KENDALL COUNTY
PLANNING, BUILDING & ZONING COMMITTEE
Kendall County Office Building
Rooms 209 & 210
111 W. Fox Street, Yorkville, Illinois
6:30 p.m.
Meeting Minutes of April 7, 2014

CALL TO ORDER
The meeting was called to order by Chairman Scott Gryder at 6:31 p.m.

ROLL CALL
Present: Chairman Scott Gryder, Amy Cesich (6:32), Vice-Chair Judy Gilmour, Lynn Cullick and Jeff Wehrli
Absent: None
Also present: Planning & Zoning Manager: Angela Zubko, Administrator Jeff Wilkins & Code Enforcement Officer Brian Holdiman
In the audience: Kim Rickert, Chairman John Shaw and Brian Bentley.

APPROVAL OF AGENDA
Jeff Wehrli made a motion to approve the agenda moving Public Comment before New Business, Judy Gilmour seconded the motion. All agreed and the motion was approved.

APPROVAL OF MINUTES
Judy Gilmour made a motion to approve the minutes from March 10, 2014. Lynn Cullick seconded the motion. All agreed and the minutes were approved.

EXPENDITURE REPORT (handed out at meeting)
Lynn Cullick made a motion to approve the expenditure report in the amount of $15,064.95 and forward it onto the Finance Committee, Judy Gilmour seconded the motion. With a roll call vote all in attendance agreed and the motion was approved.

PUBLIC COMMENT- Scott Gryder stated everyone has 5 minutes to speak
Kim Rickert requesting that we reconsider the urban chicken ordinance. Since her last appearance there have been 2 additional police reports, one for shoveling chicken droppings into her yard. When she moved out here they checked the ordinances knowing it was a residential subdivision and the lot behind them was used for growing crops. Since then a house has been built behind her and the chicken ordinance passed. According to the residential district purpose and objectives tensions can occur over noise and agricultural operations. She called Rural King and they said you do not know if they are a chicken or rooster for 7-8 weeks. She is of the opinion her property values are being lowered due to the chickens. Planner Zubko stated the ad-hoc committee decided she has an extreme case but did not want to modify the ordinance at this time. Kim would like to note Brian was out at the site today doing an inspection. Mr. Holdiman stated the neighbors have repaired the fencing, there are 9 chickens on site and there still is an inoperable tractor and trying to also sell the inoperable boat which has been moved to the driveway for sale. Ms. Cesich asked Mr. Wehrli about the fence height and Mr. Wehrli stated the farm community and regulations put in place if followed property could contain the chickens. Planner Zubko also noted there is a regulation about containing the chickens even if the four foot complaint came up.
Brian Bentley lives at 804 McHugh Road. He had their family gathering recently and was unaware of the noise ordinance and the Sheriff’s did not have a decibel reading with them to prove the level of noise. The Sheriff’s office came out and kindly addressed the issue. He feels the levels are too low in the ordinance. He is of the opinion there should be a clause for personal events or live entertainment and have a permit fee, which might be able to be put into the ordinance. Mr. Wehrli stated we mirrored the surrounding towns and Yorkville has the same numbers. Planner Zubko passed out a map of where Mr. Bentley lives showing how many neighbors are around. Ms. Cesich stated the County Board just passed this ordinance and explained the current process. Mr. Gryder stated since this was an anonymous complaint there was no property line to take the decibel level from. Mr. Gryder suggested asking the Sheriff’s office how many complaints they have received so far and how many tickets have been written. Mr. Shaw told this gentleman to attend tonight and stated it would have been better for him to come here instead of County Board meeting. Mr. Wehrli wanted to bring this back to PBZ in June and see if we are getting more calls now than before.

NEW BUSINESS
1. Emerson Creek Amendment- Vote if it should be charged as a Major ($1,155) or Minor Amendment to their Special use ($150)- Planner Zubko stated there have been some Health Department and Building code issues at Emerson Creek. Also at that time it was discussed how the Special use does not really match what is currently going on at the site. Planner Zubko feels an amendment would be appropriate but all they’re really changing are the amount of people and the fact that the pottery business is no longer the primary operation on the site. At this time Planner Zubko does not think the petitioners would be changing the site plan as they updated the site plan in 2011. If the site plan is not changing and just the numbers are to match what is current Planner Zubko suggests treating this as a minor amendment without a public hearing. Ms. Gilmour asked what types of violations are out there currently? Planner Zubko and Brian Holdiman stated mostly septic issues. Mr. Holdiman also explained the temporary bathroom situation. Ms. Cullick asked if there are any issues out there right now regarding the septic? Mr. Kramer stated the owners have had no septic issues out there to date. Mr. Kramer stated there are 6 months a year the septic is not used which is good. The septic designer is looking to do a large field to the south of the barn to accommodate all the uses on the property. Ms. Gilmour makes a motion for a minor amendment to the special use. Lynn Cullick seconded the motion. With a roll call vote of 4 ayes and Mr. Wehrli abstained the motion passed. The petitioners will file for a minor amendment.

2. Pending legislation eliminating County control of turbine regulations and siting- SB3263- Planner Zubko stated in the packet is a brief summary of the bill and the status from UCCI on 3.27.14. All this information was emailed out to the County Board members. Also in the packet is a resolution from Ogle County opposing the senate bill. Planner Zubko put this on the agenda as a discussion point to see if Kendall County would like to take a stance on this bill at this time. Mr. Gryder stated he is not opposed to passing a resolution. Jeff Wehrli made a motion to send a resolution opposing the senate bill to the County Board for a vote. My Cullick seconded the motion. Judy Gilmour agreed this is a good idea. All were in favor so a resolution will be presented to County Board.

3. Overview of residential home inspection process- Mr. Gryder stated Lynn and himself have been talking to a homeowner that has been having issues for 8 years and unhappy how her house is. Mr. Gryder thought it would be a good idea to discuss what goes into inspections and what is looked at. Brian Holdiman passed out a couple hand-outs to go through. He stated they have a checklist at the top of the pink sheet to make sure they supply the proper information. The bright yellow form is the actual building permit application showing what exactly they need to provide. He went through the checklist and then the inspection schedule one by one and what he does at each inspection. Mr. Gryder verified Mr. Holdiman is the only inspector. Mr. Holdiman stated yes except our plumbing
inspector. Mr. Gryder asked about the history of inspections in a day and how long each inspection takes. There was some discussion on grading and checking the grading. There was also some discussion on what happens if someone fails an inspection. There was discussion on drain tiles and what to do if they are found when a foundation is dug.

4. Asphalt plant at 16805 Quarry Road- discuss options and vote on how to proceed- Planner Zubko stated the quick story is there was a mis-interpretation of the Zoning Ordinance and she has given Central Limestone the wrong information. Central Limestone came to Planner Zubko in about November to ask if they could erect an asphalt plant and what needed to be done besides a building permit for that use. Planner Zubko assumed because there was an asphalt plant in the past it would be permitted again and the fact they’re zoned M-2 which did allow asphalt plants as a permitted use and not a special use they’d be grandfathered in. So Planner Zubko told the petitioners they just needed to supply some history to prove there was an asphalt plant and they should be good. Once the plant was erected she received a call from the Village of Lisbon questioning if they were permitted to do that without a public hearing. Planner Zubko then requested the help of the SAO to see if the information provided was correct or incorrect. We received the findings from the SAO and their interpretation is Planner Zubko accidently gave the wrong information and due to the asphalt plant not being there for over 50 years they would need to follow our current zoning ordinance would require it be a special use in the M-3 district. Now the PBZ Committee has 3 legal options to chose from:
   a. Do absolutely nothing. The asphalt plant could proceed “as is” with no further involvement by the County. If the County Board chooses this route, it will be nearly impossible to later reverse this decision and pursue any type of zoning ordinance violation and/or stop the asphalt operation.
   b. Send a cease and desist letter to the property owner. Per our email dated March 25, 2014, a legal argument can be made that the previously nonconforming use of the property as an asphalt plant was abandoned and can no longer be asserted. Thus, the asphalt plant is not a permissible use absent approval of a special use. If the property owner were to continue asphalt operations following receipt of the cease and desist letter, the County would then file an action alleging a violation of the County’s zoning ordinance. As ASA Knight previously explained to you, there is a possibility that, even if we can establish that abandonment of the non-conforming use occurred, the court could still find the county is estopped from enforcing the zoning ordinance if the company can show that it took action in reliance upon your statement that an asphalt plant operation was permissible.
   c. Contact the property owner and see if they are willing to file an application for a special use. If the property owner voluntarily obtains a special use to conduct its asphalt operations, then the County would not need to pursue any legal action alleging an ordinance violation.

Planner Zubko would like to know which option the PBZ Committee would like me to proceed with and apologizes for the mistake. Mr. Gryder is opposed to letter b and all agreed. Ms. Gilmour has been contacted by some of the neighbors upset about it being there. The neighbors do not feel they got any say or public hearing and would like to be heard. Ms. Gilmour would like to hear what their concerns are. Mr. Wehrli would prefer c over a and the County would eat the cost to rezone and special use including publication with no additional burden that is placed in the M-3 zoning like well protection, reclamation plans, etc. There was some discussion on if they could operate during the special use process. Mr. Gryder suggests maybe going with letter c and if they do not agree with getting a special use we reconvene. Jeff Wehrli made a motion to contact the property owner and see if they are willing to file an application for a special use and rezoning, with the county paying the fees and publications and waiving the other items like well protection and other plans requested in the M-3 zoning since it has already been in existence, Lynn Cullick seconded the motion. Ms. Gilmour asked what would happen if they do not willingly apply for a special use. There was some discussion and it was decided to go this route first. All were in favor and planner Zubko will take action ASAP.
5. One more item Planner Zubko would like to bring up, Mr. Fran Klaas asked me what a temporary concrete crusher would fall under for our Zoning Ordinance and if it’s something that would be permitted or a special use in the B-3 District? The closest thing Planner Zubko could find was a temporary concrete ready-mix or asphalt concrete plants, when necessary and incidental to a major construction project. It’s not really the same thing at all so wondered what the Committee thought of this temporary use and if we’d like to have a text amendment or how we would like Planner Zubko to proceed? Mr. Wehrli stated this is kind of like the excavating question, is the B-3 a good place for this type of use. There was some discussion it may not be a bad idea since we could put conditions on it and talked about maybe a temporary use and limit it to government properties. The Committee would like to get more feedback from Fran at the Highway Committee tomorrow.

PETITIONS-

#14-01 Building Code Update including building permit fees
Planner Zubko stated there have been no questions since the last PBZ meeting so we’re just looking for a motion to forward the building code update to the next COW and County Board meeting.

Lynn Cullick made a motion to approve the building code update including building permit fees and forward it onto the next Committee of the Whole meeting and to the full County Board meeting. Jeff Wehrli seconded the motion. All agreed and the text amendment will be forwarded on.

#13-29 Historic Preservation Ordinance Amendment
Planner Zubko stated in your packet are the proposed text changes that have been approved to become eligible for CLG status per the state. In the ordinance it states if an owner objects it would take an affirmative vote by a supermajority of the Board present. Catherine O’Conner will be attending the next COW meeting and give a short presentation on CLG status and the benefits and willing to answer any questions in relation to historic preservation.

Jeff Wehrli made a motion to approve the text amendment and forward it onto the next Committee of the Whole meeting and to the full County Board meeting. Lynn Cullick seconded the motion. Mr. Gryder will vote against it at this time due to if an owner objects and would like it to be a supermajority of the full board. Jeff Wehrli rescinded his motion and Ms. Cullick also rescinded her second. Lynn Cullick made a motion to forward the petition onto the COW and County Board with no recommendation at this time. Mr. Wehrli seconded the motion. All were favor and the motion passed.

#14-07 Land Cash Ordinance
Planner Angela Zubko stated in the Land Cash Ordinance it states the Fair Market Value (FMV) may be adjusted anytime by official action of the County Board. Since it’s been a year and the PTAX final abstracts are complete Planner Zubko has put together what the new FMV would be with this year’s numbers. As you can see the current FMV as of July 16, 2013 was $81,268. If we used today’s values the FMV would be reduced to $72,680 which on a 4 bedroom home comes to about $500 less. It is up the County Board if they would like to change the current FMV or keep it as is. Planner Zubko wanted to note this does not count for the land cash in approved subdivisions but only on new subdivisions approved now and houses built in the Agricultural district. Mr. Wehrli stated to be fair we owe it to the people to follow FMV as it is today so would like to change it.

Jeff Wehrli made a motion to approve the new fair market value and forward it onto the next County Board meeting. Lynn Cullick seconded the motion. Lynn Cullick says she agrees right now but the costs do not
change to send a kid to school, Ms. Gilmour agreed. Four were in favor except Gilmour was not in favor of the change.

**OLD BUSINESS** - None

**UPDATE ON HISTORIC PRESERVATION** - The Commission is looking for 2 more members if anyone knows of someone interested.

**UPDATE ON CMAP LAND USE COMMITTEE MEETING** - Planner Zubko stated the Land Use Committee meets next Wednesday and Planner Zubko plans on attending.

**PROJECT STATUS REPORT** - Reviewed
**PERMIT REPORT** - Reviewed
**REVENUE REPORT** - Reviewed
**CORRESPONDENCE** - None
**EXECUTIVE SESSION** - None

**ADJOURNMENT** - Next meeting will be on May 12, 2014
Lynn Cullick made a motion to adjourn the meeting. Jeff Wehrli seconded the motion. All agreed. Chairman Gryder adjourned the meeting at 9:14 p.m.

Respectfully Submitted,
Angela L. Zubko
Planning & Zoning Manager