

**LIVINGSTON COUNTY BOARD**  
**MINUTES OF August 13, 2015 MEETING OF THE COUNTY BOARD**

**OPENING**

Chairman Fannin called the meeting to order at 6:00p.m., in the County Board Room of the Historic Courthouse, 112 W. Madison, Pontiac, Illinois.

Deacon George of St. Mary's Church (Pontiac) presented the invocation, with Mike Ingles leading the Pledge of Allegiance.

The clerk called roll with the following **present:** Kathy Arbogast, Jason Bunting, Justin Goembel, James A. Carley, Robert F. Weller, Mark Runyon, William Mays, Daryl N. Holt, Stanley R. Weber, John "Jack" Vietti, David W. Heath, Kelly Cochran Cohlman, Joseph D. Steichen, Tim Shafer, G. Michael Ingles, Bob Young, Carolyn Gerwin, William G. Flott, Vicki Allen, Marty Fannin, Ronald L. Kestner and William H. Peterson  
**Absent:** Paul A. Ritter and John L. Yoder

**Also Present:** County Clerk Kristy Masching, Administrative Resource Specialist-Alina Hartley, Zoning Administrator-Chuck Schopp, County Highway Engineer-Clay Metcalf, State's Attorney Seth Uphoff, Attorney Tom Blakeman and Keith Bittner-Indian Grove Twp. Trustee

**AGENDA**

Chairman Fannin asked for approval of the agenda. *Motion by Young, second by Ingles to approve the agenda as presented.* **MOTION CARRIED ON UNANIMOUS VOICE VOTE.**

**APPROVAL OF MINUTES**

Chair Fannin called for approval of the July 16, 2015 minutes. *Motion by Young, second by Steichen to approve the July 16, 2015 minutes.* **MOTION CARRIED ON UNANIMOUS VOICE VOTE.**

**PRESENTATION**

None

**APPEARANCES**

None

**CONSENT AGENDA**

**A. Approval of Bills**

*Motion to approve the consent agenda by Arbogast, second by Cohlman.* **MOTION CARRIED ON ROLL CALL VOTE.** **Ayes:** Arbogast, Bunting, Goembel, Carley, Weller, Runyon, Mays, Holt, Weber, Vietti, Heath, Cohlman, Steichen, Shafer, Ingles, Young, Gerwin, Flott, Allen, Fannin, Kestner and Peterson      **Nays:** None  
**Absent:** Yoder and Ritter

**HIGHWAY**

Chair Holt introduced Clay Metcalf- Acting County Highway Engineer, who reviewed **Action Agenda** items as follows:

- 1. Agreement for Engineering Services:** Hampton, Lenzini and Renwick, Springfield, IL – Preliminary Engineering Services Agreement for design of a box culvert replacement of S.N. 053-3778 on CH 13 (Meadows Rd) 920N, 700E, Section 15-00098-00-DR/BR. – Non MFT Project. Cost not to exceed \$14,000 for basic services.
- 2. Agreement for Engineering Services:** Hampton, Lenzini and Renwick, Springfield, IL – Preliminary Engineering Services Agreement for design of a new structure over a tributary to Broughton Creek. Broughton Road District, Section 15-04123-02-BR, located at 2390N, 3460#. Cost not to exceed \$21,000 for basic services.

3. **Resolution (#2015-08-38):** Resolution appropriating \$50,000.00 from County Matching Tax for 2015 Seal Coat Maintenance, Section 15-00000-00-GM.

*Motion to approve Highway Action items #1-#3 with one roll call vote by Holt, second by Runyon.* **MOTION CARRIED ON ROLL CALL VOTE.** **Ayes:** Arbogast, Bunting, Goembel, Carley, Weller, Runyon, Mays, Holt, Weber, Vietti, Heath, Cohlman, Steichen, Shafer, Ingles, Young, Gerwin, Flott, Allen, Fannin, Kestner and Peterson **Nays:** None **Absent:** Yoder and Ritter

**Other Items:** Clay and Chair Holt commented on the following IDOT road closure construction projects proposed for 2016: the railroad crossing at Rt.66 at 2000 N Rd (Prairie-Central Coop/Bungee Elevator); Rt.66 at 1600N (CH8-Ocoya Rd); and IL Rt. 116 at 2400 E (west of Saunemin). Clay is working with Chad and Alina on a list of priority items to update the department, utilizing a grant possibility available to the county.

#### FINANCE

**Resolution (#2015-08-39): Authorizing a Loan of up to \$826,000-Motor Fuel Tax Fund** – Chair Shafer stated that this resolution was an outcropping of the budget situation with the State of Illinois. Due to the budget impasse, motor fuel tax funds are being withheld from the counties, which could result in the highway department funds being depleted within six months. This resolution would authorize the highway department to borrow up to \$826,000, from the Pontiac Host Agreement Fund until such time that the State releases the necessary funding owed. *Motion to approve the resolution authorizing a loan as needed, not to exceed \$826,000 from the Pontiac Host Agreement Fund beginning December 1, 2015 to be repaid from Motor Fuel Tax Funds by Shafer, second by Weller.* **MOTION CARRIED ON ROLL CALL VOTE.** **Ayes:** Arbogast, Bunting, Goembel, Carley, Weller, Runyon, Mays, Holt, Weber, Vietti, Heath, Cohlman, Steichen, Shafer, Ingles, Young, Gerwin, Flott, Allen, Fannin, Kestner and Peterson **Nays:** None **Absent:** Yoder and Ritter

Shafer also reported that the departments are doing a good job of submitting their budgets, with most coming in within the requested parameters and those that aren't are trying to work through it.

#### AG & ZONING

**Extension Agreement: Pontiac Host Agreement** – Chair Flott commented that there were no changes to our agreement with the landfill and that the committee had agreed to accept it as is. *Motion to approve the Pontiac Host Agreement by Flott, second by Ingles.* Chuck stated that this would be a continuation of the amendment to the host county agreement with regards to the host fees that we receive. This document would extend the dates three years, January 1, 2016 through December 31, 2018. The Host Benefit fees are determined by using a six tiered fee schedule based on the monthly tonnage of garbage received. It also allows for a fee rate change with the Consumer Price Index annually. Chuck stated that it was determined to be advantageous to both parties to base the fees on the amount of garbage coming in. Discussion was held on the evolution of the tipping fees since the original siting process, and what schedule would be in place if this extension agreement didn't pass. It was noted that tonight's agreement was an extension of the agreement approved about six years ago, which decreased our tipping fees to a more competitive rate, as we had priced ourselves out of the market. A landfill, with lower rates had opened up in Indiana and was being utilized by Republic. The first tier of this extension agreement is the current higher rate, and if they don't bring in the tonnage they aren't going to be eligible for a discounted rate. One member felt there should have been a contract guaranteeing us of a certain amount each month and that someone could still come in and undercut our rates. It was also noted that it wasn't the landfill company who initiated the renegotiation of the contract but the county approached the landfill and asked what we could do to bring in more revenue for the county. **MOTION CARRIED ON ROLL CALL VOTE.** **Ayes:** Arbogast, Bunting, Goembel, Carley, Weller, Runyon, Mays, Holt, Weber, Vietti, Heath, Cohlman, Shafer, Ingles, Young, Flott, Allen, Fannin, Kestner and Peterson **Nays:** Steichen and Gerwin **Absent:** Yoder and Ritter

**Review of Indian Grove Township Ordinance Requesting Township Specific Setbacks for Wind Energy Conversion Systems** – Chair Flott remarked that at their ad-hoc Ag and Zoning meeting, discussion had been held on having a county-wide referendum that would be used by the county board to determine what areas of the county request a more restrictive ordinance. The Indian Grove Township resolution would be used as a guideline, using their greater setback criteria, to write the ballot question. The committee felt that some type of action should take place regarding the Indian Grove Township resolution, if the board wishes to have a county-wide referendum.

He reviewed some changes the ad-hoc committee is suggesting: changing some of the setbacks and measuring clarifications; clarifications regarding financial assurance for construction versus financial assurance for decommissioning; adding a section called pre-application recommendations for better communication with residents prior to application; and consider having a hearing officer or facilitator run hearings rather than the ZBA, in order to speed up the hearing process.

Keith Bittner, an Indian Grove Township Trustee handed out information and spoke to the board. He was in attendance because their resolution was referred to the board without a committee recommendation, as it had been a tie vote. The two key components of their resolution pertained to increased setback requirements. He explained that under current criteria a 426 foot wind turbine could be built 468 feet from a property line or 1,278 feet from a home's foundation. Their resolution would increase the setback requirements for property lines from 1.10 times the WECS height from adjacent property lines, to a distance of at least 4.0 times the WECS tower height from adjacent property lines; and for primary structures from three times to ten times the height of the tower. These increased setbacks are waivable by the property owner.

Bittner commented on the need for a better pre-application process citing a six square mile section, where seven towers were proposed. Of the 22 homes (small home owners or small acreage farms) located within that section and representing 32% of the people in the area, none were contacted or informed. He stated that this resolution is important to the Indian Grove residents as well as the county so that people will have a chance to hear what's going on and be contacted and informed by the developers in order to make informed decisions before the permits are applied for. Their resolution was modeled after a resolution passed by a township in Iroquois County. He encouraged the board to vote yes on their resolution and hoped that the board would incorporate their considerations into the county ordinance.

A lengthy discussion followed with some comments and highlights noted. It was explained that if the resolution is passed it doesn't go into effect right away, and will be sent back to the A&Z Committee for inclusion with the other ordinance changes the ad-hoc committee has been working on. A&Z would send the revised ordinance package back to the board for approval to send on to the ZBA. The ZBA would act upon it and send it back to the board for final approval.

The results of a county-wide election would be a non-binding, advisory referendum. The results could be used by the board to determine whether the residents of Indian Grove Township want more restrictive requirements. It was stated that this could impact future projects by creating a patchwork affect throughout the county. The proposed setbacks in this resolution would make it a lot less attractive for wind farms. Ingles felt this vote would basically be for or against allowing wind farms in Livingston County, township by township.

Some members questioned whether the townships had the authority to enact this type of resolution regulating wind farms. State's Attorney Uphoff responded that his office hadn't been asked to make a legal determination. Steichen stated that if this is a roll call vote, he will not be voting because he doesn't believe this resolution is legal. Bittner responded that Attorney Tom Brucker served as their legal counsel, reviewing their paperwork and worked with the zoning commission on the resolution. Bittner noted that another township in Iroquois County had already gone through this procedure. One member noted that if this resolution passes, it would only pertain to Indian Grove Township. Cohlman commented that we're not voting on whether it is legal for them to do this, they're coming to us and saying the legal way to do this is you have to say so, and they want us to say so. It was also stated that there is a waiver provision in place that allows individuals to opt out of the stricter restrictions.

John Slagel explained that the resolution only affects those in the unincorporated area, since the city already has a 1.5 mile setback in place. Slagel stated that since the county is large and already has wind farms in the northern part of the county, zoning to make everyone happy would be hard, so they followed what had taken place in Iroquois County and formed their own planning commission. If a township has a commission, then they have the right to ask the county board to change the zoning ordinance as they request, for just that township. They are not doing zoning, just asking the county to change on their behalf, the text amendment to their wishes. Further discussion was held on if there were property value guarantees for landowners who were cited for a tower and had been receiving payments for years, but who would no longer be eligible if the resolution was approved. Runyon stated that there were no property value guarantees either way.

At this time, Flott suggested a possible alternative to the IG resolution, coming from the UCLC attorney. The UCLC is a group who opposed the Pleasant Ridge wind farm. He read the following, “No application for a WECS project containing any property that has been previously denied special use approval, in whole or in part by the county board as part of a prior WECS project shall be submitted for a period of one year from the date of said decision of denial.” Flott thought that if this was in place, Invenenergy wouldn’t be able to file an application for any township involved in the original project for one year. The board could put a referendum on the ballot as well as get the ordinance in place. Shafer suggested that the referendum be put before the voters in Indian Grove Township only, since their actions indicate that they want to secede from this aspect of zoning and put it to rest in their township. Megan Dassow clarified that the correspondence from the UCLC attorney was not to replace anything that Indian Grove was doing, but was something the people of the county wanted to see adopted into the new ordinance. Holt felt it should be a county-wide referendum because he’d heard that other townships were looking into forming their own planning commissions. Slagel commented that property isn’t selling within the footprint of the project, because people don’t know what’s going to happen.

Ingles commented that wind towers are a special use permit in the agriculture zoning district. His concern is if the county has the authority to have zoning where there is an exception for a particular township(s). He would be interested in our legal department pursuing that legality. He also has concerns about the potential checkerboard effect, its impact on economic development, and the message it sends out to potential developers. *Motion to table the Indian Grove Township Ordinance requesting township specific setbacks for wind energy conversion systems, for further review by Ingles, second by Cohlman.* **MOTION CARRIED ON ROLL CALL VOTE. Ayes:** Arbogast, Bunting, Goembel, Carley, Weller, Mays, Holt, Vietti, Heath, Cohlman, Shafer, Ingles, Young, Flott, Allen, Fannin, Kestner and Peterson **Nays:** Runyon, Weber and Gerwin **Present:** Steichen **Absent:** Yoder and Ritter

State’s Attorney Uphoff affirmed that this motion was an official request from the county board to research this issue and if need be, obtain an Attorney General’s opinion regarding legalities of this county zoning issue.

**Extension: Moratorium** – Chuck Schopp explained that the current moratorium will expire on October 15, 2015. In order for that to be extended, and since we are acting on the text amendments, the ZBA has to hold a public hearing for the text amendment to extend this again. The hearing needs to be held thirty days prior to the county board taking action on it, therefore the ZBA will have to act on it at their September 10<sup>th</sup> meeting. The county board will need to act tonight, authorizing them to move forward with the text amendment so that the legal notice can be published and the application filed. The ZBA will then have their hearing, act on it and make their recommendation in September and back to the board at their October meeting for approval. Chuck had recommended a three month extension of the moratorium to the committee, as a safety net due to the fact that there are some potential text amendment issues, various regulations pending and the length of time it takes to complete this process. The committee favored a six month extension. *Motion by Flott, second by Goembel that the Livingston County Board directs and instructs to the Livingston County Zoning Board of Appeals to send notice and conduct public hearings on a proposed zoning text amendment to Chapter 56, Schedule 8, Code of Ordinances of Livingston County, Illinois; proposing a six month extension to the existing moratorium of Livingston County, Illinois, delaying the processing or acting upon any special use application for the construction and operation of a wind energy conversion system filed after the date the ordinance is adopted by the County Board authorizing the moratorium as a text amendment. The chairman and secretary of the county board are authorized to sign the application for the zoning text amendment and submit to the attention of the Livingston County Zoning Administrator for processing.* Discussion followed. Flott said that the ad-hoc committee feels that they have completed most of their work on a new ordinance but have many questions for legal review. He feels the time issue has to do with the other boards and hearings that are a part of the process. Attorney Blakeman addressed some of the members concerns of going beyond a nine month moratorium period (October 15<sup>th</sup>). He stated that there is case law that authorizes and approves a nine month moratorium, but no case law or authority or anything in writing that says you can extend beyond that time. His stated that a potential risk of this action would be that someone could challenge the moratorium. Blakeman also clarified that Flott’s motion didn’t include the official wording which was used in the meeting. The additional wording to be added to the motion is, “*the moratorium shall not apply to any WECS special use applications filed with the county prior to January 15, 2015*”. This means that the present application which was recently denied could be appealed and is still out there and wouldn’t be affected by the moratorium. Young stated that he has a problem with the six month moratorium because Kankakee County recently had a hearing to site a wind farm which could extend over into the

northeastern section of our county, where there is great interest in securing a wind farm. He's afraid that a six month moratorium sends a message to them that Livingston County is not too receptive to a wind farm. We want to be fair to all our constituents within the county. *Motion by Weber, second by Runyon to call for the question.*  
**MOTION PASSED UNANIMOUSLY ON VOICE VOTE.**

**MOTION CARRIED ON ROLL CALL VOTE.** Ayes: Arbogast, Goembel, Carley, Runyon, Mays, Weber, Vietti, Cohlman, Shafer, Gerwin, Flott, Allen and Fannin Nays: Bunting, Weller, Holt, Heath, Steichen, Ingles, Young, Kestner and Peterson Absent: Yoder and Ritter

It was noted that the board could reduce the moratorium, if they chose to do so.

#### **ELECTION, RULES & LEGISLATION**

No report

#### **SHERIFF, JAIL & LICENSE**

No report

#### **INFORMATION & TECHNOLOGY**

No report

#### **PERSONNEL**

No report

#### **PUBLIC PROPERTY**

Chair Ingles reported that Chad had been working diligently on the budget. The committee is continuing to work on the noise and ADA issues, and hope to have progress soon.

#### **ADMINISTRATIVE**

Chairman Fannin reported that they met and discussed issues of the various committees.

#### **VETERANS**

Joe noted that Bob Thorson, the President of the Livingston County Veteran's Assistance Commission had passed away on July 28<sup>th</sup>. The commission will be meeting August 24<sup>th</sup> to select his replacement.

#### **LIVINGSTON COUNTY HOUSING AUTHORITY**

Kelly Cohlman stated that they officially closed on the St. James Place (former hospital) site and were moving forward. A local company was the low bid for building demolition. Housing vacancies are available in Chatsworth, with one unit available with free rent for any officer wishing to reside there. They are looking for volunteers to help turn over apartments for new residents. Interested volunteers may contact Jennifer at 815-844-6013. The next meeting is scheduled for September 16<sup>th</sup> at 1:00 p.m., at the Housing Authority office at 903 West North Street, in Pontiac.

#### **RECREATION**

Joe Steichen reported that they had met before the Admin Committee for the financing of the Recreation Committee. They met with the Prairie Land Foundation Board in June. Plans are in the works for public informational meetings, similar to their May meeting, in Forrest and Dwight. They also discussed the following: updates on the Rt. 66 pathway; the Warden's property; and the Norfolk Southern railway. Chairman Fannin commented that they had sent information on to finance, trying to ensure that the Recreation Committee has funding.

#### **PUBLIC COMMENT**

County Clerk Masching noted that petition packets for the March 15, 2016 General Primary Election would be available for pickup Wednesday, August 19<sup>th</sup>. Offices up for nomination include: 12 County Board seats (4 year terms); 1 County Board Seat (unexpired 2-year term); Circuit Clerk; and State's Attorney. The first day to circulate petitions is September 1, 2015.

**EXECUTIVE SESSION**

Removed from agenda

**COMMUNICATIONS/ANNOUNCEMENTS**

None

**ADJOURNMENT**

*The meeting adjourned at 7:50 p.m., on motion by Vietti, second by Weller. MOTION CARRIED WITH ALL AYES ON VOICE VOTE.*

The next meeting is scheduled for Thursday, September 17, 2015 at 6:00 p.m., at the county board room of the Livingston County Historic Courthouse

**Marty Fannin, Chairman**

Attest:

*Kristy A. Masching*  
County Clerk

September 17, 2015  
Approved

Minutes Bd 08-13-15.A