

AGENDA OF THE LEE COUNTY BOARD

May 17, 2005

6:00 P.M.

**3RD FLOOR BOARDROOM, OLD LEE COUNTY COURTHOUSE
112 E. SECOND STREET, DIXON, ILLINOIS**

OPEN MEETING WITH INVOCATION OR PLEDGE OF ALLEGIANCE

ROLL CALL

ANNOUNCEMENTS

APPROVAL OF BOARD MINUTES OF PREVIOUS MINUTES

PUBLIC/VISITOR COMMENT:

- A. ITEMS ON THE AGENDA – VISITORS ALLOWED 10 MINUTES
- B. ITEMS NOT ON THE AGENDA – VISITORS ALLOWED 5 MINUTES

TO ZONING BOARD: 05-P-1402 - Dennis Pande

TO PLANNING COMMISSION:

FROM ZONING BOARD: 05-P-1401 - Lee County - Zoning, Subdivision, Stormwater Management Ordinance change

FROM PLANNING COMMISSION:

REPORTS OF COMMITTEE:

FINANCE	R.C.&D. - BLACKHAWK HILLS
CLAIMS	COUNTY SERVICES
SOLID WASTE/HEALTH & WELFARE	911 BOARD
ROAD & BRIDGE	ADMINISTRATIVE SERVICES
COMMITTEE CLAIMS	EXECUTIVE/JUDICIAL/LAW ENFORCEMENT
COUNTY PROPERTIES	

COUNTY OFFICERS REPORTS, REQUEST FOR DEPOSIT OF FUNDS, ORDERS PAID IN VACATION

OLD BUSINESS

NEW BUSINESS

APPOINTMENTS ETSB - Kevin Kellen, Kevin Lally, Brad Sibley
Board of Health - David Schreiner
Board of Review - Raymond Harrison
Ohio Fire District - William H. Ogan, Jr.
Ashton Fire District - Jack Baylor

Highway - Local Agency Agreement - Rockyford Road
- Resolution - Appropriation of Funds - Rockyford Road
- Ordinance - Altered Speed Zones

St. Atty - State's Attorney Quarterly Report

Senior

Center- Ordinance - Public Transportation- 5311 Grant
Resolution - Public Transportation - 5311 Grant

Health - Ordinance - Food Services

ETSB - Ordinance - Qualifications for Membership

MILEAGE & PER DIEM

ALL BILLS & APPROPRIATIONS ALLOWED BY ROLL CALL

ADJOURN

LEE COUNTY
ZONING BOARD OF APPEALS
TELEPHONE 288-3643 LEE COUNTY COURT HOUSE
DIXON, ILLINOIS 61021

ZONING REPORT FOR APRIL 2005

There were a total of 36 permits issued for the month of April with a total dollar volume of \$7,096,525. There were 10 permits issued for single-family homes in the amount of \$2,287,000. There was a permit issued to Sauk Valley Student Housing for their new dormitories and recreation hall in the amount of \$4,505,625.

Chairman Bill O'Keefe, Planning Commission, will be present at the Lee County Board meeting to present the new zoning, subdivision, and stormwater ordinances, along with the Greenways & Trails plan for adoption.

Respectfully submitted,



Chris Henkel
Zoning Administrator

LEE COUNTY REGIONAL PLANNING COMMISSION

William O'Keefe, Chairman
James Book, Member
Pat Dunphy, Member
Wendy Ryerson, Member
Ellen Smith, Member
Bob Logan, Member
John Hilleson, Member
John Schmidt, Member

Chris Henkel, Zoning Officer
Erica Scheidecker, Clerk

The Lee County Planning Commission met on Monday, May 2, 2005 at 6:30 p.m. in the Lee County Courthouse, Dixon, Illinois. Chairman William O'Keefe called the meeting to order and took roll with the following members present: Pat Dunphy, Jim Book, Bob Logan, Ellen Smith, John Hilleson, Wendy Ryerson, John Schmidt, and Erica Scheidecker, Clerk.

The first order of business was the approval of last month's minutes. Chairman O'Keefe asked if there were any changes and Bob Logan stated his name was not included in the roll as being present, although he was there. It was agreed the minutes would be corrected to reflect this. Jim Book made a motion to approve, and Ellen Smith seconded the motion. All were in favor and March 30th meeting minutes were approved as modified.

Mr. O'Keefe invited any visitors to speak who were not scheduled on the agenda.

Rick Bowers from Wendler Engineering was present and had questions regarding the proposed ordinances. Mr. Bowers stated he is getting questions in his office about the four building permit limitation on existing parcels, specifically as to how that will be implemented. It was agreed to defer this for discussion during the subcommittee work session.

Chris Henkel stated there was no report of action from Lee County Board. The subdivision and zoning ordinances had been placed on the table and action would be taken at the May 17th board meeting. Mr. Henkel reported that the Zoning Board of Appeals voted to recommend approving the ordinance as it was presented at the April 7th hearing.

It was stated that there was no old business to discuss.

There were three informal LESA appeals on the agenda as new business.

The first appeal was Mike Gletty and his son appealing a high LESA score. Mr. Gletty stated that they own a 118 acre farm about four miles outside of Paw Paw and are hoping

to divide the non till area on the far east side into two 10-acre lots and sell. This would help the value of their farm as farmable land. He is not requesting a building permit yet, because he wants to be sure they will be allowed to build. The lots he wants to create have woods and creek, however the soil has drummer and catlin, which raised the LESA score in the non-farmable area. Also, there's hydric soil under the trees and creek. On the maps he'd handed out, Mr. Gletty pointed out where he hoped to build. He stated there's approximately 14 acres that are not tillable in those two sites. On the proposed building sites, it's high on each side with no wetlands and situated close to the road. Mr. Gletty said across the road there's housing with lots divided into smaller parcels. He stated the creek did not flood high enough to cover the driveway.

Bill O'Keefe asked if their specific request was to disregard the drummer score. Mr. Gletty replied yes, that the drummer score brought it up, but the rest of the plan was pretty close. The hydric soils also raised the score.

Chris Henkel stated that the hydric soil brought it up 12 points. He said that what is actually raising the score is the question of whether he's adhering to the city and county plan.

Mr. Henkel posed the question, if the commission looks at it as an area that is not prime farmland, do they want to look at it as a developable area? That would get rid of the problems that they have with farming it because of the size of the lots behind it and the hydraulic soils along the tree lines.

The other choice he had was to score it as partially complying with the city and county plans. This would have dropped it down 15 points.

Mr. Henkel stated that this is a situation where they're marginal with the LESA scores. As far as taking out the front chunk, he would have said that would have complied or somewhat complied, which would have dropped the score considerably.

Mr. Henkel wanted the commission to see the difficulty that is faced when scoring with the LESA. This is an unusual shaped area because of the way the water falls into the area. He could have easily said it somewhat complies. Down to the south, there are several different lots. A farm nearby has been split off. Mr. Henkel wanted to put it back to the commission because they got feedback a couple months ago saying they score too low.

John Hilleson asked if the portion that was farmable in the main section were taken off what would the score be for just the woodsy area and the three acre piece?

Chris replied that if you believe it's reasonable to drop off the 20 acres that includes farmable parcels, the score for the small three acre, the other piece, and the tree line would have been well below the 225, because it somewhat complied to the county plan. The plan is to promote the prime farm ground, and not let development take place in those areas.

Bob Logan asked by doing that would you lower the LESA score on the rest of it, and Mr. Henkel replied that yes, it would. The hydric soil would make it drop down to zero. Bill O'Keefe said you would definitely drop the hydric soil because of its location under the trees.

Mr. Henkel stated at that point, the score would be 230, which would be at the five point threshold. The question was, does this somewhat comply with the county plan. Mr. O'Keefe observed the issue is the farmability.

John Hilleson suggested instead of taking the two 10-acre lots, what if Mr. Gletty just cut it straight across so that you don't take off as much tillable land. Wendy Ryerson stated if there were three acre lots in the woods and creek, then it would somewhat comply and take the score down 15 points. Mr. O'Keefe noted that under the new plan they're going down to two acre lots, so they would definitely have two buildable lots, even in an AG zone.

Mr. Gletty stated that people want large lot sizes. He said across the road the lots were seven to nine acres.

Ms. Ryerson said on the map it showed the lot sizes across the street as 5, 5, 5.1, and a 7.6 acre lot.

Mr. Gletty stated that most people who have a couple of horses want to have some pasture area, too.

Chairman O'Keefe stated this is specifically what the planners, the comp plan, and the new ordinance suggests: allowing some smaller lots in an agricultural zone in order to keep more prime farmland tillable and in operation.

Mr. O'Keefe stated that since this was a nonbinding vote, he wanted to ask for the consensus of the committee, starting with Mr. Book, Mr. Hilleson, and Mr. Schmidt, since they have farming expertise.

John Schmidt said he was not in favor of taking out the 23 acre field. He doesn't think it would follow the Comp Plan. Jim Book said he would agree with Mr. Schmidt, because then they're only going to have a 15 acre field and are going to have the same arguments you have now. It's hard to justify taking that part out.

The commission members pointed out specifics on the map that would be alternatives to help lower the LESA score.

Bill O'Keefe recommended Mr. Gletty and his son come back with another preliminary sketch reflecting the commission's suggestions. He said they would not be charged again for the LESA, and if they follow the recommendations of the commission, they will be able to get their building permits.

Jimmie Benavidez, Jr. was present to appeal a LESA score. He is planning to build on a one acre site given to him by his mother-in-law in Sublette Township. Mr. Benavidez also had a problem with hydric soil, causing the score to be higher. Bill O'Keefe stated this should be deferred until Mr. Benavidez provides a preliminary sketch. The commission needs dimensions of the lot, locations of existing buildings, and the location of roadway, so the property is defined. Mr. O'Keefe stated that without this the commission doesn't know what they're approving. Chris Henkel said no numbers will change on the LESA.

John Hoelzer was the third LESA appeal. Mr. Hoelzer stated he was asking for an overriding of his 243 LESA score. He currently owns, lives, and farms property and would like to give an approximately 2-acre site for his mother and father-in-law to build a home and retire on. He provided maps detailing his proposed plans. The LESA score was high because of non-land factors, such as adherence to the county plan, distance from town and services, and things of that nature.

Wendy Ryerson asked if it was currently being farmed and Mr. Hoelzer said yes it is, and he farms it himself.

John Schmidt stated it would be better if that were a public road on the east side, instead of a lane.

Mr. Hoelzer said his father owns the adjacent portion.

Bob Logan stated that this issue is difficult because the people who will live on the site will not be farming, and John Hilleson pointed out that other non-farming family members have been turned down in the past. Mr. Logan replied in that instance the family wasn't farming it either.

Ms. Ryerson said she was struggling with it because it does go against the plan and they have turned down other people, although it was because neither party was farming at that time. Ms. Ryerson stated the issue was whether to let the land come out of production.

Chris Henkel asked the commission if the parcel that Mr. Hoelzer lives on was a five acre parcel and he asked to split off two acres even though he was farming it, how would they look at that? Mr. Henkel observed that Mr. Hoelzer is clumping development together, which is part of our comp plan. That's what makes this so difficult. Mr. Henkel pointed out that the commission has allowed that in the past.

John Hilleson pointed out that in-laws could run equipment, and even babysitting grandchildren would be viable part of the farm. Bob Logan stated that there is going to be an orchard, which is production.

Chris Henkel reiterated the key issue was that they're clumping development together.

Wendy Ryerson, Jim Book, Bill O'Keefe, and John Schmidt all approved. John Hilleson said he would look at it as enhancing the agricultural family, and would support it. Pat Dunphy and John Schmidt did not support it. Mr. O'Keefe stated that the majority consensus was that it did comply with the aims of the comprehensive plan. Mr. Henkel stated the LESA score would be changed from 243 to 218, and the next step would be applying for a building permit.

Chairman O'Keefe stated they would adjourn to their subcommittee work sessions.

Visitor Steve Halitzer was present to discuss some issues with the proposed ordinances. Mr. Halitzer stated he had a question related to grandfather clause in the zoning ordinance on page 95.

Wendy Ryerson stated that they found problems and some omissions in the ordinances, so she had pages with revisions that needed to be added to binders. Mr. O'Keefe observed Mr. Halitzer's issue was in regards to that. Mr. O'Keefe inquired how Mr. Halitzer had acquired those pages, and he replied he got them off the website.

Bill O'Keefe stated that in the draft that was discussed at the public meeting, there were no provisions whatsoever regarding exculpations and grandfather clause. The genesis of that page is that a similar article appears at the end of the subdivision ordinance. Following the hearing, Mr. Henkel raised some questions as to various areas he felt should be grandfathered in, and Mr. O'Keefe thought they were. When they investigated, they realized they had neglected to include those sections.

Mr. Halitzer stated that he owns a 62 acre farm in Lee County and various other properties for some years. He reported that on page 95 and 98, the last part of the grandfather clause was incomprehensible. He asked what it really meant and what the use of "modifications" meant. Mr. O'Keefe replied that it applies only to what the ordinance governs.

Chairman O'Keefe suggested they look at his specific issue, which was a survey recorded which designated certain areas, 5 acres or more, in an area of the county near Paw Paw.

Mr. O'Keefe said his view is that anything that is exempted under the Plat Act is totally separate from the ordinance, and therefore the grandfather clause does not apply. If you read the Plat Act, there are multiple exceptions where property can be conveyed out totally free of any regulation by the county. The question then becomes, are these so called legal actions under the prior zoning ordinance? Mr. O'Keefe believes they are not. These are actions taken pursuant to a state statute, which exempted them from the zoning ordinance. Therefore, the question then becomes, what in the new ordinance applies? Does LESA apply, and do you need a subdivision ordinance if things change? Mr. O'Keefe stated that yes, you do need a LESA.

Visitor Rick Bowers said he wasn't following his logic. The exemptions in the Plat Act are really exemptions from the subdivision ordinance, not zoning.

Chairman O'Keefe stated that LESA is in both the subdivision and zoning ordinances, but his comments apply more to subdivision than zoning. He explained that LESA is not required only in cases where they have previously zoned residential lots. In any other circumstance, LESA is required. As she is the expert, Mr. O'Keefe asked Marilyn Shippert, a county board member, her opinion.

Ms. Shippert stated she agreed with the explanation he had provided.

Mr. O'Keefe stated that Mr. Halitzer was correct in stating that the wording was inarticulate and would be corrected. However, Mr. O'Keefe's explanation is what is intended by the ordinance, although Mr. Henkel disagrees with him. Mr. O'Keefe observed that Mr. Henkel's opinion is we should grandfather in all kinds of lots which were previously done as exemptions to the Plat Act. Mr. O'Keefe stated that we have thousands of examples of it, unfortunately, in this county. Out by Eldena, if you look along that road, you see diagonal lots that shoot out in every direction. He believes those lots should have to go through LESA again.

Bob Logan asked if those lots were zoned agricultural right now, and Mr. O'Keefe replied that they were. Mr. Logan said he would agree with Mr. O'Keefe's position, because if they'd been zoned residential they would not be subject to LESA.

John Hilleson asked if they were zoned residential under the old ordinance. Mr. O'Keefe replied that no, they were zoned agricultural.

Mr. Bowers stated the question is, were they buildable parcels when somebody bought them 10 years ago?

Mr. O'Keefe, replied that yes, they were. He went on to say that a lot is only buildable if you meet the requirements for a building permit at a specific time. He said that even if it met the requirements for building permit 10 years ago, now they do not. This problem had been discussed extensively by the commission previously. Mr. O'Keefe said the conclusion was that only pieces zoned residential were exempt from LESA. However, if it's zoned AG, and could be broken up for fifty different reasons, and this could be 5 acre pieces, 30 acre pieces, or 2 acre pieces, it is subject to LESA.

Mr. Bowers observed that there are a lot of agricultural subdivisions, and Mr. O'Keefe said there are thousands of lots. Mr. Bowers remarked that he was thinking of platted subdivisions, like Shadowwood right across from Lowell Park. He asked if they were requiring everyone in that subdivision to pass LESA. Mr. O'Keefe answered that yes they would, or the subdivision as a whole would.

Chris Henkel clarified that since 1998 all subdivisions have had to have a LESA attached to it prior to the development of that subdivision, therefore it's exempt from the requirement of LESA for every lot. Those agricultural subdivisions do not require a LESA, so those lots are buildable.

Mr. Henkel said he felt Mr. Bowers was asking what is the difference between those AG zoned lots and the two 5-acre lots, or the 30 acre lots.

John Hilleson asked if the last lots they were speaking about had been through LESA.

Mr. Henkel stated that every agricultural subdivision that's been approved had a LESA attached to it, from the one lot subdivision on up. Shadowwood had a LESA score, and being right next to Dixon, scored well under 225.

Mr. O'Keefe clarified that under the remapping, those lots would be zoned R-1. Mr. Henkel said since they're not two acre lots, they'd would be zoned R-2.

Bob Logan said one of the differences is there are official subdivisions, and then there are some that are just platted. Mr. O'Keefe clarified, not even platted, just surveyed. Mr. Logan asked if it's not a subdivision, if it's AG property, doesn't it still need to meet the LESA score, no matter what size the property? Mr. Henkel replied yes, that is what is coming out of this committee.

Mr. Bowers asked if the subdivisions prior to 1998 had to go through LESA, and Mr. O'Keefe replied yes. If they don't meet LESA, then they'll have to appeal. Mr. O'Keefe said we can't set a blanket rule that saves all those subdivisions.

Mr. Bowers said he felt they were opening a can of worms. If someone bought the property with the intent to build, and when it comes time to build, they can't. John Schmidt said they could say that about anybody that purchases land.

Jim Book asked how they would differentiate between that and a farm down in Sublette where mom wants to build a house and separate out two acres for the son, and neither of them farms.

Bill O'Keefe said, if it turns against them, they will have to appeal it. In many instances, it won't turn against them. They'll get a favorable LESA.

Bob Logan stated that if you've got a subdivision where 17 of 34 lots are built, it's going to pass LESA, because it is in the plan. Mr. Henkel said he would automatically pass those. Mr. Logan said that's going to eliminate 95% or 98% of any of the questions they were talking about.

Chairman O'Keefe observed this has been faced all though the state. For example, around Skokie, thousands of acres, 25 foot lots, all of the sudden became un-buildable. There's nothing wrong with doing this. He stated we have to enforce the rules we want the county to live by, now and in the future.

