

**PLANNING AND DEVELOPMENT COMMITTEE**  
**McHenry County Government Center – Administration Building**  
**667 Ware Road – Conference Room A**  
**Woodstock, IL 60098**

Tina Hill, Chairman

Randy Donley	Mary L. Donner
Sue Draffkorn	Marc Munaretto
Lyn Orphal	Ersel Schuster

MINUTES OF THURSDAY, NOVEMBER 18, 2010

Chairman Hill called the Planning and Development Committee meeting to order at 8:30 a.m. The following members were present: Tina Hill, Chairman; Randy Donley; Mary Donner; Sue Draffkorn; Marc Munaretto; Lyn Orphal, and Ersel Schuster. Also in attendance: Kenneth Koehler, County Board Chairman; Dennis Sandquist, Matt Hansel and Darrell Moore, Planning and Development; Pat McNulty, Health Department; Mary McCann, County Board; Dan Volkers, Manager, McHenry County Farm Bureau; interested public and press.

MINUTE APPROVAL:

Committee members reviewed the Planning and Development Committee minutes of November 4, 2010. Ms. Schuster made a motion, seconded by Ms. Orphal, to approve the minutes as presented. The minutes were approved with all members present voting aye on a voice vote.

PUBLIC COMMENT:

Committee members received a copy of a letter dated November 18, 2010 from Luis C. Mendez, Jr. Mr. Mendez was not present and he requested that the letter be read so it may become a part of the record. Chairman Hill read the following:

“November 18, 2010. To all members of the Planning and Development Committee and Staff: I would first and foremost like to thank you for allowing me to submit this written statement during your meeting. I would like to address certain issues that have been of concern to you all for the past months. I am aware that certain members of the community in Union have not been happy with the events that have been held on my property. I am also aware that they have had very negative experiences with the previous owners of the property, as they also had similar horse racing events to those that I organized. We have been accused of different things ranging from running an illegal gambling operation, to physically abusing horses that train on my property, as well as having live bands, and trashing the neighborhood. Until today, I have not paid much attention to these allegations, hoping that they would stop if I was as transparent as possible with the activities that go on during my events. As you all may or may not know, there have already been two different reports in the local newspapers that shed light on my events. I would like to give my side of the story here today. I have held four events this year that have been very well received by the visitors who have attended. I have worked with staff from Planning and Development, specifically Mr. Matt Hansel, to insure that I am in compliance with all ordinances and conditions set by his department. Mr. Hansel has been present at three of my four events, and I was in constant communication with him to insure that he felt satisfied with any documents or plans submitted. I have also tried my best to start and end my events at the times which were submitted my Temporary Use Permit Applications. I have also worked with Lt. John Miller of the McHenry County Sheriff's Department and Jeff Homuth of the Marengo Fire Protection District to insure that safety and security is up to their standards. Furthermore, after each event, I have been proactive in applying the recommendations provided by the McHenry County Health Department with regards to the food vendors present at my events. Last but not least, at the last event held this past Sunday, there was a staff member from Animal Control to insure that none of the horses present were being abused in any way. From her comments, there was nothing that indicated the horses were being harmed or mistreated in any way. It is my hope that after hearing all of this, you will be convinced that I am very much open to suggestions and easy to work with. When I began planning my first event of the year, I felt that it was a good idea to approach my immediate neighbors and inform them of my intentions. While I did not communicate with them personally, Mr. Lazaro Castro, who partners with me in the planning of the events and owns the property adjacent to mine, approached them to notify them about the activities that would take place. The intention from the start was to make sure that the neighbors would be inconvenienced as little as possible. Instead of being receptive, my neighbors have attempted to make things difficult and frustrating by reporting numerous complaints to various departments. We have had inspectors from Planning and

Development, Stormwater Management, and Animal Control come out numerous times to address these complaints, the majority of which were resolved immediately because we weren't doing anything wrong. It has come to the point where some of the inspectors have suggested there is a certain level of harassment going on. Based on what my family and I have experienced this year, I am forced to make the assumption that my neighbors are unwilling to approach me directly, much less compromise or get to know me. I find this to be very unfortunate considering the fact that I am open to dialogue and finding appropriate solutions to this situation. In closing, I want to say that I will contact County Board Members from District 6 to try and discuss this situation. I have faith that our elected officials can use good judgment and work with me to alleviate some of these issues. It is my intention to continue planning these events while following all of the ordinances and recommendations of the Planning and Development Department. In closing, I would like to thank Mr. Matt Hansel for working closely with me to insure that my events were well organized. On behalf of my father, Luis Mendez, Sr., and Mr. Lazaro Castro, and all of the people that helped us put together these events at Poker de Ases Ranch and Training Center, thanks again for your time. Sincerely, Luis C. Mendez, Jr."

Dan Volkens, Manager, McHenry County Farm Bureau, addressed the committee concerning Ag Tourism. Agriculture is currently the backbone of the County. Later today they will be hosting a meeting concerning Ag Tourism which will provide information about longer growing seasons. As the committee defines Ag Tourism, he stated that the language they include in Ordinances and Resolutions may have unintended consequences on some people which may be significant. He asked them to look at the diversity of the County's growers which include everything from large growers to small farmstands and farmers markets. The vast majority of growers are in the middle and his main concern is to not get to the point where their businesses will be shut down because of the regulations placed upon them. With regards to the State's Attorney's letter provided in the packet, at the time of the letter they were working with Sue Ehardt with regard to the submitted language that would meet the state statute. The Farm Bureau looks forward to working with Mr. Sandquist and his staff to make sure the language for the County Zoning Ordinance concerning retail sale of non-agricultural items as a matter of right and without the need for a conditional use permit meets the state statute. He read a quote from Ronald Regan: "There are no constraints on the human mind, no walls around the human spirit, no barriers to our progress, except for those we erect ourselves". He asked the committee to not over-regulate an industry that has a lot of possibilities in this County.

Valerie Ksiazek of Union, IL thanked the County Board members that recently came to her house during a recent horse racing event held at her neighbor's property. She had favorable opinions and comments from the Board members and many members mentioned they did not realize the amount of noise and commotion coming from the crowd attending the event. She feels these types of events do not belong in her small community. She realizes her neighbor has the right to operate these events, but feels the horse racing events held on her neighbor's property should be held somewhere else in the County. The horse racing events are impacting the neighbors, roads and towns. She asked the committee to take this into consideration. She feels it would be in the best interest of the County to stop, or limit, these types of horse racing events.

PRESENTATIONS: None.

SUBDIVISIONS: None.

OLD BUSINESS:

Chairman Hill requested that 5.1, 5.2 and 5.3 be reviewed at the same time.

*Ordinance Amending Ordinance 0-2008-11-10-069 and Attachment A; Ordinance Amending Ordinance 0-2008-11-10-070 and Attachment A; and Ordinance Amending Ordinance 0-2008-11-10-073 and Attachment A:* Chairman Hill stated that these ordinances will amend the existing ordinances and will impose minimum fines for violations of County codes and regulations. Mr. Sandquist and Mr. Hansel joined committee members and stated that they contacted other counties to find out what their procedures were concerning minimum fines for violations. Ogle County was the only county to impose minimum fines. Their appearance fee is \$350 and they use their adjudication process sparingly. Their Director of Zoning informed them that they try to work with violators to bring them into compliance and the adjudication process is their absolute last resort. Mr. Hansel spoke with colleagues at a recent Illinois Association of Zoning Officials meeting and they emphasized that bringing violators into compliance was the main goal. Mr. Hansel feels the current process works. There will always be some violators who will not respond to the 10-day and 14-day violation letters. Approximately 10% to 15% of violation cases are sent to the court system. Mr. Sandquist suggested the adoption of a minimum fine, but also have a

policy stating that if violators come into compliance between the time they are served with court papers and before the first court date, they would waive the new higher fine and the case would be dismissed. He believes approximately 60% of violations concern building code violations, not violations to the zoning ordinance. Mr. Munaretto suggested imposing a trial period for the minimum fines and come back in one year and re-evaluate whether it is working or not. Ms. Schuster made a motion, seconded by Mr. Donley, to recommend approval of the three Ordinances with the addition of language stating the requirement to revisit the three Ordinances in 12 months. Staff will amend the Ordinances to include this language. The motion carried on a roll call vote of all ayes (Donley, Donner, Draffkorn, Orphal, Munaretto, Schuster and Hill).

Members discussed whether or not a case would be dropped from the court system if violators came into compliance before their first court appearance. Committee members agreed that the main objective is compliance, as well as keeping them out of the court system. Mr. Sandquist will work with the State's Attorney's Office to have the proper language prepared for Planning and Development's administrative policy to state that violators that come into compliance before their first court date, the case will be dropped from the court system.

*Ag Tourism – Discussion:*

Mr. Donley stated that there are businesses that want to offer amusement park activities on their properties, but they should have the proper business licenses and permits. He continued that in his opinion Ag Tourism is flawed on many levels. He stated that he has no problem with Ag Tourism or farmers trying to make extra money besides their crops. However, in his opinion, Ag Tourism is not defined in that it is not just a corn maze or selling from a farmstand because it now includes restaurants, banquet halls and amusement rides. A lot of laws, rules and regulations are overlooked in the process of becoming Ag Tourism. He feels Ag Tourism businesses should comply with commercial codes. He mentioned that the County does not require any form of conditional use for an Ag Tourism business. The neighbors of many Ag Tourism businesses are affected by the traffic, lighting and noise and they have no rights as to whether or not their neighbors can conduct commercial businesses. He feels there are parts of Ag Tourism that are B3 commercial businesses that should be regulated by zoning. Mr. Munaretto mentioned that after 18 months of reviewing all aspects of Ag Tourism and trying to find a way to be accommodative, it was demonstrated by the laws that govern land use, if you want to be a retail operation, you have to have retail zoning. There is a gray area where we allow conditional uses. You either have to have the appropriate zoning or have a conditional use permit. The neighbors have a right to know, and they have a right to voice their opinions to County Board members, whether they want or do not want it in their neighborhood. Ms. McCann wanted to know if they needed retail zoning or a conditional use permit to run an Ag Tourism business. Once you have a restaurant or want to sell retail items, you must obtain a conditional use permit with A1 zoning. Mr. Donley mentioned that you do not need a conditional use for a corn maze, and bringing in tourists to walk through a corn maze is not a farm operation. Ms. McCann mentioned that there are Ag Tourism businesses that sell food to compliment their businesses. Committee members were asked if they did not want Ag Tourism businesses to sell food and Chairman Hill said no, unless they were a retail business. Mr. Donley feels that in order to serve food, there are specific zoning requirements that have to be met.

Mr. Donley stated that another area he would like to elaborate on is rides at Ag Tourism locations. One misnomer is that because a tractor pulls a hay wagon it is an ag use; it has nothing to do with agriculture. It is not a farm activity to pull people around on a hay wagon. He mentioned that the State of Illinois requires inspections and licenses for all rides that are used commercially. They do not have any safety standards for hay rack rides that are governed by the State right now. Ms. McCann stated that it is regulated because owners pay a higher insurance premium to allow people to come onto the property and be transported by wagons. Mr. Volkens stated there are state regulations and case law with regard to hay rack rides. He recently received correspondence from Jack Franks concerning case law regarding this issue.

Ms. McCann mentioned that wineries are an emerging industry in the County and there are a number of people who want to open a winery in the County. They will be growing grapes, but not processing them into wine at this time, and they want to have a wine tasting room. The Liquor and License Commission has discussed whether or not to have a special liquor class for wineries. Eventually a few of the wineries plan to produce their own wine on site. Mr. Munaretto mentioned that as an outcome of the Ag Tourism Task Force two years ago, they asked the Liquor Commission to look into adopting the regulation that would allow wineries, which is a license that has existed in Illinois for a long time.

Ms. Schuster mentioned that she feels they are not enforcing the conditional use permits properly and to make sure they are in compliance. Mr. Sandquist stated that their department conducts annual inspections. There are approximately 500

conditional use permits and they feel approximately 180 should be reviewed every year. He feels Ag Tourism is a case where conditional use is justified. Mr. Donley mentioned that every farm cannot be Ag Tourism. Many farms are located next to residential communities where Ag Tourism may not belong at that particular location. Ms. Schuster questioned the use of conditional use permits, but we have the ordinance so we must use it. There is a definition in the 2030 Land Use Plan for Ag Tourism. Mr. Munaretto has proposed in the past that there be a definition of Ag Tourism in the Zoning Ordinance, and then provide the proper way for people to comply by defining what it is, and then establish a set of regulations on how it is enforced. The 2030 Plan has no legislative power, but the Zoning Ordinance does. The 2030 Plan has nothing to do with defining what Ag Tourism is. Ms. Schuster suggested committee members write up a statement as to what they envision Ag Tourism to be and together they will come up with a definition. Mr. Sandquist mentioned that the definition of Ag Tourism in the 2030 Plan is appropriate for the Plan which states that it is the practice of visiting an Ag business for certain purposes. He would like to see regulations for Ag Tourism, along with a definition of Ag Tourism as a business. An Ag Tourism property is a site which encourages people to visit the sites. Mr. Donley, Ms. Schuster, Ms. McCann and Mr. Sandquist will work together on the verbage for Ag Tourism and will bring their recommendations back to this committee.

Mr. Donley asked committee members how they were going to address horse racing events. He questioned how the previous owners of the property located in Union were told they needed conditional use and the neighbors were told that if they did not obtain conditional use, the horse racing events would not happen again. Mr. Hansel mentioned the previous owner of the property was engaging in something more than horse shows which included live music and a carnival-like atmosphere. After the previous owner had two events, they applied for more permits, and the decision was made that this was beyond what a horse farm would be allowed to do in terms of not needing a temporary use to do a horse show. They told the owner they needed a conditional use, which they applied for, and the permit did not make it through the County Board. They withdrew their petition and rezoned part of the property. In the meantime between the former owner and the current owner, the County amended the temporary use permit to allow up to six events per year per property. Mr. Hansel mentioned that they need to be mindful of horse shows in the County because Article 403 of the Zoning Ordinance allows horse shows without a temporary use. Mr. Munaretto mentioned that there are Federal agricultural laws that allow certain activities by right that we have no power to govern and husbandry is one of them. Mr. Sandquist mentioned that the Zoning Ordinance states you are allowed by right to have stables and horse shows. Steven Fraizer of Union, Illinois stated that he does not have a problem with this cultural event, but he has a problem with the location of the event, the use of the land, the type of entertainment event, and the admission fees. Mr. Koehler mentioned that when you have horse races, there are regulations by the State of Illinois that govern how races are handled, mostly for the care of the animals. There was concern about horses being brought in the County without a Coggins test, and whether or not County property owners are checking horses entering their property to be sure they have a Coggins test. An option was suggested to only allow timed horse events at the County fairgrounds. Mr. Sandquist will check with the fairgrounds and obtain their opinion on this suggestion.

NEW BUSINESS: None.

REPORTS TO COMMITTEE: None

MISCELLANEOUS: None

EXECUTIVE SESSION: None.

ADJOURNMENT:

Noting no further business, Ms. Donner made a motion, seconded by Ms. Orphal, to adjourn the meeting at 10:16 a.m. The motion carried with a unanimous voice vote.

\* \* \* \* \*

**RECOMMENDED FOR BOARD/COMMITTEE ACTION:**

Ordinance Amending Ordinance 0-2008-11-10-069 and Attachment A  
Ordinance Amending Ordinance 0-2008-11-10-070 and Attachment A  
Ordinance Amending Ordinance 0-2008-11-10-073 and Attachment A  
mh

Approved: 12-2-10