

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
Donna Kurtz Ersel Schuster

MINUTES OF THURSDAY, DECEMBER 16, 2010:

Chairman Hill called the Planning and Development Committee meeting to order at 8:32 a.m. The following members were present: Tina Hill, Chairman; Randy Donley; Mary Donner; Sue Draffkorn; Marc Munaretto; Ersel Schuster and Donna Kurtz. Also in attendance: Peter Austin, County Administrator; Dennis Sandquist, Matt Hansel and Darrell Moore, Planning and Development; Mary McCann, Jim Heisler and Diane Evertsen, County Board; Pat McNulty, Health Department; interested public and press.

MINUTE APPROVAL: Committee members reviewed the Planning and Development Committee minutes of December 2, 2010. Ms. Donner made a motion, seconded by Ms. Draffkorn, to approve the minutes as presented. Mr. Donley mentioned that he did not see in the minutes of December 2, 2010 the comments made by County Board member Mary McCann. He mentioned that at the end of the meeting Ms. McCann made some statements and he would like to see them included in the minutes. Ms. Schuster stated that some of the issues talked about during the meeting were not related and they needed to be cautious about that. Chairman Hill asked Ms. Haines to amend the minutes to include statements made by Ms. McCann during the December 2, 2010 meeting and the minutes will be deferred until the next Planning and Development Committee meeting.

PUBLIC COMMENT: Committee members were provided with a copy of a letter addressed to the McHenry County Department of Planning and Development dated December 10, 2010 from Kathleen Jensen of Huntley, Illinois. Ms. Jensen joined committee members and mentioned that the letter states her request for the waiver of all fees regarding the extension of Conditional Use Permit #00-80. Chairman Hill informed Ms. Jensen that her request will be discussed during the New Business portion of the meeting.

PRESENTATIONS: None.

SUBDIVISIONS: None.

OLD BUSINESS: *Ag Tourism – discussion:* Chairman Hill mentioned that the Ag Tourism sub-committee recently met. Mr. Sandquist said that there was confusion over the time and location for the meeting and he apologized for the miscommunication. Attendees included Ms. Schuster, Ms. McCann, Ms. Evertsen, Mr. Koehler, Mr. Hansel and Mr. Sandquist. Discussion centered around AgTourism using both the Michigan definition and more detailed definitions from California. Mr. Munaretto mentioned that they took 18 months to study this and now a sub-committee has been formed to do work that is the province of this committee. Chairman Hill stated that they are working on a definition for AgTourism because several committee members feel that the current definition is incomplete. The direction of the sub-committee is to make suggestions for a definition of AgTourism for this committee's consideration. Issues have come up because of the way they have defined AgTourism and that commercial enterprises are occurring on agricultural land. Ms. Donner stated that they have a definition in the 2030 Plan and Mr. Munaretto mentioned that they still do not have a definition in the zoning ordinances that defines AgTourism. If they do not have one, then they allow the lawyers who go through the ZBA process to define what they want them to think what AgTourism is. It is important for them to have a definition in the zoning ordinance. The problem is some people do not like the definition and the committee has to decide what the AgTourism definition is. Ms. Donner is not opposed that it seems to weigh heavily in favor of District 6. In general most of the AgTourism issues that come up happen to be in District 6. If a definition is provided by the sub-committee and they are able to place it in the zoning ordinance, they can build on it when they do the UDO. It was mentioned that the committee does not have consensus on the definition of AgTourism. Mr. Donley said that he continues to see a problem with their definition of AgTourism because they often include too many people that are involved in the business to try to write what they want it to be. That was one of the flaws with the task force. It was made up primarily of AgTourism businesses and as they tried to define what AgTourism is, it was never enough. We could not even define what the size of a farm was. We have to write the rules and regulations. It is very difficult to allow AgTourism

people to write what AgTourism is and it is going to be open ended. Farmers make up the largest part of District 6, but the reality is the farmers do not have open-ended rights to do whatever they want and whenever they want. When a farmer wants to operate a tourism-based business, there must be rules and regulations. Mr. Sandquist stated that the conclusion from the first meeting was to separate AgTourism, things that are truly related to the farm, from rural tourism which is another term they found in the California dictionary, and make AgTourism fairly narrowly defined and only a few uses they looked at would be allowed under AgTourism. AgTourism uses would be direct farm marketing; farm stands; rent-a-tree operations; u-pick or pick-your-own operations; community supported agriculture; farm stays; and farm visits when the visits do not involve paying fees (school tours, Boy Scout tours). This is the short list of uses the sub-committee felt are truly agriculturally related and should be allowed by right. Mr. Sandquist's recommendations for rural tourism businesses would include "Any property open to visitors for the purpose of visiting a rural setting or rural environment for the purpose of participating in or experiencing activities, events, or attractions not readily available in urbanized areas. Rural tourism uses are not necessarily agricultural in nature and exclude agricultural tourism uses. Examples of rural tourism include, but are not limited to..." The sub-committee compiled a list of uses that are of the most concern and recognized that they would be regulated. Some of the uses would be cider mills; corn mazes, hay rides, pumpkin patches, petting farms, and farm retail shops. Those uses are clearly beyond going to a farm, or to see a farm, or to buy products. The sub-committee went through the agricultural aspects and they are starting to work on the associated uses where services take on the fair or carnival-type atmosphere and how are they going to define and regulate those. Pumpkin patches could be u-pick operations. Chairman Hill mentioned that they are the ones defining it and not the consultants. They are addressing AgTourism now and another one to be addressed will be temporary use permits. Mr. Sandquist would like to obtain the opinions of the consultants concerning this. Chairman Hill mentioned that the consultants could give their opinion, but the committee could have something in place for the upcoming summer. Mr. Sandquist stated that he placed horse shows and horse races on the list of rural tourism uses. He is not sure if they belong on the list, but they need to be addressed now. Mr. Donley mentioned that his contention has always been that once operations begin their daily operation where they are charging fees, they should be required to have conditional use zoning for activities other than farming. We already have the rules and regulations in place such as building and health codes, they just do not feel they have to adhere to them. Once you start an AgTourism business and allow people to come into a barn, that barn may be remodeled into a gift shop or for another use other than a barn. Most of the barns have not been inspected for commercial use and most are over 100 years old, they do not have the proper foundations, they were not built to commercial codes and they do not have proper fire exits. These are things that need to be inspected for public safety and be signed off on. By allowing this to go on, they have some form of liability because they are basically saying they can have a commercial operation on their farm. Mr. Sandquist mentioned that the next sub-committee meeting will be today immediately following the District 6 meeting.

NEW BUSINESS: *Fee Waivers:* Chairman Hill stated that they have received two requests for fee waivers. *Kathleen Jensen fee waiver request:* Chairman Hill reminded the committee that they recently had a fee waiver request from District 1 and the reason they denied that request was because they did not want to set precedence for fee waiver requests. Mr. Sandquist mentioned that Ms. Jensen's fee waiver request is \$1200. The second fee waiver request is for a waiver of the penalty fee, but the property owner still wants to pay the permit fee. Mr. Hansel stated that they are in the process of applying for a stormwater permit and if they can come under the county-wide permit that was recently created, it will be less expensive than if they have to go through the full-blown stormwater permit. The waiver of the penalty is in the range of \$150 to \$300. Mr. Donley stated that he is not in favor of waiving fees and it does not have anything to do with any particular family or their situation, but once you do it for one you have to do it across the board. How can they waive fees for one and then they will have to be retroactive for others. Perhaps they should look at how they renew conditional use permits. Mr. Munaretto mentioned that we, as a County Board, are often way too restrictive when we allow conditional use permits. This conditional use permit is for a trailer located on the property. Ms. Draffkorn believes this conditional use should be for 20 years without renewing it. It was mentioned that the zoning ordinance clearly states that when a conditional use permit expires, you have to renew it as if you were submitting the request for the first time. Ms. Donner suggested that they may want to, in the future, consider addressing very specific hardship cases concerning conditional use permits. Ms. Schuster stated that she was not in favor of waiving the fees. Because we set the precedence when we made the decision with the District 1 matter, she believes it was a good decision to make because you do not have any criteria as to why you are going to waive the fee, or what the reasons would be. How will they be able to define hardship and what would the criteria would be for it. She does not want to jeopardize the rest of the process. Ms. Kurtz mentioned that this is a difficult situation because in this case, the inability to pay \$1200 and all the

other fees associated with the application will not just hurt the young man, but it will also hurt his mother and the family. She would like to see if there is some way to address hardship situations. Chairman Hill asked what would happen if the committee denied the fee waiver and the family is unable to pay for the application fee and other fees involved. Mr. Hansel stated that the worst case scenario would be to take this matter to chancery court and pursue it as a violation. Mr. Munaretto mentioned that they want to be able to approve this request, but they are constrained in their ability to do so for all the reasons that they have enumerated. Mr. Hansel stated that they work with applicants and are able to establish payment plans in order to assist them. Ms. Donner mentioned that this is important and she is going to vote no. She hopes they can work with Ms. Jensen and allow a payment plan so that over a period of time this can be taken care of. Mr. Munaretto questioned if they will look at the way they restructure the way they allow renewals of conditional use permits instead of resubmitting applications as if it were for the first time. Ms. Draffkorn does not want to waive the fee and she would like the committee to review the renewal process. The conditional use permit expires in February, 2011. Chairman Hill mentioned that in the past, when something fails in a committee, it usually dies. If the committee feels strongly about this issue and they want opinions from more County Board members, they could put it on the County Board agenda under New and Unfinished Business. Mr. Munaretto mentioned that it is traditionally not done that way. This is the province of the work of this committee and if they decide not to approve it, it stops here. Another avenue may be to present this to the committee of the Whole. Chairman Hill informed Ms. Jensen that her request has been denied and she will speak before the County Board and ask for their insight. Mr. Sandquist mentioned that they will work with Ms. Jensen to see if they can arrange a payment plan for her.

James Gigl fee waiver request: Chairman Hill mentioned that Mr. Gigl is requesting the penalty and fines be waived because of an oversight in obtaining the required permit. Mr. Munaretto believes they have more flexibility in waiving a penalty fee than waiving a permit fee. A fee should be paid regardless, but if the facts as presented are correct, he has no trouble waiving the fee. Ms. Donner mentioned that she has been in contact with Mr. Gigl and he would have attended the meeting, but he is unable to get time off from his job. The work has been completed and the contractors who performed the work missed obtaining the County permit. She is not opposed to waiving the penalty. Mr. Donley questioned as to why this is not the contractor's responsibility. The contractor should not be doing the work without the proper permits. Chairman Hill mentioned that this is a civil matter between the homeowner and the contractor. Mr. Donley questioned why this matter is being brought before the committee and Ms. Schuster agreed with him. Ms. Draffkorn stated that she has spoken with Mr. Hansel about this matter, but she is not sure if the Planning and Development Department should be notified by the Army Corps of Engineers when these matters happen. Mr. Hansel mentioned that the work performed for this homeowner would not have required an Army Corps of Engineers permit. Ms. Kurtz feels that it is a lack of follow through on the part of the contractor and feels the contractor should be assigned the fee. She knows it will fall on the homeowner, but feels that people should be responsible about these matters and the penalty should be applied. Ms. Draffkorn feels that they should not make the homeowner pay all of it, but have him pay the fee and dismiss the penalty. Mr. Hansel stated that the homeowner is still in the process of applying for the permit. Chairman Hill mentioned that she leans towards the argument that when you hire a contractor, you have a risk that they are going to do their job and that government cannot be all things to all people. She would like to have this conversation on the County Board floor and she is going to vote yes to abate the penalties so that a resolution can be brought forth for more discussion from the Board. It was the consensus of the committee to have a resolution brought before the County Board at the January 4, 2011 meeting.

REPORTS TO COMMITTEE:

Chicago Metropolitan Agency for Planning: Mr. Sandquist mentioned that CMAP has Federal grant funds of approximately \$4 million that they are going to use to implement their GoTo 2040 Plan. They are going to do a combination of direct grants for community projects. The mass majority of it is going to be in the form of technical assistance. They have hired ten people that will be sent out into the communities to do projects at the communities' requests. They have the application form and the deadline is January 26. They are in the process of putting together proposals to bring to this committee for their review. One item is for the 2030 Plan, particularly along the Fox River where there are many non-conforming types of neighborhoods. That is one project they can apply for and bring to this committee. Another request is from the Village of Lakemoor. Their Village Administrator sent a copy of the application, along with a proposal, to do an economic development sub-area plan for the Rt. 120 corridor heading west from Lakemoor. It should be taken into account that McHenry plans to go east along the Rt. 120 corridor and we need to make sure we are not participating in a similar study for this area. He asked the committee for their feedback concerning both of these projects, or other ideas they may have for the use of the funding money. He reminded them that at the January

20 meeting they will have a presentation from the sustainable watershed action team. They will hire a coordinator to help the County in the development of a regional greenways plan which was the recommendation of the 2030 Plan. Mr. Munaretto mentioned that they do not want to conflict with a plan McHenry may have with Rt. 120 east of Chapel Hill Road that McHenry and Lakemoor may have. We are talking about a long-term land use impact that it is almost a waste of money today for us to study that section of Rt. 120. That is not, in the next 20 years, going to be a commercially viable area for commercial development. They have confronted this issue for many years concerning the special nature of residences along the Fox River, many of which were cottages many years ago. That area deserves to be studied and we, as a County, deserve to have some special regulations that treat those properties the way they need to be treated so people do not have to come to us for conditional use permits. We need to take the time, if we have available money from CMAP, to embark on it. Ms. McCann mentioned that there are similar issues on the west side of Wonder Lake relating to old cottages that can be looked at. Mr. Sandquist suggests redevelopment of the areas along the Fox River that would go with the land assembly and different uses. Mr. Munaretto mentioned that because of the special nature of the residences along the area, he is not particularly concerned about the businesses that might find themselves along the river, but our zoning ordinances tend to treat those areas more restrictively because of the nature of how they were originally constructed than they do in any other part of the County. We need to study that area and come up with a set of regulations that may apply to the area that we define along the Fox River. Ms. McCann mentioned that there are a number of drainage issues from infill next to cottages that are located in Wonder Lake. Mr. Sandquist said that it was the consensus of the committee that the Rt. 120 project would not be a good project for these funds because of jurisdictional issues and it would not be economically viable. Mr. Munaretto mentioned that this is a plan that could change so dramatically before it ever became a reality and would be a waste of money today.

Chairman Hill mentioned they would like to receive feedback on a regular basis from CMAP. Chairman Hill will contact the County's CMAP representative and request updated reports and summaries of CMAP meetings for this committee's review.

Community Development Block Grant Commission: Ms. Draffkorn mentioned that they will be doing their funding rounds in January and they have a new streamlined process. Mr. Munaretto questioned if they have expended all of their NSP home funds for the fiscal year and Ms. Draffkorn answered yes.

Historic Preservation Commission: Chairman Hill mentioned that they are in the infant stages concerning proposed community gardens. It is proposed that social service agencies would be brought together for the gardens and the County would be the conduit.

Housing Commission: Ms. Draffkorn reported that they had a forum last week and approximately 100 people attended. They plan to have two or three education forums throughout next year. Ms. Kurtz mentioned that she heard many good comments concerning the housing forum. One thing she heard was that attendees would have liked to have seen more focus on lower income issues. It seemed the focus of this forum concerned development and developer issues. Ms. Draffkorn stated that each forum will focus on separate issues.

MISCELLANEOUS:

Chairman Hill mentioned that they are in the process of working with four counties (Boone, Kane, Winnebago and Will), all of which have similar issues as McHenry County, concerning horse shows and horse racing events. They are planning to meet in January and discuss this issue and they will report back to the committee with their findings.

EXECUTIVE SESSION: None.

ADJOURNMENT:

Noting no further business, Ms. Schuster made a motion, seconded by Ms. Kurtz, to adjourn the meeting at 9:44 a.m. The motion carried with a unanimous voice vote.

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RECOMMENDED FOR BOARD/COMMITTEE ACTION:

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Approved: 1-6-11