

MINUTES
LIVINGSTON COUNTY ZONING BOARD OF APPEALS
Livingston County Historic Courthouse
112 W. Madison St., Pontiac, Illinois

Regular Meeting
6:00 p.m.

April 6, 2023

The meeting came to order at 6:09 pm

Members Present: Joe Stock, Richard Kiefer, Neil Turner, Joan Huisman, William Flott, Dave Randolph, and Richard Runyon

Others Present: Zoning Administrator Jesse King, Assistant Zoning Administrator Trish Merlino, Attorney Andy Keyt, Attorney Gary Peters, Attorney Bob Lenz, Attorney Phil Luetkehans, Becky Taylor (Livingston County Soil & Water District), Chris Matich, Jim Robie, Jeff Roberts, Andy Bauman, Justin Voigts, Bob Weller, Megan Dassow and Rebekah Fehr

Members Absent: None

Approval of the Agenda:

Huisman noted the agenda for this meeting. Flott moved, seconded by Randolph that the agenda for this April 6, 2023 meeting be approved as presented. **Motion carried by roll call vote of all ayes.**

Approval of Minutes:

Huisman noted the minutes of the March 9, 2023 meeting with a correction already made regarding Runyon’s vote on case SU-20-22 being recorded as “yes” when it should have been “no”. Randolph moved, seconded by Stock that the minutes of the March 9, 2023 meeting be approved as amended. **Motion carried by roll call vote of all ayes.**

Business to be reviewed:

Case SU-1-23 – Livingston Stone Company

This zoning case pertained to the review of a proposed mineral extraction site located in an AG, Agricultural and FP, Flood Plain District.

King gave an overview of the case to board members.

Matich (Director of Operations), Robie (General Manager), Roberts (Foreman), and attorney Peters then gave a presentation regarding the background of their company and explained the type of product that they produce which is primarily utilized for agriculture purposes.

A board member then asked about how long it takes for them to go through ground with their operations. The applicants explained that they typically go through about 7 acres per year.

There was then discussion about how Livingston Stone plans to turn quarried ground back into farm ground once they are done quarrying. Matich commented on how a recent area of their operations was recently turned back to farm ground and the farmer had a productive corn yield in the first year of farming it.

Discussion then took place about whether any more ponds would be created as part of the reclamation of this property. The applicants stated that there would not, but the existing pond that is there might just be made a little bit bigger.

There was then discussion about whether there would be any issues with surrounding property owners regarding the blasting and drilling that would be taking place on the property. Matich explained that their property has buildings on concrete foundations as well as a well for the property and that they have never had any issues with either of them. Matich added that there is a house right next to their facility that he lived in for many years that never had any issues either.

A board member then asked for clarification on the location of the entrance to the property which was clarified by the applicants.

A crowd member then had a question about the rock depth on the property which was clarified by the applicants.

Taylor, from the Livingston County Soil & Water District, then testified regarding the soil information for the subject parcel and determined that this request would be a “medium” impact to agriculture. During Taylor’s presentation, it was mentioned that there could be issues with the water table. A board member asked Taylor to expand upon that. Taylor explained that the drilling that will occur as part of the operation could cause the water table to lower.

Bauman, a nearby property owner and farmer, then presented his concerns regarding his belief that the applicant’s have failed to abide by the Surface Coal Mining Land Conservation and Reclamation Act. Bauman handed out multiple exhibits as references for his testimony. Bauman additionally presented his concerns about this project not being consistent with the comprehensive plan and the effect that this project may have on the well for his house. Bauman further explained his concerns for the control of noxious weeds and explained to the board that he felt that Livingston Stone already does not do a good job at controlling their weeds which has had a significant effect on his farm ground. Bauman continued by relating his concerns about the 9 IEPA infractions that Livingston Stone currently has open against them. Bauman further discussed his concerns about blasting and his wishes to be notified when blasting is taking place. Bauman then stated his frustration about the dust that is currently emitted from the plant and how it causes his house to become dusty and dirty. Bauman further posed that the dust could affect the solar farm that is currently being proposed to be constructed nearby as well as people who have solar panels for their own residential use. Bauman concluded his testimony by arguing that Livingston Stone is not

utilized by local businesses and farmers to his knowledge and asked how this special use would benefit local residents.

There was then discussion between the board and Bauman about the location of the various wells he had spoken about in his testimony, Bauman clarified the location of the wells. A question was asked about whether or not Bauman's well has ever dried up. Bauman explained that his well has never dried up due to drought. A question was raised about the variety of weeds that are present in the area. Bauman explained the different varieties of weeds that he has seen in his fields near the quarry.

Matich then confronted Bauman about his assertion that local businesses don't use their product and listed some businesses in the county that do use their product.

Voigts then spoke as an interested party and neighboring property owner in the matter and discussed his concerns with the dust that is emitted from the property as well as the open IEPA violations against the applicants. Voigts handed out information regarding the violations to board members and argued that the plant should suspend operations when the dust cannot be mitigated for any reason. Voigts explained that another nearby quarry operation does that.

A board member asked Voigts how he obtained the information on the violations. Voigts stated that it was obtained through a FOIA request. There was then discussion between Voigts and the board about clarification on where he lives and where his family's properties are located. Voigts explained to the board that his family owns a lot of ground around the subject property. There was then discussion on clarification of the property uses for the properties that Voigts's family owns.

Huisman called for a recess at 7:41 p.m.

Huisman called the meeting back to order at 7:51 p.m.

Randolph then made a motion, seconded by Turner that this case be recommended for approval.

There was then discussion about the condition to potentially extend the radius for well guarantees and blasting notification to 3/4 of a mile rather than the 1/2 mile that was listed in the conditions. After some discussion it was determined that the board should stay consistent with past practice and keep it at a 1/2 mile.

Motion carried by a unanimous roll call vote of all ayes.

Case ZT-3-23 – Livingston County Board

This case pertained to the review of a proposed text amendment to amend the county's solar farm ordinance to be in compliance with the new state law.

King introduced the case and provided an overview of why the change is needed.

Keyt then discussed the background of the new law and walked to the language of the new ordinance with the board members.

A question was raised about whether the distinction between community solar and utility solar no longer exists. Keyt stated that essentially yes, it is.

There was then discussion about application and permit fees. A concern was raised about how the ag and zoning committee came up with \$10,000 per MW for the permit fee. Keyt explained that the committee based that off of looking at Tazewell County's fees and felt that it was similar to their fees.

There was then discussion about decommissioning and how the county must factor in salvage value now as opposed to what has been done up to this point.

Next, there was discussion about road use agreements and the county's ability to regulate them when it comes to solar projects.

The board and Keyt then discussed buffers. King asked Keyt for clarification on the ordinance language stating that a project "must" be enclosed in a living buffer. King explained that there are times where a property owner does not want a buffer on their side of the project. Keyt stated that a waiver could be obtained to circumvent that requirement.

Fehr then spoke as a member of the county board. Fehr asked about a severability clause in the solar ordinance that she was not seeing. Keyt responded by saying that it is not in there but could be added. Fehr also asked King if the county currently had a peddler ordinance. King stated that there is. A crowd member then asked if any solar projects have been built in Tazewell County with their fee schedule. Fehr responded that there have been projects built.

Lenz then spoke as an interested party and stated that he felt that road use agreement language should be added to the ordinance. It was explained that there is road use agreement language.

Huisman then called for a break at 9:10 p.m.

Huisman called the meeting back to order at 9:18 p.m.

Luetkehans then presented as an attorney representing the United Citizens of Livingston County and discussed the recommended changes that he and his clients recommended to the proposed ordinance. The recommended changes included changes to the noise and pollination section to make them more detailed in their requirements. Luetkehans also discussed recommended changes to the decommissioning section with regard to fiscal responsibility of the property owner if the decommissioning amount is not sufficient to cover the cost.

There were questions from the board with regard to the legality of the suggested requirements and whether they would be more restrictive than the law. Luetkehans assured the board that all changes recommended by him and his clients would not be in violation of the new state law.

There was then discussion about the requirements in the pollinator section of the ordinance where Dassow then spoke as an IDNR employee. Dassow explained the regulations of pollinator species and the maintenance of them to the board.

Weller then spoke as a county board member. Weller pointed out some typos that were present in the document dispersed by Luetkehans.

Keyt then discussed with board members that he would suggest adding a severability clause to the ordinance. There was then discussion about the IPCB regulations with regard to sound and how the proposed changes by Luetkehans could be problematic due to the fact that the regulations could change over time which would then create a need for the county to update their ordinance when that happens.

The board then walked through the proposed changes presented by Luetkehans and decided which regulations to implement and which parts of the proposed ordinance should be amended or removed.

Runyon moved, seconded by Turner that the solar ordinance be recommended for approval with the changes they made.

Flott commented that he believed that the ordinance should be recommended for approval as it was originally presented to them.

The motion carried by a roll call vote.

Kiefer –	Yes	Runyon –	Yes
Flott –	No	Stock –	Yes
Randolph-	Yes	Turner –	Yes
Huisman -	Yes		

There was then discussion about another date to be added so that the wind ordinance and Prairie Dock Solar project could get through hearings.

Kiefer then made a motion, seconded by Flott that this meeting be recessed until Monday, April 10th at 6 p.m. **Motion carried by a unanimous roll call vote of all ayes.**

This meeting was recessed at 10:17 p.m.

Material regarding these proceedings is on file in the Livingston County Regional Planning Commission Office, in the Livingston County Historic Courthouse, 112 W. Madison St., Pontiac, Illinois.

Respectfully submitted,

Jesse J. King, Administrator
Livingston County Regional
Planning Commission