., Mgr. Request: Amend the Zoning Map to change the zoning district designation from AG-1, Agriculture to I-1, Light Industry. Location: Approximately 3.50 acres in the North 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 34 of East Bend Township and commonly known as land on either side of the Fisher Farmer's Grain & Coal Company.**

**Mr. Doenitz moved Mr. Schroeder seconded, to approve the zoning district designation of Fisher's Farmer's Grain & Coal from AG-1 Agriculture to I-1, Light Industry. Motion carried by voice vote.**

Mr. Schroeder said we all know why Fisher Farmer's Grain wants a zoning change on their property but yet we have such a broad zoning ordinance that we have to designate an industrial site in the middle of a densely populated area and all that's going to be done is increasing the storage space for their grain facility. Mr. Schroeder went on to say it would be a steel structure and the only moving parts would be a conveyor and fans and there will not be any more industrial type work done until a fan motor needs to be replaced or a conveyor belt needs to be replaced. Mr. Schroeder said we are putting a very broad use out there in a small area and we should narrow the scope. Mr. Schroeder said with the I-1 (light industry) anything under the I-1 zoning would be allowed not just a grain facility. Mr. Schroeder stated he would support an AG-Industrial type zoning or special use permit rather than a re-zoning classification.

Mr. Fabri asked why our ordinance doesn't allow such use under the definition of agriculture.

Mr. Hall answered grain storage elevators are allowed as a special use permit under the AG-1 & AG-2 districts but we had some difficult cases where ZBA needed specific kinds of controls for special use permits when you have elevators surrounded by a residential area. Special use permits can get very detailed to deal with the dust, noise and odor that come from grain elevators. Mr. Hall said it has always been a Special Use Permit because you need that kind of reviewing ability but that a map amendment is much simpler than a Special Use Permit and that is recommended when there is no risk of those problems. Mr Hall said 50 years from now who will know what will be going on in an industrial district south of Dewey. Mr. Hall stated the ZBA did not see the need to condition the zoning but the County Board could in fact condition it so nothing different could come up in the future. Mr. Hall stated that no one spoke against this at the ZBA and the testimony from Mr. Schwing and his installer certified that the best technology would be used. Mr. Hall stated that his decision not to force Fisher Farmer's Grain into a Special Use Permit process

1 was because the  
2  
3 department never had a complaint about their operation and they're not surrounded by residential but they're  
4 on the border and the new bins are separated by the existing structures from the Village of Dewey.

5  
6 Mr. Langenheim said he wanted clarification of what Mr. Schroeder was stating concerning the I-1 zoning.

7  
8 Mr. Schroeder said that he understood the reason why Mr. Hall preferred a map amendment vs special use  
9 permit. Mr Schroeder went on to say that maybe an Industrial AG type zoning could be created so it would  
10 be away from a metropolitan area without a housing development next to it. Mr. Schroeder also stated he  
11 understood that they're getting paid to store more grain and with the yields getting better and higher fuel  
12 cost and hard to find empty rail cars the market is paying well to store grain. Mr. Schroeder asked in 20 or  
13 30 yrs. who knows what will be there because zoning goes with the land.

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15 Mr. Langenheim said if marijuana gets legalized it may be a cigarette factory.

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17 Mr. Moser said Fisher Farmers Grain has 8 or 9 or 10 small elevators and soon it'll be like Anderson's and  
18 they will go to a bigger facility eventually because the small elevators are inefficient with higher  
19 maintenance cost and would not be able to afford to put seasonal employees in it.

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21 Ms. Anderson asked if this their biggest one?

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23 Mr. Moser answered yes.

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25 **8. Subdivision Case 187-06: Wolf Creek Subdivision. Subdivision Plat approval for a three-lot**  
26 **minor subdivision in the CR Zoning District in Section 30 of Ogden Township.**

27  
28 **Mr. Moser moved Mr. Schroeder seconded to defer to a special ELUC meeting prior to the County**  
29 **Board meeting to give zoning staff a chance to investigate the covenant restrictions to see if the**  
30 **covenants have been recorded. Motion carried by voice vote.**

31  
32 Mr. Moser said this will also give staff a chance the check if the covenants were recorded and maybe see if  
33 Dale Wolf's daughter knows anything about this to see if there was any legal council where this had  
34 originated and where it was recorded if it had been recorded.

35 It was the consensus of the committee to have a special meeting at 6:30pm before the full Board meeting

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37 Mr. Hall said all of those individuals who spoke tonight will receive a notice of the special meeting.

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39 Mr. Langenheim said the meeting will be held in Meeting Room 2

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41 **9. Update regarding the Illinois Supreme Court decision in Village of Chatham vs. Sangamon**  
42 **County**

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2 Mr. Hall stated that the Assistant States Attorney is working on a draft of a possible statutory fix but there is  
3 no new information regarding the Supreme Court decision. Mr. Hall said with the committee approval he  
4 would like to carry this on the agenda incase new information becomes available.  
5

6 **10. Zoning Case 517-AT-05 Petitioner: Zoning Administrator Request: Amend the Zoning**  
7 **Ordinance to allow a lot to have access to a public street by means of an easement of access provided**  
8 **that both the lot and the easement of access were created in a plat of subdivision that was duly**  
9 **approved between 5/17/77 and 2/18/97 and that the lot meets all other dimensional and geometric**  
10 **standard established by this Ordinance.**

11  
12 Mr. Hall said this has been a case before the ZBA for some time. At the end of last summer a resident  
13 applied for a zoning use permit in a platted subdivision. The lot access to the public street only by an  
14 easement of access. Mr. Hall went on to say it was the last subdivision the county board approved like that  
15 and the text amendment requiring street access made no provisions for non-conforming subdivisions. Mr.  
16 Hall stated there were two lots left in this subdivision and the land owner and applicant were able to come to  
17 an agreement and were given a permit. He explained there is one more lot which remains unbuildable  
18 because they have not yet received a variance in regards to access. Mr. Hall explained there were more  
19 subdivisions that would be in the same situation and he decided to prepare this text amendment to adopt  
20 standards based on recent decisions from the Zoning Board of Appeals wherein lots that were not in platted  
21 subdivisions had received variances from the street access requirements in exchange for meeting the  
22 requirements of the National Fire Protection Association (NFPA) to make sure there is adequate emergency  
23 vehicle access which is 20 ft. wide pavement of 6 inches of gravel with a turn around. Mr. Hall said this is a  
24 specific text amendment and it only provides for platted subdivisions which have been through public  
25 review already but the zoning ordinance had lower standards. Mr. Hall said since that time the county board  
26 decided to adopt higher standards and those who had subdivisions already approved feel they have received  
27 a bad deal because they went through the public review at the time when the standards were lower. Mr. Hall  
28 went on to say the County Board made a decision that higher standards were necessary for public safety and  
29 that's what this ordinance is supposed to do. Mr. Hall said it provides a minimum level of public safety  
30 without making those folks go through another public hearing process. Mr. Hall said if an individual lot  
31 owner decides that these requirements can't be met on their property they can still request a variance. He  
32 explained that developments that were not plats of subdivisions were never reviewed by the county board  
33 and are not granted any benefit by this amendment and each of those lots will have to have an individual  
34 variance. Mr. Hall said by doing this, it will fix a problem for people that received a subdivision approval  
35 but did not sell all the lots before the ordinance changed. Mr. Hall said this amendment grandfathers those  
36 lots to the extent that 20 ft of pavement 6 inches of gravel is provided. Mr. Hall said he could not report on  
37 the municipalities action on this amendment at this time but said that the City of Urbana voted not to protest  
38 and the City of Champaign did not take it to their Plan Commission because they thought is was  
39 uncontroversial. Mr. Hall went on to say with text amendments like this the standard practice is to leave it at  
40 ELUC for a month in case any municipality has a comment.  
41

42 Mr. Doenitz said it's a bad idea because he deals with issues like this as road commissioner and asked who  
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1 will enforce the standards of these drives?

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3 Mr. Hall said previous to this amendment there were no standards for the drive.

4

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6 Mr. Doenitz said it sounds like a bad idea because basically it's landlocked and if it doesn't about the road  
7 frontage then they do not want to put in a dedicated right of way.

8

9 Mr. Hall stated that was the attitude back in 1997 when the Zoning Ordinance was amended and it may well  
10 be that the county board thinks that was a fair decision but the only way to find out is to forward the text  
11 amendment and see what type of response is given by the county board. Mr. Hall said this was the first  
12 negative comments received about the proposed text amendment.

13

14 Mr. Doenitz said he has negative comments about it because he deals with this all the time and we've been  
15 trying to clean up a lot of those lots out there but they keep popping up and did not know when it will end if  
16 we don't put a stop to it.

17

18 Mr. Hall said there were only eight subdivisions the County Board approved with easements of access but  
19 he did not know how many the municipalities and villages might have approved. Mr. Hall said generally the  
20 county was more lenient than municipalities and villages.

21

22 Mr. Doenitz said the municipality he deals with will never let a subdivision go with an easement for access.

23

24 Mr. Hall asked Mr. Doenitz if he would feel more comfortable if instead of six lots in total there could  
25 maybe three lots or two lots. Mr. Doenitz answered it will come down to the same thing as to who will take  
26 care of it.

27

28 Mr. Hall explained that the amendment requires an agreement regarding maintenance but agreed that it is  
29 not enforceable.

30

31 Mr. Doenitz said three, four or five people may be in an agreement but three, four or five years later  
32 somebody moves then you may have two or three people who don't get along then they are calling me or  
33 which ever highway commissioner and it ends up over here and there is nothing anybody can do about it.

34

35 Mr. Schroeder said he remembers in 1997 when this came up in ZBA and Mr. Jay responded under his role  
36 as Cornbelt FPD Chief and the need to get to homes with the emergency vehicles and they can't get to the  
37 homes because the roads are not built to standards and who is there to check to make sure that they are? Mr.  
38 Schroeder went on to say it's enough that staff has plenty to do right now but if those things aren't built to  
39 standards and the Zoning Officer goes out there and tells them they need to conform to standards and never  
40 gets a chance to get back to check because she is busy then there is a fire call on that fifth house back on that  
41 easement and the access is blocked by either snow not removed or cars parked along there and you can't get

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43 through and the house burns down you would have a fire protection district in trouble and probably get sued.

1 These trucks are getting bigger and bigger and it's the same for the ambulances. Mr. Schroeder went on to  
2 say that

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4 Mr. Doenitz would have to take that road over and build it up to standards and that affects the township  
5 because it will mean less money to use elsewhere. Mr. Doenitz said that's his point and the burden becomes  
6 the taxpayers instead of the developer.

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8 Mr. Hall explained that if there is not some provision in the ordinance like this then it will be dealt with by  
9 the ZBA on an individual case by case basis he wondered if Mr. Doenitz want to see a text amendment that  
10 makes a variance from the street access requirements a prohibited variance because people can still seek a  
11 variance if they are not prohibited zoning.

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13 Mr. Schroeder stated no, it should be case by case

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15 Mr. Doenitz agreed it should be case by case.

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17 Ms. Greenwalt said she remembered Ms Busboom stating if a developer builds a road and turns it over to  
18 the township they should make a court for the mailboxes instead of them being along the road. Ms.  
19 Greenwalt asked if not this amendment then the alternative is case by case variance or lots don't get  
20 developed that we approved in 8 subdivisions between 1977 and 1997 before we changed the rules.

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22 Mr. Hall said yes. Mr. Hall explained in 1997 the County Board said you either have to have direct access to  
23 the public street or you had to build a private street to the same standards.

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25 **Mr. Doenitz moved Mr. Moser seconded to defer the request to amend the Zoning Ordinance to allow**  
26 **a lot to have access to a public street by means of an easement of access provided that both the lot and**  
27 **the easement of access were created ion a plat of subdivision that was duly approved between 5-17-77**  
28 **and 2-18-97 and that the lot meets all other dimensional and geologic standards established by this**  
29 **Ordinance to the next regular meeting in April. Motion carried by voice vote.**

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31 **11. Comprehensive Zoning Review Update**

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33 Ms. Monte said at the March 2<sup>nd</sup> meeting the ZBA made their way through the part I Finding of Fact and  
34 there are seven additional Findings of Facts to review. Ms. Monte said the case is continued to April 6,  
35 2006, and May 4, 2006 if necessary. Ms. Monte went on to say that public testimony is trickling down so the  
36 board has more time to devote to Findings of Facts.

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38 **12. Monthly Report for February, 2006**

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40 Mr. Hall distributed the February, 2006 Monthly Report for the Committee's review.

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42 **13. Other Business**

43 None

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**14. Determination of Items to be placed on the County Board Consent Agenda**

**The consensus of the Committee was to place Item #7 on the County Board Consent Agenda**

**15. Adjournment**

**Mr. Doenitz moved Mr. Fabri seconded to adjourn meeting. Motion carried by voice vote. The meeting was adjourned at 7:57 p.m.**

Respectfully submitted,

Secretary to the Environment and Land Use Committee

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