

MINUTES
CONSERVATION, PLANNING, AND ZONING COMMITTEE
WOODFORD COUNTY, ILLINOIS
TUESDAY, August 14, 2018
5:30 P.M.

1. Call to Order:

Chairman Kingdon called the meeting to order at 6:15 pm.

2. Roll Call: Doug Huser, Blake Parsons, Duane Kingdon, Andy Rokey and Bryant Kempf were present.

3.

4. Approval of Monthly claims: Motion was made by Rokey to approve the claims, seconded by Parsons. *Motion Carried.*

5. Approval of July 10, 2018, minutes, July 10, 2018 Executive Session Minutes and June 26, 2018 Minutes:

Motion to approve the July 10, 2018 minutes made by Parsons, seconded by Rokey. *Motion Carried*

Motion to approve the July 10, 2018 Executive Session minutes and keep confidential made by Huser, seconded by Rokey. *Motion Carried*

Ms. Minger discussed that he is waiting on some minor changes to the agreement previously discussed and expects to bring a new draft back to the Board this month, these minutes should be releasable next month.

Motion to approve the June 26, 2018 minutes made by Huser, seconded by Parsons. *Motion Carried.*

6. Review Executive Session Minutes (vote is to decide if minutes should be made public): November 13, 2008, February 10, 2009 part 1, February 10, 2009 part 2, March 10, 2009, February 14, 2017 Part 2

Motion to keep confidential the executive session minutes from November 13, 2008 made by Rokey, seconded by Parsons. *Motion Carried.*

Motion to keep confidential the executive session minutes from February 10, 2009 part 1 made by Rokey, seconded by Parsons. *Motion Carried.*

Motion to keep confidential the executive session minutes from February 10, 2009 part 2 made by Rokey, seconded by Parsons. *Motion Carried.*

Motion to keep confidential the executive session minutes from March 10, 2009 made by Rokey, seconded by Parsons. *Motion Carried.*

Motion to make public the executive session minutes from February 14, 2017 part 2 made by Rokey, seconded by Parsons. *Motion Carried.*

Mr. Kingdon noted that if there were no objections the meeting would be an open discussion forum. No objections were seen.

7. Public Input:

Mr. Jerry Smith, Chairman of the Zoning Board of Appeals discussed the lengthy agenda at the upcoming Hearing. He expressed concerns about being able to accomplish all the required work associated with that number of petitions. It was discussed that the meeting could be continued to the next evening if it went too long. There were concerns over upsetting petitioners by making them wait several hours and then moving their hearing a day. He expressed some interest in having the zoning administrator prevent these type of situations from happening. Mr. Huser noted that this number of petitions is unusual and only happens every few years, he discussed that the smaller petitions could be completed first. Mr. Huser noted that the zoning administrator could notify the petitioners to arrive later so they are not waiting as long. Mr. Minger stated that the petitions could be told to come later, however nothing that the petition could not be addressed until that time. Mr. Smith stated they would do their best and get through everything.

8. Unfinished Business:

- Minonk Wind LLC Special Use - Meeting with company

Mr. Huser stated that for the record he thanked Mr. Minger for being at the meeting. Mr. Minger stated for the record the hiring Eric (Gibson) has been very, very good and he will be coming to the meetings more often.

Mr. Kingdon asked about the wind farm. Mr. Minger noted they are working on one minor change, really one sentence. He was waiting on the company to respond to the change requested by the county board. He noted they were in court today and would be back in court August 27 or 29.

Mr. Huser discussed that it has been two years waiting on this. They are still in violation of the special use, there is no security in place. He discussed that he would like to step up enforcement to get the security in place. The board voted in the decommissioning plan two years ago and no security is in place. This needs to be taken care of, and noted they need to show them they mean business. He requested Mr. Minger get them here

in September to discuss this. Mr. Rokey asked if we could send a letter. Mr. Minger noted that since we are still in litigation he would contact their attorney. Mr. Parsons questioned what it means to pull the special use, what will the response be if they do not come into compliance. Mr. Huser noted that if they don't try in earnest to do something we take them to court and we hire an outside attorney that they have to pay for. He noted that it says in the decommissioning requirements that substations are required to be decommissioning plan, he stated the mull creek substation wasn't included. He noted they are doing everything they can to drag their feet. Mr. Parsons discussed that while he agreed he would like a plan of action to move forward if they do not comply. Mr. Kempf asked if we would have something ready to file, ready to go. Mr. Parsons asked what that would look like, would the farm be shut off of production, would we take it down. Mr. Minger discussed that the best course of action would be to request a temporary injunction and shut down production. He noted we would have to file a complaint and a temporary injunction. Mr. Rokey asked if that complaint could be prepared now so it is ready. Mr. Minger stated that he recommends they discuss this in executive session at the full board. He stated he would recommend they hire an outside attorney. Mr. Huser agreed with the outside attorney. Mr. Kingdon discussed that he just wants to protect the county.

- Wind Farm Roads and securities

Mr. Huser discussed that currently there is a road agreement in place with Minonk wind, when they put the project up they had to put up 6.6 million in surety. That has been given back. During the operations phase, if they have special circumstances and have to come in with a crane or something they are supposed to come back and put up money and video the roads, they have not been doing that. Finally at decommissioning they have to go back to the first part of the agreement, they do a study they video the roads, find worst case scenario and put up a bond. The trouble is if they skip town we have no security. Road and Bridge committee would like to have a plan to get security for decommissioning and would like to have a uniform road agreement. He noted that they had talked about putting the surety requirement in the road agreement. Mr. Huser noted we would like it to be in the decommissioning plan instead so it is in the ordinance. His concern is making sure the county is covered for the road repairs that end up being needed. Mr. Huser asked if they had put in the ordinance that all Special uses had to be evaluated for a road agreement. Ms. Jording stated they had included that in the special use section. Mr. Huser noted that is what would trigger the road agreement. Mr. Huser and Mr. Kingdon discussed that having it in the decommissioning ensures it is update every three years like the decommissioning plan. Mr. Huser noted that the road agreement should be separate. Mr. Minger noted that being in the decommissioning and associated with the special use it would have more teeth. Ms. Jording noted the solar section specifies that the decommissioning will be completed every five years, due on the anniversary of the approval of the special use. The wind section does not specify a timeline. The committee discussed that that should be specified in the wind section as well. Mr. Minger stated he will check the statute but he does not think that will be an issue. Mr. Kingdon asked Ms. Jording to prepare that change for next month.

- Review/recommend changes to Woodford County Zoning Ordinance Section 22 – Signs

Mr. Huser discussed his concerns with the signs section and how it relates to the political signs. Mr. Minger discussed the wording in the ordinance, he recommended placing a time limit on when they can be placed and then including a right-of-way rule. Mr. Minger expressed concern over who would be responsible since the candidate may not have put the sign up. Mr. Huser discussed that the sign section notes that temporary signs are allowed in all districts but notes that political signs state they cannot be in the right-of-way. Ms. Jording discussed that several of the temporary signs have a different restriction regarding right-of-way, some have no restriction at all. She would like to see the restriction to be uniform. Mr. Minger stated he can review the section. Ms. Jording discussed the fact the right-of-way differs based on type of road and portion of road. She would like to see right-of-way defined. Mr. Huser discussed that anyone who grew up in the county or farms or has construction experience knows where the right-of-way is located. Mr. Huser stated that if they cannot put the signs in the right-of-way then they must place it on private property and therefore ask the property owner. Ms. Jording noted it is difficult to monitor and enforce this type of regulation due to the size of the county and the short time span and temporary nature of the signs. Ms. Jording discussed the violation procedure and the difficulties in accomplishing sign corrections in the short time line of an election. She noted that they may need to have complaints for sign violations be specific as to the location of the violation. Mr. Minger discussed that there could be a different procedure for sign violations. Ms. Jording discussed that other counties use a code enforcement unit to help address violations and have had great success. Discussion about the location of the right-of-way and how to delineate that to the general public.

- Permit Fees discussion – no discussion

9. New Business:

- Tree removal on Spring Bay lot

Ms. Jording discussed that the same lot on Collins lane has two dead trees that need cut down. She noted that the budget is overdrawn and we should wait until December to accomplish this.

10. Planning and Zoning Issues:

Mr. Huser asked Mr. Minger if the County Board has received emails regarding the solar ordinance, should they give those emails credence. Mr. Minger noted that the ZBA is the fact finding body. Mr. Huser asked what they should use to make their decision. Mr. Minger noted that the statute says approve or send back. Mr. Huser asked if you could deny. Mr. Minger noted that it does not say deny. Mr. Huser noted that he had a legal opinion from Mr. Minger that said approve, deny or send back. Mr. Minger stated he would check into the statute. Mr. Huser noted that he heard the opposition was not allowed to rebut. Ms. Jording noted that was correct and covered in the minutes. Mr. Minger clarified that the opposition's rebuttal only addresses the petitioners Rebuttal, not the entirety of the information. Mr. Huser stated that may be a reason to send this back. Mr. Huser asked about the erosion permit. Ms. Jording explained that the special use section notes that a storm water plan is required. She stated that they generally get confirmation from an engineering firm that states they will perform the needed work. But due to the high cost of the actual engineered project for storm water is not required until they receive approval. She noted if they felt the full plan was required or if a rough general plan is acceptable. Ms. Jording noted that there were two engineers there explaining the storm water plan and the effect the panels will have on drainage. Ms. Jording noted that the ordinance says they have to submit a plan, it does not specify how in depth that plan needs to be.

Mr. Huser asked about the necessity of the landowner to be there. Mr. Parsons stated that in the Hearing the attorney for the petitioner stated they were not the representative for the land owner. The ordinance specifies that the owner must appear himself, by agent or attorney, so should the owner have been present. Ms. Jording noted the company pulling the special use is who attends, she noted that when the wind farm petition went through the owners of the land were not present. Mr. Huser agreed they were not. Ms. Jording noted that the owner of the land would not have answers to the special use information. Ms. Jording noted that the owner co-signs the application for the special use and she is unsure if that indicates the company represents the owner. Mr. Minger noted he would review that.

Mr. Huser asked about the findings of fact, he discussed that only the negatives were addressed. Mr. Parsons stated that he has seen then ZBA state all findings in the affirmative. Ms. Jording noted that the Chairman asked for negatives only on the findings of fact. Mr. Parsons stated that they generally only addressed to the negatives. Mr. Kingdon stated he felt the members maybe were not comfortable speaking out on the findings, and maybe did not have the opportunity to address the findings. Mr. Kingdon noted it would be nice to have that all that addressed. Mr. Minger noted that the findings protect the record if you end up in court. Mr. Huser noted he is not for or against, he wants to make sure it was done correctly. Mr. Huser asked what the 1.5 mile jurisdiction does. Mr. Minger stated they have to be notified, which they were. He noted that they have the right to say their peace. Mr. Parsons discussed that this doesn't go with their long term plan and they should get more than just publication. Ms. Jording noted that they received direct mail. Mr. Parsons discussed that people seemed surprised by this. He questioned if there is something more than just notification that the county should do to include the city when they have a long term plan. Ms. Jording discussed the filing deadline in 30 days before the hearing. She noted the ZBA by-laws require no more than 30 day and no less than 15 days' notice to the neighbors. 15 days is the statutory notification requirement. She noted that they try to get the notices out as close to 30 days before as they can. In some cases petitioners do not file until the filing deadline which is 30 days prior to the hearing. She noted that they are required by statute to notify anyone adjacent or immediately across a street or alleyway. They actually notify any neighbor within 250 ft. of the property line of the total parcel involved. She noted that they also notify the road authority, the township supervisor and any municipality within 1.5 miles. She noted that she doesn't officially know a petition is coming until its filed.

Mr. Kingdon noted that there are state statute restricting placement of wind farms, he noted that this may need to be addressed for solar. Mr. Kempf noted that he received many complaints about the short notice and he explained the notification process to those individuals. Mr. Rokey asked if the 1.5 mile area is the cities. Ms. Jording noted that they have power over the division of land in that 1.5 miles, the city can require subdivisions comply with the city subdivision code which can require curb and gutter, paved roads, sewer and water hookups, etc. Mr. Minger noted the solar farm is not dividing the land. Mr. Parsons discussed his concerns about the fact that the farm stated they intend to sell the farm. He asked if that has happened before. Ms. Jording noted that the wind farm changed ownership, it was not done the way it is required to be done now. Mr. Parsons asked if they could deny a transfer, Ms. Jording noted that it makes it tough to say no. Mr. Huser noted that the wind farm had a special procedure in their special use. Ms. Jording noted that the requirement to come back for a new special use allows the ZBA to address concerns that have developed. Mr. Huser noted that was the checks and balances to ensure there are no issues with existing special uses when they attempt to transfer a special use. Mr. Minger will check into all these items.

11. Other:

- Tri-County Regional Planning Commission report

Mr. Huser noted he did not get into any trouble.

Mr. Glazier provided an update that Minonk would like to fill the seventh spot on Tri-County with the City Administrator. County Offices will have a brief meeting before the board meeting to approve. The city will have their vote on Monday which will allow them to take this appointment to the County Board this month.

- ZBA Hearing - ZBA hearing

Ms. Jording discussed that there are 7 petitions, so far she has seen a significant amount of interest on any of the petitions, and has only received two or three phone calls. She noted that all the petitions are on the website. Ms. Jording briefly explained the petitions coming before the ZBA. Mr. Parsons noted he would attend the Hearing for the Committee.

- Schedule special meetings (if necessary) - None

- Floodplain buyout grant closure costs

Ms. Jording discussed that she is still working to close the FEMA grant for the floodplain buyout. She noted that they are requesting paperwork that was not completed. She noted that the State and FEMA had worked out an agreement that if the county complete the paperwork for the asbestos removal and filed a post notification with the penalty filing fee they would consider that to meet the requirement. She stated she had completed and sent that information today. Ms. Jording noted that she expressed concerns over the cost associated with the grant to IEMA. Mr. Huser asked if we had pursued the duplication of benefits issue. Mr. Minger stated he would look into that issue.

- Zoning Conference September 20, 2018

Mr. Parsons indicated he was interested in going to the conference.

Ms. Jording noted that she has hired a new Zoning Specialist, they are working on training at this time.

12. Executive Session (if necessary):

12. Any action coming out of Executive Session:

13. Adjournment:

Mr. Huser made the motion to adjourn at 8:32, seconded by Rokey. *Motion Carried.*

Lisa Jording, Secretary

Duane Kingdon, Chairman

Date