

AGRICULTURE, ZONING AND EMERGENCY SERVICES COMMITTEE

MINUTES OF THE MAY 3, 2016 MEETING

The committee chair called the meeting to order at 6:00 pm at the Livingston County Historic Courthouse, 112 W. Madison St., Pontiac, Illinois and roll call was taken.

Present: Bill Flott, Bob Young, James Carley, Justin Goembel, Daryl Holt, Paul Ritter and Bill Peterson.

Absent: None.

Additional County Reps: County Board Chairman Marty Fannin, County Administrative Resource Specialist Alina Hartley. Non-committee county board members present included Vicki Allen and Carolyn Gerwin. Livingston County State's Attorney Seth Uphoff, Livingston County legal counsel Tom Blakeman. Ad Hoc committee members present included Bekah Fehr, Mark Runyon and John Slagel. Attorney Philip Luetkehans. Several citizens of the county were also present at this committee meeting.

Committee Chair Flott noted the agenda remarking that he is planning on reviewing business item c before business item b. Bill Peterson then moved, seconded by Paul Ritter, that the agenda for this meeting be approved and reviewed as remarked by the committee chair. This motion was approved by a voice vote of all ayes.

Minutes of the April 5, 2016 committee meeting were referred to the committee. Paul Ritter moved, seconded by Justin Goembel, that these meeting minutes be approved as presented. This motion was approved by a voice vote of all ayes.

Emergency Telephone System Board (ETSB) Report:

County Administrative Resource Specialist Alina Hartley reported to the committee that her office had been informed that the LivCom had gone live in serving the City of Streator and everything is working out well.

A Review Regarding the Consideration of Assessing Fees on Stone Quarry Products:

The committee members were informed that this consideration for assessing fees on quarry products was last reviewed by this committee at their February 5, 2013 meeting. At this February 5, 2013 meeting it was explained to the committee that County attorney Tom Blakeman has related that it does not appear to be any provision in the Illinois Constitution or any statute which would authorize a quarry tax or fee. Some committee members then requested that the zoning administrator contact some other counties, including Kankakee County, to see if those counties assess quarry fees.

Update on Wind Energy Issues – Review Considerations for New Wind Energy Regulations Text Language:

Committee Chair Flott remarked about how Bob Young, Marty Fannin, Alina Hartley, Chuck Schopp and himself had reviewed the wind energy zoning ordinance text amendment comments of which resulted in the draft document before the committee at this evenings meeting.

Chairman Flott then asked for legal counsel to comment on their legal review of this draft document, regarding wind energy ordinance amendments. Livingston County State's Attorney Seth Uphoff and County Attorney Tom Blakeman then began going through the proposed changes to the ordinance pertaining to their legal review of this document, beginning with the definitions. Mr. Blakeman suggested that a new phrase, to the satisfaction of the county, be added to both the definitions of Capability and Financial Assurance. Legal counsel related that these definitions along with other proposed changes may take a few more days to further study, before continuing with the proposed definition for hearing facilitator. Legal counsel noted that a language needs to be added to this definition relating to legal decisions and qualifications to be considered for this position. Qualifications such as being an attorney or retired judge are being considered. Mr. Uphoff can reference similar definition language from other counties in suggesting new language for this definition.

Moving to page 7 Sec. 56-616 (b) (2) of the draft document the new statutory language regarding applicants, owner etc. was discussed. Since this language is included in other areas it should be considered that it be deleted here, since it would be redundant. Brief references to other sections may be considered to point out this requirement. The same consideration will be given to the land trust language. It was then mentioned that number (6) on page 8 may be deleted since it is in the definition. Then legal counsel noted that number (7) on page 8 regarding a property value plan is okay as written, with comments that the county cannot be part of any contracts. Carolyn Gerwin inquired as to if the county could request that a property value guarantee be offered, with legal counsel remaining concerned that such an offer request is still a contract issue. Legal counsel may take another look at this issue. (c) on page 8 was then debated in reference to what does materially mean. This is an area that a hearing facilitator can determine. Further consideration may also be given to this area.

A dialogue on Page 11 h (1) setbacks then took place. The ability to incorporate township specific setbacks, and how this proposed language could be affected by an eagerly awaited attorney general's opinion and how a considered referendum would be suitable in wording in this definition were the leading topics in this dialogue. Discussion took place on considering more generic language, not Indian Grove specific, and language that would reflect incorporating new language reflective of how to incorporate any potential referendum results. Potential problems pertaining to the text amendment wording and timing and results of the referendum were discussed. A desire to insert language now with the pending clarification from the attorney general's office reflects the issue the committee is working to resolve. Dialogue continued on the relationship of the pending attorney general's opinion, a potential referendum and the proposed text amendment wording. The conversation then pertained to forwarding proposed text amendment language on to the zoning board of appeals to begin the review process, with the committee confirming that they would prefer to move forward now as opposed to waiting on an attorney general's opinion. Carolyn Gerwin commented on issues relating to the attorney general's opinion, and Mark Runyon discussed how any text amendment could be approved after the referendum. Timing of approving any text amendments was then discussed. Carolyn Gerwin questioned as to if townships could opt in later for or opposed to wind energy with future referendums. The potential referendum and how the results of the referendum may be reviewed and analyzed for implementation in the text was then discussed. Timing issues related to a referendum and formal review of any text amendment were then discussed. These issues will have further legal review and suggestions.

Moving to page 14 (3) of the draft wind energy ordinance language being discussed, Mr. Blakeman suggested that like-kind be defined. How this term would apply to some maintenance issues was discussed, in relation as to how approved application requirements would need to be met.

A suggestion to make a statement that any work done by a professional engineer be paid for by the company. This area of the proposed draft language will be altered to reflect this discussion.

Moving on to page 16 of the draft document, noise levels, it was concluded that this area will need to be researched further. On page 19 liability insurance, Mr. Blakeman suggested deleting new proposed paragraphs one and three, reasoning that there was some redundancy in that proposed language. Legal counsel will make changes in this area. In reference to page 23 language referencing conditions will be looked at, as this area will also be further reviewed.

Committee member Daryl Holt commented about how he reasoned about setback distances on transmission lines, and committee member Paul Ritter began a conversation on the 1600 foot setback distance being proposed. Committee chair Flott reasoned that this was a compromise distance, that many interested parties could live with.

Before continuing, the committee then agreed to meet again on May 10<sup>th</sup>, 2016 at 6 pm. to review changes resulting from what is being discussed at this meeting tonight.

Phillip Luetkehans, who appeared as the attorney for the United Citizens of Livingston County during the Pleasant Ridge Wind Energy Project hearings, addressed this committee. Mr. Luetkehans mentioned the zoning board of appeals review that would take place regarding proposed wind energy regulations ordinance amendments. Mr. Luetkehans then commented on noise being a large issue, primarily as to where noise is to be measured from as a main issue. Mr. Luetkehans believes that the wording in this area needs to be reviewed. Mr. Luetkehans expressed his opinion on a need to review the remedies sections to make sure it is clear as to the intent. Mr. Luetkehans then commented on the draft insurance section, suggesting that the county's insurance company be contacted in reference to the wording in this section, with the language of additional insured and primary non-contributory needing to be reviewed as part of an overall review of this section. Then a request that 911 services have emergency contact numbers of a wind energy company available to them was discussed. Under definitions Mr. Luetkehans commented on the legal issues of financial assurance, in part how it would relate to road agreements. Mr. Luetkehans also commented that it would be okay to be redundant in stating the identification of the applicant, owners etc. in the filing requirements. Mr. Luetkehans remarked about reviewing the completion and acceptance of an application. He then mentioned that a 150 foot adjusted setback be reviewed, in that company's if they chose can be more diligent in their pre-construction work and complete soil analysis prior to submitting a special use application. Mr. Luetkehans then related that he is nervous about the proposed referendum and he commented as to why he believes this issue needs to be looked at further, questioning if such a measure would stand up to legal scrutiny or not.

Interested Citizen Judy Campbell then commented on linking an emergency phone number to a complaint phone number, or make sure citizens are provided with a complaint number. Mrs. Campbell then questioned as to if referendums would be analyzed on simple majorities or on super majorities. She then expressed how she does not like up to 30 hours of flicker being allowed in the proposed text amendment. Mrs. Campbell also expressed about how she would prefer a 5000 foot setback around all airport sides.

These topics will be reviewed further at the planned May 10, 2016 meeting, after further review.

Solid Waste Report:

A printed copy of the planning commission monthly synopsis of landfill information and correspondence was presented to the committee members. It was noted under the correspondence dated April 28, 2016, a report reflects the planned closure of Livingston Landfill is to be in the year 2037. A printed copy(s) of host fee information from the last month was also presented to the committee. It was mentioned that this fee payment had shown an increase in comparison to the past two months.

Other Issues to Come Before the Committee: None

Public Comment:

Carolyn Gerwin inquired as to if the county attorney's would be present at this month's county board meeting.

Review and Approval of Bills: None

Adjournment:

Then Justin Goembel moved, seconded by James Carley, that this meeting be adjourned. This motion was approved unanimously.

This meeting was adjourned at 7:38 p.m.

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Charles T. Schopp, Administrator  
Livingston County Regional  
Planning Commission