

**AGENDA OF THE LEE COUNTY BOARD**

**SEPTEMBER 20, 2005**

**6:00 P.M.**

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

OPEN MEETING WITH INVOCATION OR PLEDGE OF ALLEGIANCE

ROLL CALL

County Board District 1 - Rick Ketchum - Oath  
ANNOUNCEMENTS

APPROVAL OF BOARD MINUTES OF PREVIOUS MINUTES

47 Resolutions - Joseph Meyer - Tax Auction (roll call)

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-1411 - Farley - Palmyra Township

05-P-1412 - John Wahl Revocable Trust - Hamilton Township

TO PLANNING COMMISSION:

FROM ZONING BOARD:

FROM PLANNING COMMISSION:

REPORTS OF COMMITTEE:

FINANCE

CLAIMS

SOLID WASTE/HEALTH & WELFARE

ROAD & BRIDGE

COMMITTEE CLAIMS

COUNTY PROPERTIES

R.C.&D. - BLACKHAWK HILLS

COUNTY SERVICES

911 BOARD

ADMINISTRATIVE SERVICES

EXECUTIVE/JUDICIAL/LAW ENFORCEMENT

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

OLD BUSINESS

NEW BUSINESS

APPOINTMENTS - Norm Fassig - West Brooklyn Fire District

Clerk/Recorder - Resolution - HAVA funds for accessible voting equipment

Treasurer's Quarterly Report

Rabies - Ordinance - Animal Control (held over from Aug)

Assessor - Resolution - Extension of Board of Review

Zoning - Resolution - Zoning Fees

Resolution - Levy 2005/2006

Resolution - Pay Raises - Non Union

Resolution - Pay Raises - Appointed Department Heads

Resolution - Pay Raises - Part Time

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 AUGUST 2005

There were a total of 29 permits issued for the month of August with a total dollar volume of \$1,511,325. There were 8 permits issued for single-family homes in the amount of \$1,170,000.

There are no petitions for the County Board to take action on this month.

Respectfully submitted,

*Chris Henkel*

Chris Henkel  
Zoning Administrator

## LEE COUNTY REGIONAL PLANNING COMMISSION

William O'Keefe, Chairman  
James Book, Member  
John Hillison, Member

Chris Henkel, Zoning Officer  
Alice Henkel, Clerk

The Lee County Planning Commission convened on Tuesday, September 6, 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: James Book, John Hillison and Alice Henkel, Clerk. Since the committee has reconstituted as a board of five members, three members are considered quorum and the committee was allowed to proceed with business.

The first order of business was the approval of last month's minutes. Chairman O'Keefe asked if there were any comments. John Hillison stated that, as far as volume, the minutes were very good minutes. Mr. Hillison moved to approve minutes and James Booke seconded it. All were in favor and minutes were approved.

Mr. O'Keefe asked if anyone present, who was not on the agenda and had not spoken with Chris Henkel prior to the meeting, had any comments, of any kind, that he or she would like to make. There was no one.

At that point in time, Mr. Henkel had engineer, Rick Bower, and attorney, Gary Gehlbach, approach the committee with a concept plan for a planned unit development (PUD) that could possibly be coming into Lee County, right next to the city of Dixon and would be located on Bloody Gulch Road. Mr. Bower passed out maps of the concept plan to all who were present.

Mr. Henkel informed the board that approval of the concept plan was not being sought that evening but that he, Mr. Bower and Mr. Gehlbach would like to discuss the PUD ordinance.

Mr. Gehlbach informed the board the developer of the concept plan would be a limited liability company that would be formed for the purpose of developing said concept plan. The concept plan would not be exactly contiguous to the city of Dixon, but it is likely to be in the near future. Therefore, county and city approval would be required.

Mr. Gehlbach went on to state that the idea of Ted Hvarre, the developer, is that the concept plan would be a planned unit development. In the new zoning ordinances, the planned unit development is in the nature of a special use, in that it modifies the "R" zoning for residential district. The idea is that there would be individual ownership of the various units. Mr. Gehlbach assured the board that they are looking for suggestions and nothing had been finalized. He went on to say the subdivision plat would lay out the buildings, and as individual units are sold, that part of the subdivision would be re-

platted. Mr. Bower added that this would be a townhouse type of development. Mr. O'Keefe asked if it would not be condos and Mr. Bower replied no.

Mr. Gehlbach said that they had discussed the commonality and compared it to the commonality of a duplex where there is individual ownership of each the units. However, this PUD would consist of several five-unit buildings. There would be single-family lots on the north section of the development.

Mr. Gehlbach stated that the problem with this design is that it does not meet any of the standards, in terms of density, setbacks requirements, etc. The recently enacted PUD ordinance only allows up to a twenty percent (20%) variance for the setbacks and that would simply not work for this concept plan. Mr. Bower added that, based on the plan, there would be zero setbacks on all the lot lines for the individual units.

Mr. Hillison asked what the difference between a townhouse and a condo is. Mr. Gehlbach explained that in a condominium, one would own the interior of the unit, or the air space inside the unit, plus an undivided interest in the common elements. Because of the complexity of the engineering in a condominium building, being that they have to be defined on a three-dimensional basis, instead a two-dimensional basis.

Mr. Gehlbach went on to say that he and Mr. Bower have been involved in a similar development, here in Dixon, which involves duplexes. He said that each time a duplex is built, Mr. Bower's firm is called in to individually survey the legal description of each unit of the duplex, based on the dividing wall. This would develop a legal description for each of the two units, allowing them to sell each unit separately and each buyer would own his or her own half of the duplex. Mr. Gehlbach stated that this concept plan is the same idea, except there would be five individual units for sale, instead of two.

Mr. Booke questioned whether there would be five different owners of a building, which Mr. Bower and Mr. Gehlbach confirmed. Mr. Booke also asked if they would survey off twenty percent (20%) of each building. Mr. Bower explained that, typically, the original final plat for this subdivision would have a rectangle where each building will sit. After the building has been built, they would go back and subdivide the rectangles into however many units the building ends up being divided into.

Mr. Booke asked if the legal description would go down the dividing wall between each unit. Mr. Bower replied yes, that the buyer would own the unit and the real estate underneath it.

Mr. Booke also wanted to know what about the surrounding elements and Mr. Bower explained that the surrounding would be common ownership.

Mr. Bower went on to state that the big attraction of townhouses over condos is that a lot of mortgages are sold on secondary markets now and it is a little easier to sell a townhouse mortgage on a secondary market than it is a condo. Financing is a little easier with this concept. Mr. Bower stated that this type of development is being used,

overwhelmingly, east of Dixon, in the areas of DeKalb, Sycamore and east of there, as well.

Mr. Gehlbach went on to explain that there would be a homeowner association that unit owners would be required to be members of. The homeowner association would handle the yard maintenance and possibly snow removal on private drives.

Mr. Booke asked why financing would be easier for townhouses. Mr. Bower responded that it is easier because there is real estate involved. The homeowner would possess a title to a piece of real estate. With a condominium, homeowners only possess the air space within the unit.

Mr. O'Keefe restated that the concept plan requires more than the twenty percent (20%) variation. Mr. O'Keefe then suggested they go over all requirement listed in Appendix C. It was stated by Mr. Gehlbach and Mr. Bower that the lot size requirement would not be met by all the lots. Mr. O'Keefe suggested adding up all the common area, dividing the common area by the number of units and assigning a portion of the common area to each unit in order to meet the lot size requirement.

Mr. Bower stated that the setbacks would then be a problem because the individual units would come up the lot lines. Mr. Bower further stated that if the twenty percent (20%) limit was not in PUD overlay, there would be no problem because all the issues would then be covered in the PUD overlay.

Mr. O'Keefe stated he did not remember why the twenty percent (20%) was placed in the ordinance. Mr. Bower stated that a PUD is typically used to prevent having to do variances and said they were present to find out how the commission wanted them to proceed.

Mr. Booke said they would have to discuss it. Mr. Henkel stated there really wasn't anything to discuss, that the twenty percent (20%) variance is the only issue. Mr. Bower suggested removing the twenty percent (20%).

Mr. O'Keefe stated more than that should be done. There is no provision for attached housing and that category should be placed under an R-3 and an R-4 because the concept that R-4 is built on is vertical density, not horizontal density.

Mr. Bower stated that the county really doesn't want to over-zone on this because it is still single-family residential, it's just attached, not detached. Mr. O'Keefe agreed and stated it should, first of all, be placed under that category to permit this type of housing. Again, Mr. O'Keefe stated he did not recall why the twenty percent (20%) was put in the ordinance and that he did not feel strongly about it.

Mr. O'Keefe stated that a recommendation would be made to the whole committee to eliminate the twenty percent (20%) requirement for the PUD ordinance and to amend Appendix A to allow for this type of attached housing under R-2 and R-3.

Mr. Bower and Mr. Gehlbach said they will come back next month to give a formal presentation.

Mr. O'Keefe asked if there were any other comments from the visitors' section. There were not.

The next item of old business was re-mapping. Brant Scheidecker was in attendance to present a status to the board. Mr. Scheidecker reported that Vanderwalle Consultants are in the process of updating some of the county's existing maps to facilitate the mapping rezoning process. He presented draft copies of what Vanderwalle had sent and stated it looks very similar to what was done back 2000. He stated they are making those maps more accurate due to the GIS and are able to break things down to the parcel level.

Mr. Scheidecker, Mr. Henkel and Wendy Ryerson will be meeting to answer questions that Vanderwalle has in regards to some of the uses of the land. Once these uses have been clarified, the rezoning process will begin.

Mr. Henkel stated that research will have to be done for some of the questions, in terms of why the land was zoned for the purpose originally. He also stated that he expects to have public hearings for land that may be rezoned, but he hopes that some disputes may be resolved prior to the meetings.

Mr. Henkel stated that there are going to be disputes over the rezoning, especially in cases of rezoning industrial zoning to agricultural zoning. Even though the land may not be used for industrial purposes, the landowners may feel their property has more value as an industrial zoning than an agricultural zoning because a company, in the future, may want to purchase their land and use it for industrial purposes. However, Mr. Henkel went on to state that that may be the case, but they will have to petition to rezone back to an industrial zoning at the time the buyer would like to build.

Mr. Scheidecker said the first step they are going to take is to look at each zone and see what the land is being used for and then look at how the land is currently zoned. He stated that they can do that quickly because it can all be done using computer.

Mr. Bower stated that in the cases of industrial zoning, those companies looking to build like to see the zoning already in place for that type of use. He went on to say those companies typically do not like to wait for the rezoning process, that they like to see the parcels already zoned for that use. He feels that if they are already zoned for industrial use, they should be left that way.

Mr. O'Keefe stated that the committee agrees with that and said the parcels they are talking about are the ones that were zoned based on location. For example, a parcel located near a railroad, that has since been abandoned and can no longer be used for industrial purposes and is currently being farmed, should be down-zoned from industrial to agricultural.

Mr. O'Keefe stated that at next month's meeting a presentation will be given by Jason Anderson in regards to the changes taking place near Steward due to railroad expansion. Mr. Henkel informed the committee that the presenter is very involved in the changes taking place in Rochelle.

Mr. Henkel stated there is a lot of interest in the area between Steward and Rochelle. Rochelle is building a railroad that would enable them to be the switch track for both Union Pacific Railroad and the Burlington Northern Railroad. The area has become a very interested area for heavy zoning due to this change.

Mr. Henkel said that he invited Mr. Anderson to come and give a presentation on this activity. Mr. Anderson will explain what the intentions of Rochelle are and what the needs will be for this to take shape.

Mr. Henkel would like Lee County to get prepared before all the changes start taking place. He believes that this will happen in the next ten years.

The next item of business was the report of action from the Lee County Board. Mr. O'Keefe requested the report of action from the Lee County Board. Mr. Henkel stated that there were seven petitions, all of which were approved. The petitions are as follows: 1403 -- Special use for greenhouse, 1404 -- R-4 multiple dwelling, 1405 -- C-3 trailer, 1406 -- Revert to AG-1 from special use, 1407 -- Variance, denied (from AG-2), 1408 -- AG-2 to AG-1, and 1409 -- Variance, approved (from AG-2).

Mr. Henkel stated that there was a lot of discussion regarding petitions 1407 and 1409. The circumstances in each were the same, in that each was a variance from an AG-2 to develop a house. However, one was accepted and one was turned down. The county board approved both recommendations. Both variances were from the same AG-2 location, both were approximately one-half mile away, and again, one was approved and one was denied.

Mr. Henkel stated that the new ordinances for the AG-2 and AG-3 need to be reconsidered. Mr. Henkel feels the planning commission needs to have the ordinances coincide with state regulations, as originally intended.

Mr. Henkel stated that this ordinance must be amended so that the power does not lie strictly on one farm that controls thousands of acres.

Mr. Henkel stated that early on, the county was going to follow the state regulations. In the end, the planning commission went away from that. Mr. O'Keefe stated that they went away from that due to the grandfathering issues, and he believes that is where the problem is.

Mr. O'Keefe feels that the county should not permit any new AG-2 or AG-3's that the state regulations should govern. He suggested that they exclude a dwelling from the

current AG-2's and AG-3's and allow the construction of a single-family dwelling with the same restrictions that is in the state law but not broaden it any further than that. Mr. O'Keefe stated that the idea of reciprocity between the state and the county has been agreed upon all along.

Mr. Henkel would like to see a signature page attached to the building permit for the Right to Farm Act, which allows for the dust, noise, late night activity, livestock and slow moving vehicles that may come with farming. The Right to Farm Act allows a farmer to farm. Mr. Henkel wants this attached to a building permit so that the builder is aware he or she is allowing that farmer to farm.

Mr. Hillison requested all members receive the language of the Right to Farm Act. Mr. Henkel said he would arrange for that.

Mr. O'Keefe stated Mr. Hillison had a response from the State regarding whether they know what farms are governed by the state statute. Mr. Hillison stated that the State does not have an all-inclusive list for any particular county of all the livestock facilities. They have a list of all the facilities that have applied for permit and an address for the entities that have taken the livestock management class. He went on to state that a farmer could have 300 hundred animal units and be under the threshold to have to take the class but still qualify for AG-2. So, the list does not include everyone under AG-2.

Mr. Hillison also contacted EPA, and stated they were not able to provide any information on the matter. When they receive a complaint they do not put it on a map that shows the complaint derived from a livestock facility.

Mr. Henkel stated that the planning commission needs to review the state regulations and apply it to the county's AG-2's and AG-3's. He stated that he agrees with Mr. O'Keefe that AG-2 and AG-3 are going to continue to be a problem in the future.

Mr. Booke asked Mr. Henkel if he believed the county should essentially downsize the current AG-2's and AG-3's to the state regulations. Mr. Henkel stated that it is his recommendation for that to be done. Mr. Henkel believes if that is done, it will take the burden off the county because the county would be following state regulations. Should a matter be taken to court, the county would win for that reason.

Mr. Booke questioned why the board of appeals approved one variation and not the other. Mr. Henkel stated that it came down to the farmer. The farmer was opposed to the first petition and accepted the second. Mr. Henkel stated that the Zoning Board of Appeals ultimately left it up to the farmer, stating that it was the farmer's decision.

Mr. Hillison suggested having the State's setback set in stone and shrinking the setbacks for current AG-2's and AG-3's to allow for State reciprocity for the setbacks.

Mr. Henkel believed the county should follow state regulations and have no variance. Mr. O'Keefe and Mr. Henkel both feel there should be no new AG-2's or AG-3's. Mr. Henkel

stated that AG-2 and AG-3 zoning is voluntary zoning and Lee County is the only county that has AG-2 and AG-3 zoning.

Mr. Hillison stated that a current livestock management facility is already protected, but the setbacks are different.

Mr. Henkel would like to have the location of those facilities noted on the county map, so the setbacks may be applied.

According to Mr. Hillison, the State setbacks are one-quarter mile and one-half mile and for the larger units, one-half mile on up to one mile. He personally believes that in order to honor the original intent of the county, the county should establish one mile and one-half mile setbacks, without variation and no new AG-2's and AG-3's.

Mr. Henkel would like to eliminate AG-2 and AG-3 because a farmer will be protected by the state if he or she follows the state regulations. Again, AG-2 and AG-3 zoning is voluntary.

Mr. O'Keefe stated he is definitely in favor of no new AG-2's and AG-3's and applying the state regulations reciprocally to all setbacks. He believes that eliminating existing AG-2's and AG-3's would create litigation issues. Mr. O'Keefe stated that current AG-2 and AG-3 farmers have a right that the county has given them of a number of years and to take that right away creates a risk of litigation.

Mr. Bower brought up the fact that Mr. Henkel can not issue a building permit in the Village of Compton because it is blocked out by an AG-2. Mr. Henkel stated that Compton is within one mile of an AG-2, and current restrictions prevent any further development of the village.

Mr. Booke asked if the state setbacks were to be applied, would Compton still be located within the restricted area of the AG-2. Mr. Henkel said that it would not.

Mr. Hillison asked if the county would use the state production levels. Mr. Henkel believes that the county should use the state production levels so that county and state coincide.

Mr. Hillison stated that shrinking a two-mile setback to, virtually, a one-half mile or less setback is a lot of protection to give up for a livestock farmer who, even with the waivers, has virtually no protection. Even with the waivers, the farmer can be sued on a nuisance basis and that there is no limitation on that. He went on to state that the board would be reversing an established policy of Lee County. The county had established a desire to protect established livestock facilities.

Mr. Bower stated that, originally, the ordinance was intended to provide protection, reciprocally, to both the subdivisions and the farmers. It has since evolved into a one-sided protection system.