

**PROCEEDINGS
OF THE
MACON COUNTY BOARD**

JANUARY 14, 2010

**Jay A. Dunn
Chairman**

**Stephen M. Bean
Clerk**

The Chairman called the meeting to order at 7:15 p.m. with the Sheriff and State's Attorney present.

The Roll Call showed all members present with the exception of Mr. Ashby.

Mrs. Taylor led the members in prayer.

All led in the Pledge of Allegiance.

A. APPROVAL OF THE MINUTES OF THE DECEMBER 10, 2009 MEETING

MOTION

Mr. Smith moved, seconded by Mr. Oliver to approve the minutes of the December 10, 2009 meeting.

There were no questions or comments from the board floor.

ROLL CALL.

Ayes: Baxter, Cox, Drobisch, Dudley, Dunn, Greenfield, Hogan, Jacobs, Little, McGlaughlin, Meachum, Oliver, Potts, Smith, Taylor, Westerman, Wilkins, Williams, Yoder

Nays: (None)

AYES = 19

NAYS = 0

MOTION CARRIED.

ZONING/SUBDIVISIONS

1. Mr. Dudley presented Resolution Z-1101-1-10 which is regarding Case R-01-12-09, a petition submitted by James & Julie Keith for rezoning of approximately 2.97 acres from R-4 Single Family Residential to A-1 Agricultural District on property commonly known as 1220 E. Washington St. Rd. in Maroa Township. Staff recommended at the December 9, 2009 public hearing that the petition be approved. After hearing the evidence, the Zoning Board of Appeals voted in favor of recommending to the County Board that the petition be approved. The EEHW Committee met and reviewed the petition and recommended by a 6-0 vote that the County Board approve the subject petition.

MOTION

Mr. Dudley moved, seconded by Mr. Williams to approve Resolution Z-1100-1-10.

PETITIONER:

James Keith: Mr. Keith lives at 1220 E. Washington Street Road, Maroa, IL 61756. We bring this petition before the board because we have gone through the process of having our property restored to agricultural. The property in question is an old family farmstead that has been in his wife's family since 1903. It has been a working farm until 1976 with livestock and grain. We found out about the change that had been made from agricultural zoning to residential just this last year and we would like to restore that property back to agriculture as it was. Mr. Keith has been working with Tony VanNatta, and Tony has done some research and found that the zoning that took place was really done erroneously in 1991. At that time his mother-in-law, Sharon Johnson had attempted to get a 1 acre zoned residential so she could have a disabled friend move onto the property. Instead, 3 acres were zoned residential and 1 acre was left agricultural. So we are on a 4 acre plot, essentially about 3.97 acres and 1 of those acres is agricultural with 2.97 being residential now and we would like to have that whole plot be agriculture. We are outside the City of Maroa and it is an agricultural area; and we just want to restore it back to its original zoning.

Mr. Drobisch: Mr. Drobisch asked if they are going to lease out this land to a person that is going to be feeding cattle.

Mr. Keith: Mr. Keith said yes. We have had an agreement with Mr. Ed Doak and Mrs. Donna Doak since 2005. Again, we did not realize that the property had not been agriculture until we received a violation from the Zoning Board of Appeals because of a complaint from the Mashburns across the street. So, we have had a relationship and that relationship has 5 more years left on it. It has been productive for us and productive for the Doaks. So, yes it is a lease already.

Mr. Drobisch: Mr. Drobisch asked if he knows how many cattle have been fed on this tract.

Mr. Keith: Mr. Keith said he believes anywhere from 24 to 30 at any given time. The cow/calf operation right now has 24 right now. There are 12 cows and 12 calves. There are 6 cows that have been on a 1 acre plot that have been fattened up. Those actually are going to be gone this next week so we will be back down to 24 cows by next week.

Mr. Drobisch: Mr. Drobisch asked if there have been any problems with the amount of manure that is on the property, and at times have had problems hauling it off.

Mr. Keith: Mr. Keith last spring during all the rain it was hard to #1 get the manure off the property and #2 to get it to farmers fields who have requested to have it. It was an issue. But, once it dried up we were able to get that manure off and it hasn't been accumulated since.

Mr. Drobisch: Mr. Drobisch said his concern, and the reason he was questioning it the way he is, is the number of head that are going to be fed on this small of a track. He knows under agricultural and once it is zoned back to that you can put any number of head on there that you want. His concern is that because we do have a Nuisance Ordinance here in the county that this

may become a problem, particularly with the strong odor and being adjacent to the cemetery. He is sure there will be times when there will be funerals over there and he is concerned about the amount of odor that is created by having a large number of animals on such a small track.

Mr. Keith: Mr. Keith said he understands the concern. The cemetery board has no issue with the cattle. He said that up until 1976 there were cattle on that property anyway. This isn't a new occurrence of livestock next to the cemetery, and that had been going on since 1903.

Mr. Drobisch: Mr. Drobisch asked if the numbers were that high.

Mr. Keith: Mr. Keith said he would have to ask his wife how many cattle there were. She told him no that they weren't that high.

Mr. Drobisch: Mr. Drobisch said the more cattle you get onto a smaller tract the larger amount of manure there is, and that a lot of times creates a pretty heavy odor.

Mr. Keith: Mr. Keith said yes, and he would be the first to tell them that he does not enjoy the odor either. So, he and Ed Doak worked very close to make sure it is not impacting our lifestyle either. Mr. Keith said it has not impacted our lifestyle. Our friends still come over; they still entertain and barbecue. It hasn't impacted them, and they are 50 feet from it as opposed to 200 feet from it for someone who barbecues from the backside of their property. He understands the concern, but it has not, except for that one time in the spring due to the heavy rains, has not impacted our lifestyle and we live a pretty active lifestyle.

Mr. Drobisch: Mr. Drobisch said that is his concern also because once it goes back to agricultural if you have a lease with this individual and he wants to put 100 head on there, you can not stop him.

Mr. Keith: Mr. Keith said he could stop him because he has it stated in his lease where he could buy it out. He doesn't think it will come to that. He doesn't think the Doaks have any inclination of having any more than the cattle we have. In fact in the spring and throughout most of the summer they take most of their head out to another farm that they have an arrangement with and they feed off the grass there. So typically in the spring and summer there are not going to be that many cattle there anyway. If it got to the point where the Doaks and the Keiths were dickering over the amount of cattle.... He and Julie have plans for the property beyond the lease, and we don't want the property torn up and the Doaks don't want the property torn up. We would actually like to start a flower farm as we near retirement which will benefit the cemetery. The benefit we got out of this is that the Doaks cleared out a very overgrown 3 acres of pasture land, which was an eyesore. They also removed a rundown trailer which was an eyesore. Yes, the cattle are there, but he would tell them that it is a very pastoral environment. It is a very agricultural environment in a very agricultural area. The property, the 4 acres have been improved since we moved there in 2000, since Julie moved back in 2000. Five years from now, give or take, the cows will be gone and Julie and I will proceed with what we want to do with it. Julie was raised with horses and she would like to have a couple of horses back there once our

kids go off and start their own lives. So, there are some things that we would like to do that will require that property to be agricultural as well.

OBJECTORS:

Robert Mashburn: Mr. Mashburn lives at 1217 E. Washington Street Road directly across the street south from the Keiths. He is opposing this change in the zoning from R-4 to A-1 because of the nuisance of manure as has been stated. The flies and fly specks covering his house have been more in the last two years than he had in the first 16 years that he lived there, just because of the number of cattle that have picked up in that area. As Mr. Keith stated there have been 25 to 30 head of cattle at times on approximately the 3 acres. The odor and flies from this at times has made it where he doesn't want to have his windows open and he can't have his windows open at night. We don't want to be outside. It has impacted the things we have wanted to do at our house, just outdoor activities during decent weather months. The flies would become abundant, and with flies and manure and everything this close to his property he feels that could possibly become a health issue. Also, even though his water supply is a well; he has a private water supply even though the setback is within the parameters of the Illinois Department of Public Health he is still concerned somewhat about this because last year we had 50 inches of rain and all of this has to go somewhere. This is a lease it is not a hobby over there; it is what he considers to be a commercial cattle operation. He just does not feel this is a good fit for the area with this type of operation on such small acreage. It is a rural area, but it is also within a quarter mile of Maroa next to a cemetery. He is said he is zoned R-4 and his two neighbors to the west are zoned R-5. Even though they said they have not had any complaints from the Township cemetery, the letter everyone received has 18 signatures on there 13 of them are on the edge of the city limits in the city, a quarter mile or less from here. The rest of the 5 of us are within a few hundred feet. Mr. Mashburn said when he first contacted David Williams about this he told him that he and Mr. VanNatta had looked back in zoning cases and had not found a case where the board has gone back and changed it from agricultural back to residential. They could not find that. Mr. Mashburn thinks that changing this could set a precedent for other small acreage. There is still one acre there and if they want to have a hobby type thing there is one acre there that will stay agricultural where they could have livestock on it. As he stated it is next to the cemetery and next to the properties. This petition is on the edge of town and is a quarter mile from all the properties involved. This change has been based on what has been considered to be a mix up in zoning almost 20 years ago. To him that is neither here nor there, it was changed and the board voted on it. It was approved at that time. It did go through the appeals process and went through the board, and if this zoning was so out of line he would have thought that someone at that time would have caught it and had it changed then. Mr. Mashburn said he has owned his property since 1986 and there has not been livestock to any extent except for a few horses over there, so he feels he has a little time in the area too. He has money invested in his property and his house, and he feels this ongoing situation like it is could have an impact on his property values if he did go to sell it. He is a greater than a 20% adjacent landowner and he requests a super majority on this to have it passed. If it would go back to agricultural he would like to request that the board put a number of head per usable acre on this as part of a stipulation. He knows that living away from there you don't realize what is going on. However, he asked

that they put themselves in his place and he doesn't think many of them would want to live across from what he is. He thanked the board.

Mr. Hogan: Mr. Hogan stated that as an adjoining land owner Mr. Mashburn filed a legal objection. He asked if since he did that, it will take 16 votes to pass the zoning resolution.

Mr. Bean: Mr. Bean said he did not think he filed it with the County Clerk's Office.

Mr. Hogan: Mr. Hogan asked who else he would have filed it with.

Mr. Mashburn: Mr. Mashburn said he sent it to every board member and to the Zoning Board of Appeals.

Mr. Hogan: Mr. Hogan asked if Mr. Mashburn sent that prior to the hearing.

Mr. Mashburn: Mr. Mashburn said yes, and at the hearing they told him it would be forwarded on to the board.

Mr. Drobisch: Mr. Drobisch asked if Mr. Bean was saying there has been no formal protest.

Mr. Bean: Mr. Bean said to the best of his knowledge his office never got a copy. With all the ones in the past, it has always come to us.

Mr. Drobisch: Mr. Drobisch asked Mr. Mashburn who he specifically talked to when he turned in this petition.

Mr. Mashburn: Mr. Mashburn said he actually mailed all of them.

Mr. Drobisch: Mr. Drobisch asked who he spoke to on the Zoning Board of Appeals.

Mr. Mashburn: Mashburn said he could not be 100% sure but he assumed it was Mr. Dannewitz the chairman.

Mr. Drobisch: Mr. Drobisch asked if Mr. Dannewitz acknowledged that Mr. Mashburn sent a protest.

Mr. Mashburn: Mr. Mashburn said Mr. Dannewitz stated that had nothing to do with that hearing that day, but he would forward it on to the board.

Mr. Drobisch: Mr. Drobisch asked if that is actually a formal protest.

Mr. Bean: Mr. Bean thinks it is supposed to be filed with the clerk. He didn't know if that is statute or our rules. He thinks it is statute. He would have to go pull the statute.

Mr. Dunn: Mr. Dunn asked Tony VanNatta if he had any input on this. Mr. Dunn did not think they had gotten anything on this in the board office. He did get a letter at home.

Mr. VanNatta: Mr. VanNatta said the letter we got was a list and that was the day of the hearing, with some petitioner's names on them. There were not any addresses on them. Mr. VanNatta told them at that time that we could obtain the addresses off of the mapping system. As far as us getting a letter, no he did not get a letter.

Mr. Mashburn: Mr. Mashburn said it was sent out. He has a copy of what he sent.

Mr. VanNatta: Mr. VanNatta said he has a list of names but to his office that wouldn't be any kind of legal documentation. We didn't us that. That was brought forward at the hearing. But, as far as our office telling you that you had legal discrepancy with it, no we have never been notified of that.

Mr. McGlaughlin: Mr. McGlaughlin asked Mr. Mashburn if he retained an attorney.

Mr. Mashburn: Mr. Mashburn said no he did not.

Mr. VanNatta: Mr. VanNatta said we still have the list of the names and he thinks the chairman had a copy of them, and that is the only information we got from Mr. Mashburn in our office.

Mr. Smith: Mr. Smith said in looking at the minutes from the Zoning Board of Appeals hearing out there he would read one paragraph, "Mr. Dannewitz told Mr. Mashburn he did receive a letter from him stating that he was a 20% contiguous landowner. It stated that this change in zoning would require $\frac{3}{4}$'s favor by the members of the county board. Walt stated that he did not know if this rule would apply to this case and that would be up to the county board. Most rulings by the county board it is a $\frac{3}{4}$'s vote or 16 votes at the Zoning Board of Appeals makes a decision for the board for

There were no questions or comments from the board floor.

MOTION CARRIED.

B. CORRESPONDENCE

A letter from Decatur Public Building Commission regarding surplus funds from Fiscal Year 2009 that can be applied toward future rent payments as they relate to referenced facilities.

A letter from John Snyder submitting his resignation from the Macon County Board District #3 effective December 31, 2009.

A letter from Comcast regarding an addition to their channel line-up.

A letter from the Illinois Department of Transportation regarding awarding a contract for work to Schmidt Construction, Incorporated.

A Notice of Application for Permit to Manage Waste (LPC-PA16) for Rhodes Landfill.

A letter from Ameren IP regarding tree trimming they will be doing in and around the Long Creek, Mt. Zion and Decatur areas.

REPORTS

Sheriff's Report – December 2009

Coroner's Report – December 2009

Macon County Tax Collector Bank Report – December 2009

Macon County Treasurer Fund & Investment Report – December 2009

Recorder Annual Report – December 1, 2008 through November 30, 2009

Macon County Clerk Annual Report – December 1, 2008 through November 30, 2009

Macon County Treasurer Annual Collector's Report – Tax Year 2008 payable 2009

MOTION

Mr. moved, seconded by Mr. to approve the Correspondence and Reports and that they be placed on file.

There were no questions or comments from the board floor.

MOTION CARRIED.

2. CLAIMS

MOTION

Mrs. Cox moved, seconded by Mr. to approve the Claims.

There were no questions or comments from the board floor.

MOTION CARRIED.

C. APPOINTMENTS

3. Resolution G-3390-1-10 – Appointment to Macon County Board District #3

Mark Wicklund, 821 N. 33rd St., Decatur, IL 62521
Term Expires: November 30, 2010

MOTION

Mr. moved, seconded by Mr. to approve Resolution G-3390-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

Stephen M. Bean, Macon County Clerk administered the Oath of Office to Mark Wicklund as the newly appointed Macon County Board member for District #3.

4. Resolution G-3391-1-10 – Appointment to Macon County Zoning Board of Appeals

Barbara C. Lamont, 121 E. Burgess, Oreana, IL 62554
Term Expires: May 31, 2012

MOTION

Mr. moved, seconded by Mr. to approve Resolution G-3391-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

There was nothing submitted on the Consent Calendar.

The Justice Committee had nothing to submit at the meeting.

EEHW COMMITTEE

5. Mr. Dudley presented Ordinance O-82-1-10 which is amending the Macon County Ordinance regulating the siting and construction of Wind Energy Conversion Systems.

MOTION

Mr. Dudley moved, seconded by Mr. to approve Ordinance O-82-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

OPERATIONS, PERSONNEL & LEGISLATIVE COMMITTEE

6. Mr. Smith presented Resolution G-3392-1-10 which is accepting a one year proposal from Hartford Insurance for property and inland marine insurance coverage.

MOTION

Mr. Smith moved, seconded by Mr. to approve Resolution G-3392-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

7. Mr. Smith presented Resolution G-3393-1-10 which is approving a decrease in the mileage reimbursement rate from .55 cents to .50 cents per mile.

MOTION

Mr. Smith moved, seconded by Mr. to approve Resolution G-3393-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

FINANCE COMMITTEE

8. Mr. Dunn presented Resolution G-3394-1-10 which is approving increase in appropriations in the FY09 Insurance Fund and Self Insurance Fund budgets.

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3394-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

9. Mr. Dunn presented Resolution G-3395-1-10 which is executing deeds to convey property on which taxes were delinquent.

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3395-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

10. Mr. Dunn presented Resolution G-3396-1-10 which is approving an increase in appropriations in the FY 2010 Health Fund for Emergency Preparedness PHER III Grant #07181273.

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3396-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

11. Mr. Dunn presented Resolution G-3397-1-10 which is approving increase in appropriations in the FY2010 Health Fund for Immunization Grant #05180361 CFDA #93.712 Federal Award #3H23IP522568-07S1.

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3397-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

12. Mr. Dunn presented Resolution G-3398-1-10 which is approving decrease in appropriations in the Teen Parent Services Program – Contract #L11GL322000 Document #L11GL322840.

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3398-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

13. Mr. Dunn presented Resolution G-3399-1-10 which is regarding approving decrease in appropriations in the Targeted Intensive Prenatal Case Management Program – Contract #L11GL322000 Document #L11GL3224400.

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3300-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

14. Mr. Dunn presented Resolution G-3400-1-10 which is approving amendment to FY 10 EMA budget for Illinois Terrorism Task Force (ITTF) Grant for Tactical Interoperable Communications Plan (TICP)

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3400-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

15. Mr. Dunn presented Resolution G-3401-1-10 which is approving budget amendment for Workforce Investment Solutions FY09 & FY10 budgets for grant timing purposes.

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3401-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

16. Mr. Dunn presented Resolution G-3402-1-10 which is approving a budget amendment for Workforce Investment Solutions FY10 budget.

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3402-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

17. Mr. Dunn presented Resolution G-3403-1-10 which is establishing policy for setting fees for county services provided by Macon County departments.

MOTION

Mr. Dunn moved, seconded by Mr. to approve Resolution G-3403-1-10.

There were no questions or comments from the board floor.

MOTION CARRIED.

The Negotiations Committee had nothing to submit at the meeting.

The Transportation Committee had nothing to submit at the meeting.

The Executive Committee had nothing to submit at the meeting.

The Siting, Rules & Ordinance Sub-Committee had nothing to submit at the meeting.

The Building Sub-Committee had nothing to submit at the meeting.

CITIZENS REMARKS:

OFFICEHOLDERS REMARKS:

There was no old business presented at the meeting.

There was no new business presented at the meeting.

MOTION TO CLOSE SESSION

Mr. moved, seconded by Mr. to go into closed session to discuss personnel issues and pending litigation.

MOTION CARRIED.

MOTION TO OPEN SESSION

Mr. moved, seconded by Mr. to return to open session.

MOTION CARRIED.

MOTION TO ADJOURN

Mr. moved, seconded by Mr. to adjourn until Thursday, February 11, 2010 at 7:15 p.m.

MOTION CARRIED.

Meeting adjourned at p.m.

