

Planning, Zoning and Agriculture
Committee Minutes
March 28, 2006

Members Present

Mr. Bertrand, Mr. Hess, Mr. Marcotte, Mr. Martin, Mr. Stauffenberg, Mr. Whitten,
Mr. Tripp, Ms. Hertzberger, Mr. James, and Mr. Washington

Members Absent

Mr. Olthoff, and Mr. Scholl

In Attendance

Mike Van Mill, Frank Koehler, Dave Tyson, Leigh Marcotte, Rich Howell, John
Bevis, and Don Pallissard

1. Call to Order and Roll Call

The meeting was called to order by the Vice-Chairman, Mr. Stauffenberg, at 9:00
a.m. Quorum Present.

2. Public Comment

None

3. Approval of Minutes – March 15, 2006

A motion to approve the minutes from March 15, 2006, was made by Mr. James
and seconded by Mr. Whitten. Motion carried.

4. Subdivision

• Bordeaux Estates, 2nd Addition- Preliminary Plat

Mr. Van Mill stated that this is a request for approval of the preliminary plat.
The Subdivision is adjacent to the Village of Bourbonnais in Unincorporated
Kankakee County. The Village of Bourbonnais is the entity that would provide
sewer service to the facility. This item has been on the agenda before but has
been tabled. The reason why it has been tabled is because the Planning
Department Staff has had to do reviews of the Preliminary Plat but due to
turnover in staff it was delayed. The Highway Department has reviewed the
plans for technical issues. The Highway Department has responded to him
verbally and stated that there are not really any issues from the subdivision
regulations to hold the approval up. Dave Tyson is the Engineer for the
Subdivision. The Developer is Mr. Karlock.

Mr. Van Mill stated that the issue that is raised here is that the Developer is
asking for some type of Preliminary Plat approval from the Committee without
sewer approval yet from the Village. The Village has policies in place in which
they have indicated that in order to get sewer service to a site, either the
property has to be annexed or there has to be an annexation agreement.
That is where the Developer and the Village have not come to an agreement.
The County has a process that needs to be followed. The technical parts of the

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subdivision except for the sewer appear to be in place at this time. Right now the Developer is requesting that the County Board approve the Preliminary Plat contingent upon getting sewer approval from the Village. The Developer was very clear that no work would commence until the sewer approval is in place.

Mr. Tyson stated that this is for 17 lots. The subdivision is in an area that was a big lot in the original subdivision that was approved to be a Planned Unit Development. At this time what Mr. Karlock is doing is proposing a Single Family Residential Subdivision; it has less density than what the Planned Unit Development would have had in the same area. The plans have been submitted to the Village of Bourbonnais and he has responded to the Village's Engineer's reviews. As you are aware, in the County's Subdivision Ordinance it requires that the subdivision hook up to Public Water and Sanitary Sewer. The plans are designed to show that this subdivision is hooked up to the Village of Bourbonnais's system and Aqua Illinois's system. He is here asking for approval for the Subdivisions Preliminary Plat based on the fact that the Developer has complied with all the County's regulations. He would like to have this Preliminary Plat approved subject to an agreement with the Village of Bourbonnais. No dirt or land can be moved until an EPA permit is obtained for both Sewer and Water and is on file with the County. That basically puts the ball back into the Village's hands.

Mr. Koehler stated that the Village of Bourbonnais has tried to discuss the issue of annexation with Mr. Karlock and he is unwilling to enter into an agreement with the Village of Bourbonnais. Lacking any annexation agreement there will be no sewer to property; with no sewer the plans are not really correct. When the Village talked to Mr. Karlock he had requested a delayed annexation agreement of about 15 to 20 years, the Village's position is more of a 5 to 10 minute delay. With an annexation agreement the Village would look to impose impact fees, park side ordinance, roadway fees to be paid, and other issues. The key issue is will Mr. Karlock enter into an annexation agreement with the Village?

A motion to grant the approval of the Preliminary Plat subject to obtaining sewer approval from the Village of Bourbonnais was made by Mr. James and seconded by Mr. Tripp. Motion failed by a roll call vote of 5 ayes (Mr. Stauffenberg, Mr. Bertrand, Mr. Hess, Mr. James, and Mr. Tripp) to 5 nays (Ms. Hertzberger, Mr. Marcotte, Mr. Martin, Mr. Washington, and Mr. Whitten).

Ms. Hertzberger wanted to know why the County wouldn't wait to approve this Preliminary Plat until there is an agreement with the Village. What is the point of approving something that is contingent on something that might not happen? Why not hold off on this until this subdivision is annexed into the Village.

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Mr. Stauffenberg stated that the committee is being asked to make this decision today because the developer has brought forth everything that is supposed to be brought forth.

Mr. Martin stated that it has been said in the past that the County will work with the underlying Municipalities. Why approve this Preliminary Plat if there is not an agreement between the Village and the Developer.

Mr. Stauffenberg stated that we can approve the Preliminary Plat contingent upon the Village's approval.

Mr. Washington stated that he recalls another situation with Mr. Karlock when the County was agreeing with the Village and wanting to hold out until Mr. Karlock made the decision to do what he had to do in order to be in compliance. Then the County was back cut by him. This may be the same circumstance again. He is hesitant to approve anything at this point in time simply because there is no expediency here; there is no reason for expediency here since there is no agreement with the Village. He does not understand why the County has to go ahead and do this since there is no agreement with the Village.

Mr. Stauffenberg stated that if the motion were amended to include a 60 or 90 day window to allow for an agreement to come forward with the Village of Bourbonnais and Mr. Karlock. Would the committee be willing to approve the Preliminary Plat then?

Mr. Tripp stated that the County does these kinds of things all the time.

Mr. Stauffenberg stated that by approving this Preliminary Plat is putting the ball in the Village's court.

Mr. Tyson stated that the petitioner just wants a response one way or another from the County. The petitioner has followed the County's Subdivision Ordinance. The County is approving the Subdivision Preliminary Plat plans that show there is hook up for sewer and water. The petitioner cannot deviate from the plans that have been approved.

A motion to approve the Subdivision Preliminary Plat for 90 days contingent upon agreement with the Village of Bourbonnais was made by Mr. Whitten and seconded by Mr. Washington. Motion carried by a roll call vote of 6 ayes (Mr. Stauffenberg, Mr. Hess, Mr. James, Mr. Tripp, Mr. Washington, and Mr.

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Whitten) and 4 nays (Mr. Bertrand, Ms. Hertzberger, Mr. Marcotte, and Mr. Martin).

- **Stormwater Ordinance**

Mr. Van Mill stated that at the last meeting this committee reviewed the Stormwater Ordinance. This Ordinance came from the Regional Planning Commission and was recommended for approval. This committee requested that a small subcommittee of PZA members meet in order to review two administrative issues, who is going to administer and enforce the ordinance and the technical expertise of the ordinance. The committee members that made up that subcommittee were Stan James, George Washington, Jim Tripp, and Kelly McLaren. That subcommittee met earlier this month, in that meeting there were two recommendations that came forward. The first issue had to deal with administration and enforcement. The subcommittee believed that it should be written into the ordinance that the Planning Department be the entity that would be responsible for the ordinance. The second issue was that the effective date of the ordinance would be August 1, 2006. That date was picked so that the Planning Department could get the proper education, expertise, and additional personnel or contracts with other entities in order to do inspections.

Mr. Van Mill stated that there will be additional follow-up that the subcommittee will be looking at. Jim Piekarczyk wrote a memo outlining his findings with respect to the County hiring an engineer to review the ordinance. He provided his recommendation of whether the County could utilize a full time or part time engineer and he recommends hiring a full time engineer. He also provided salary ranges for that person. That is just one of the options that the subcommittee is looking at. They will also be looking at contracting with entities like the Soil Water and Conservation Service for inspection. He thinks that it is important to get some firm commitment from the County Board that this ordinance will be passed and supported.

Mr. Whitten asked if this ordinance is for only County areas and not municipalities.

Mr. Van Mill stated that the ordinance is effective for the unincorporated areas of Kankakee County but also understands that this ordinance was developed as a model that other municipalities would pass as well.

Mr. Martin asked if the Soil and Water Agency would be able to do the engineering or the follow up on this ordinance.

Mr. Van Mill stated that the other thing that the County is facing that the Planning Department has a difficulty with urbanizing. The County should

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always strive for professionalism in the fields that the County is deemed in need of. He is not going to argue with Mr. Martin, he believes that this is possibly an unfunded mandate that has been handed down from the Federal Government. The fact of the matter is that we have it and it is a highly technical issue that the County has to deal with. With urbanization that means a lot more activity and a lot more demands with limited resources.

Mr. Howell stated that the State and Federal Laws state that reviews of Stormwater Pollution Control Plan have to be done by a professional engineer.

Mr. James stated that it needs to be pointed out the County does not have a window of time in which to perform this. This is mandated to the County.

Mr. Van Mill stated that he has sent a notice of intent to the EPA that this ordinance would be passed in March or April of 2006. So the County has to stay within a timeline of passing this ordinance.

A motion to recommend that the Stormwater Ordinance be passed with implementation by the Planning Department effective August 1, 2006, was made by Mr. Tripp and seconded by Mr. Washington. Motion carried.

5. Zoning

6. Solid Waste

7. Transportation

• SHOWBUS

Mr. Van Mill stated that in the Planning Department's due diligence to review the SHOWBUS Program, obviously with Brian leaving who was responsible for that, and handing over the responsibility of overseeing that program to Mike Lammey, it was discovered that at the present time a contract for services with SHOWBUS has not been executed. Currently we are working without a contract with SHOWBUS. He thought that there was a contract in place but he has not been able to find that contract. He is asking the committee to pass a resolution authorizing the County Board Chairman to enter into said agreement for 2006 that way the bases are covered if the contract cannot be found.

A motion to authorize the County Board Chairman to enter into an agreement with SHOWBUS was made by Mr. Washington and seconded by Mr. Martin. Motion carried.

8. Planning

• Enterprise Zone- Manteno Expansion

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Mr. Van Mill stated that in the Committee Members' packets there are a number of documents with regards to a request by the Village of Manteno and Developers to extend the Enterprise Zone in Manteno Township. There was a public hearing held on March 7th at the Village of Manteno with regard to the extension of the Manteno Enterprise Zone in two locations. One of the locations is for the development of a new Jewel/Osco in the South Creek Commercial Development and the second location is for a 15 acre parcel at the corner of Rt.45 and County Highway 9. At the public hearing there were no members of the public there to ask any questions and there were no objectors present. There is a letter in the packet from the School District supporting the expansion of the Enterprise Zone. In reading the transcript there is a substantial amount of improvements to both of these properties that are proposed in the next two years. At the property at Rt. 45 and County Highway 9 there is expected to be office and commercial facilities with capital improvements well over \$10 Million.

A motion to expand the Manteno Enterprise Zone was made by Mr. Marcotte and seconded by Mr. Martin. Motion carried. Ms. Hertzberger is opposed.

Ms. Hertzberger asked are these two developers going to build on these properties if the Enterprise Zone is not expanded?

Mr. Van Mill stated that he does not know. This is a program that has been established to enhance and simulate economic growth and development.

Ms. Hertzberger stated that these entities have already expressed an interest in these properties without Enterprise Zones.

Mr. Van Mill stated that development might happen faster if the Enterprise Zone is expanded.

Ms Hertzberger stated that she thinks Jewel would be smart to put Jewel there whether it was in an Enterprise Zone or not and Homestar Bank is going to go there no matter what. She stated that Jim Stauffenberg just struggled to get a tax increase passed in Manteno on the residential property owners there and now the County is going to give these entities a tax break. She doesn't think that it is fair.

Mr. Van Mill stated that is a very popular argument, he is not going to try to debate that. That is why he asked for a position letter from the School District because he knows how difficult it has been. Even before the School District knew that the referendum was going to pass they provided the Planning Department with a position letter.

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Ms. Hertzberger stated that is fine for the school, she just doesn't think that the other property owners in Manteno should watch corporate people with a lot of money have their taxes abated. She does not care if there is a letter from the school. She would like to see letters from all the residential property owners in Manteno to see how they feel about it.

Mr. Stauffenberg stated that the problem he sees is that if the Enterprise Zone is not expanded the developers will just go to Peotone because they will offer it. That is the situation Manteno is in, the developer will just go somewhere else. Manteno is in a bidding war with other communities, it is not a good position to be in but that is just the way that it is.

9. Executive Session – 5 ILCS 140/7 – Potential Litigation

None

10. Old/New Business

Mr. Martin stated that in the newspaper there was talk about Aqua Illinois seeking a tax rate increase which is handled by the ICC. In the article it states that with ICC approval Aqua Illinois will charge \$1,800.00 for each customer in a new home that connects to the system. Everyone was concerned that the County imposed an impact fee. The charge of \$1,800.00 is the same as an impact fee but it doesn't help any taxing bodies, it is strictly for the benefit of Aqua Illinois. He doesn't know what the County can do about these increases, he doesn't know if it has any right to appeal them.

Mr. James stated that it was brought to his attention that the water right-of-way in Bridalwood Subdivision had a tax bill attached to it and was sold at a tax sale. He wanted to know how this happened. There is a party now that owns a retention pond who may come in and want a permit to do something with the retention pond.

Mr. Van Mill stated the party has come in and asked for a permit and the application was denied. That lot is not buildable. The developer of the subdivision stated that he would maintain the retention pond until such time a homeowners association is developed. The process in Illinois is that every piece of property gets a tax id number. It is his understanding that the developer had some personal problems, decided not to pay the property tax on that parcel.

Mr. James stated that his concern is that if the County, as a taxing body, has possession of the property from taxes not being paid, should the County have reviewed the matter and assume the responsibility of the land.

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Mr. Van Mill stated that the County owns no property, it has no capital. The County does not have the ability to do anything.

Mr. James stated that somewhere a government entity of some nature should have absorbed that property for the health, welfare, and security of the community. Some way there should have been a vehicle in place to eliminate this problem. He thinks that the homeowners in the subdivision should have taken the responsibility of the retention pond.

Mr. Stauffenberg stated that most villages are trying to get rid of their retention ponds because they cannot keep up on the mowing and maintenance.

Mr. Tripp asked what the status is of the Tom Knowles pond.

Mr. Van Mill stated that there have been some status hearings in Court. He has been contacted by the adjoining property owner who wants to know why something hasn't happened. About three or four weeks ago he did send a follow up to Mr. Knowles and his wife asking that they give the County some kind of outline to correct the situation. He did not hear anything back; when he came back from vacation he sent a final notice to Mr. Knowles. Mr. Knowles called and left voice messages saying that he has contacted an attorney who should be contacting you, I want to cooperate.

Mr. Whitten stated that the homeowners in the Bridalwood Subdivision have built their own little golf course in the back of their houses. It would have been ideal to give the homeowners the retention pond to hook onto their golf course.

Mr. Van Mill stated that the person who bought the property bought the back taxes; it doesn't mean that he will follow up and pay the taxes. There is a gap between what the Planning Office knows is going on the tax sale.

Ms. Hertzberger stated that in the future the County should look at future subdivision plats and not allow the developer to keep a piece of property in the middle of the subdivision or make sure there is some provision in place for the homeowners association.

Mr. Van Mill stated that is important. No one knows going into a subdivision how fast it will develop. You don't want to create a homeowners association when there are one or two homes.

Ms. Hertzberger asked what is going on with the Pembroke garbage problem?

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Mr. Van Mill stated that the subcommittee asked for Mr. Gibbs to come back to the subcommittee with the checking accounts of those accounts that had the money.

Ms. Hertzberger stated that since that isn't working, can the subcommittee meet again to try to think of another solution to the problem.

Mr. Washington stated that he appreciates all the good intentions, but again we are talking about another governmental entity, we are not just talking about another group of people out there. When the County makes a request of that entity to bring the information forward and the entity is not bringing the information forward that is being requested, there is nothing that can be done at this time.

Mr. Van Mill stated that there will be a Comprehensive Plan Workshop on April 20th from 10 a.m. to 2 p.m., lunch will be included, at the Quality Inn. The purpose of the meeting is for the County Board, Regional Planning Commission, and the Zoning Board of Appeals to learn how to use the Plan in their decision making process.

Mr. Van Mill stated that there will be an open house on Thursday, May 11th from 5 p.m. to 9 p.m. at the Quality Inn regarding the efforts that the Planning Department and the River Basin Commission have had on the enhancement and restoration of the Kankakee River. There will be Federal and State agencies present.

11. Adjournment

A motion to adjourn was made by Mr. Whitten and seconded by Mr. James at 10:05a.m. Motion carried.

James Stauffenberg, Vice-Chairman

Stephanie Jackson,
Executive Coordinator

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