KENDALL COUNTY AD HOC ZONING
ORDINANCE COMMITTEE

111 WEST FOX STREET
YORKVILLE, IL

Meeting Minutes of October 22, 2008

Present: Jim Reinert, Nancy Martin, John Church, Anne Vickery, Larry Nelson, Mike Hoffman, Jerry Dudgeon and Jeff Wehrli

Larry Nelson called the meeting to order

1. **APPROVAL OF MINUTES**

   Jeff Wehrli made a motion, seconded by Jim Reinert to approve the August 27, 2008 Ad Hoc meeting minutes as printed. All were in favor and the motion carried.

2. **BILLS**

   There were 2 bills presented for payment.
   $52.50 for recording services to Chris Paulan
   $1,655.10 to Teska and Associates for preparation of the draft 126 Corridor plans and work on the Open Space maintenance and management amendment to the Kendall County subdivision control ordinance
   
   **Jim Reinert motioned to approve, seconded by Jeff Wehrli, all agreed, the bills were approved for payment.**

3. **FEMA MAP/Flood Plain Ordinance Update** – the flood plain ordinance must be updated and adopted, and the new maps must be effective February 4, 2009. Failure to comply will result in the county's suspension from the national flood insurance program.
   
   Jerry Dudgeon summarized what was done to the maps to update them. There was some discussion on what has to be done in order to finalize this task.
   
   Mr. Dudgeon indicated that the proposed ordinance revisions are scheduled for review by the Plan Commission during their meeting later this evening. If approved, the matter will be forwarded on to the ZBA for conduct of the formal Public Hearing in November. From there we hope to forward the matter on to the PBZ Committee and County Board for adoption in January.
   
   The proposed flood plain ordinance is essentially the same as the ordinance adopted back in 2002 but adds a number of definitions and clarifying language to several sections to improve clarity. As part of the update, staff is recommending the removal of Section 4.18 of the zoning regulations which also sets floodplain regulations. This probably should have been removed from the Zoning Ordinance in 2002 when the last update was
done. Larry Nelson requested contacts to get a hold of a copy of the map updates to double check and make sure the county is in compliance.

4. **Route 126 Corridor Land Use – Update** - Mike Hoffman of Teska & Associates handed out the revised map and reviewed the revisions made on the map as suggested last month. This also shows the 2 alternatives for the Ashley Road realignment, which Mike presented and the group discussed. The illustrated alignment is consistent with the draft Yorkville Comprehensive Plan and generally acceptable to the County Highway department.

Discussion occurred regarding whether the 0.45 unit per acre density area located near the NE corner of Route 126 and Grove Road should be changed to match the surrounding area which is shown as 0.65 units to the acre. Questions arose as to why this area was left at 0.45 when the last update for this area was done, especially since the boundaries of the 0.45 designation appear to follow ownership lines instead of the County's normal practice of following a physical boundary such as a stream, road or other physical barrier.

It was suggested that unless there were some significant natural features that warranted retaining a lower density that we consider changing that area from 0.45 to 0.65 units per acre to be consistent with the surrounding area and in light of the additional commercial planned at the intersection of Grove and Route 126.

It was further suggested that the floodplain maps be consulted to determine if the greenway areas shown through that area should be widened so that they more closely reflected the actual floodplain through that area. Mr. Hoffman noted he would make the requested revisions and that the revised draft of the map will be put up on the website and set for hearing at the December 3 Planning Commission meeting.

5. **Guest House definitions** – Larry Nelson gave a brief review of the discussion at the September Ad Hoc meeting, which was whether a guest house should or should not have kitchen facilities as stated in the ordinance. It was originally stated that a guest house cannot have kitchen facilities so that it could not be rented out or used as a separate dwelling. It was agreed that the definition of the guest house be revised to state that such quarters may have kitchen facilities, but may not be rented or otherwise used as an individual dwelling.

Jim Reinert made a motion to approve this change, Anne Vickery seconded the motion, everyone agreed, and the motion was approved. This will go to ZPAC, then Planning commission, then ZBA and the rest of the process.

6. **Special Use Permits** – Larry Nelson gave a brief review of last month's discussion on this matter stating that some case law discovered by the State's Attorney's office indicates
that special uses run with the owners and not with the land. Discussion included the pros and cons of the zoning running with the land vs. running with the owners.

Jerry Dudgeon stated that this was brought to their attention based on a specific case that the State's Attorney had come across. He also indicated that the ruling handed down by the courts in that specific case determined that the use ran with the ownership based on the language and conditions that had been included in the ordinance approving the Special Use. This specific case did not definitively decide whether special uses run with the land or with the ownership of the property, as the court noted there also appeared to be other cases in which courts had determined special uses ran with the land. It was proposed that the verbiage in the County's Zoning Ordinance be changed to state that special uses approved in Kendall County run with the land, unless otherwise requested in the petition or specified in ordinance approving the special use. Jeff Wehrli stated that the state's attorney felt that it would be easier to defend if it was stated in the ordinance and then also stated in the special use permit.

Next, Mr. Dudgeon explained that the ordinance states if a special use is not used as that special use for a period of 2 years, the county board can void it or revoke it. The question is, should the board pass a separate ordinance or resolution revoking it, or should it automatically lapse. There was some discussion on both ways. It was decided that each one should go before the county board and not automatically lapse. Jerry said the zoning department is updating the list and will be checking them. It was discussed that a draft of the review process on this will be drawn up and ready for discussion at the December Ad-Hoc.

Larry Nelson also brought up for discussion, the proposed language for the special use ordinance that the Assistant State's Attorney's came up with to allow the county board to make minor adjustments in a special use permit (minor adjustments that don't change the spirit of what the special use was originally intended) without going through the entire lengthy process.

Anne Vickery suggested that it might be advisable to have minor changes reviewed and commented on by ZPAC and then forwarded to the County board for approval.

After some discussion, Larry Nelson suggested that we send it back to the Assistant State's Attorney's office with his comments.

Mr. Dudgeon stated that he wants to do a bit more research on this matter, to see if there are some parameters in other county or community ordinances that might help us to define the difference between major and minor changes, and then send it back.

7. **Big Grove Township Update:** Mr. Dudgeon indicated they are in the process of making one last attempt to obtain a response from the Township as to whether they are interested
in updating their plan in the coming 2009 budget year. Staff recently sent the Township a letter asking for a written response. We will inform Ad-Hoc of their response once we receive it.

8. **Building Code Update:** Mr. Dudgeon indicated that the PBZ Committee at their October meeting directed the staff to bring several proposed items back to Ad-Hoc for review and input. The three items included bonding and licensing of contractors; requiring permits for patios and driveways; and requiring dumpsters on construction sites to contain construction debris and ensure it is properly disposed of.

With respect to the Bonding and Licensing of Contractors: PBZ Staff is suggesting that we look into the possibility of requiring all contractors doing construction work under county permits to be bonded and licensed. The purpose of this would be to help protect homeowners from being taken advantage of by dishonest contractors. At their October 14th meeting, the PBZ Committee indicated they believed adopting this would negate the need to do some of that additional inspections being proposed by staff. However, we wish to note that bonding and licensing does not ensure the contractor's work will be code compliant. It will however provide the homeowner with a level of protection in the event the contractor causes unforeseen damage or, in the event of shoddy workmanship, by making certain the contractor has insurance and available funds to cover any damage or corrective work required to remedy a problem.

Mr. Nelson questioned if this would prevent a homeowner from doing the work themselves or would we also require them to be licensed and bonded. Staff indicated that if the property owner did the work themselves, no licensing and bonding would be required.

Mr. Nelson asked if there would be a fee involved and if the county would issue the license. He did not think the county should be extracting such a fee. He was concerned this was another case of the government over-regulating things. He believed people should be responsible for themselves.

Staff indicated they were not proposing collecting a fee and would consider honoring licenses issued by other local or county permitting agencies. Staff also believes that requiring the licensing of contractors would be a good practice to adopt so that in the event a specific contractor were identified to repeatedly be a problem, the County could consider placing them on a list of contractors we would not allow to work within our jurisdiction. As stated above, we are recommending this as a protection for property owners and residents, not as a substitute for verifying or insuring compliance with codes.

Questions were raised as to what qualifications would be required for boning and licensing. Mr. Dudgeon stated they could check into that and report back to the Committee with that information at the next meeting. It was also recommended that the
issues of permits for patios and driveways and requiring dumpsters for construction sites, be continued to next month due to lack of time this evening.

**Other Business** – Larry Nelson suggested that the County consider revisiting our current regulations on Wind Farms to see if there are changes we may want or need to make. He believes it is likely the County may be approached at some point in the near future to have one of these facilities cited in Kendall County. He wants to make certain our regulations are current and up to date.

Nancy Martin and Anne Vickery suggested we look at the Ogle County ordinance.

Mr. Nelson stated he had a concern over how these facilities would be illuminated during night time operations to alert aircraft. Since wind farms usually have numerous towers, the potential impacts of flashing white strobe lights vs. the less intense intermittent red lights could be significant. He does not believe the FAA has an established rule as to whether strobos or red lighting is required. He believes it is optional.

Mr. Dudgeon indicated McLean County also has a large wind farm operation that he would be visiting on the 30th while attending the Illinois APA Chapter Conference. He will attempt to find out how they address this issue in their ordinance and will report back. It was recommended that this matter should added to the list of "Future Items" on the Ad-Hoc agenda so we keep it on our radar screen as an item that needs to be looked at sooner rather than later.

**Adjournment:** - Noting the late hour and the fact that Plan Commission was scheduled to begin at 7:00 PM, Mr. Nelson asked for a motion to adjourn the meeting. Ms. Vickery made a motion to adjourn seconded by Mr. Reinert. With all members voting aye, the meeting was adjourned at 6:53 PM.