

DRAFT

**PLANNING AND ZONING COMMITTEE
MEETING MINUTES
October 26, 2011**

The Planning and Zoning Committee of the DeKalb County Board met on October 26, 2011 at 7:00 p.m. in the Conference Room East located in the DeKalb County Administration Building. In attendance were Committee Members Ken Andersen, Dan Cribben, John Emerson, John Hulseberg, Pat Vary, and Jeff Whelan. Also in attendance were Greg Millburg, Sarah Lief, Gary Hanson, Charles Foster, Tim Vowell, Tom Phillips, and Planning, Zoning and Building Department staff members Paul Miller, Rebecca Von Drasek, Marcellus Anderson, Toby Petrie, and Kathy West.

Ken Andersen, Planning and Zoning Committee Chairman, called the meeting to order and noted that all members were present except Ruth Anne Tobias.

APPROVAL OF AGENDA

Mr. Whelan moved to approve the agenda, seconded by Ms. Vary, and the motion carried unanimously.

APPROVAL OF MINUTES

Mr. Emerson moved to approve the minutes of the September 28, 2011 meeting of the Planning and Zoning Committee, seconded by Mr. Hulseberg, and the motion carried unanimously.

PUBLIC HEARING

Mr. Andersen opened the Public Hearing on the request of Charter Communications for a cable television in portions of unincorporated DeKalb County located south of the City of Genoa, and south of Baseline Road. Mr. Miller provided orientating remarks for the Committee. He explained the application and the need for the County Board approval of the requested franchise.

Mr. Vowell, representing Charter Communications, noted that the service area for the proposed cable service would include 387 homes. He then provided the Company's responses to the September 12, 2011 staff report which discussed possible revisions to the Company's Franchise Agreement, indicating agreement with all of the comments except the following:

Item 3. If approved by the County Board, the franchise area is limited to those areas described in the application. Expansion of the franchise would require another application and action by the County Board.

Mr. Vowell noted objection to this revision. He explained that Charter Communication would like the right to expand anytime that it could make a return on the investment, which he noted would require a density of 30 homes or more. He asked the Committee to allow expansion where economically feasible without the need to go through the franchise approval process again. Mr. Miller responded that the County was considering approval of the franchise within the perimeters shown on the application and not outside without further agreement. Mr. Miller further explained that it was very unlikely that additional houses would be constructed in vicinity

to the franchise area, as residential development would be contrary to the Comprehensive Plan. He pointed out that no new subdivisions have been approved in unincorporated DeKalb County in over 15 years.

Item 4. Section 10.1 of the draft Franchise Agreement leaves blank the amount of the franchise fee payable to the County. Section 18-24 of the County Code requires the maximum annual amount not to exceed five percent (5%) of the franchisee's gross revenues attributable to the operation of the cable systems within the franchise area. This is the fee that has been applied to other cable TV franchises in DeKalb County. The final version of the Agreement should include the 5% figure. Payments are due on or before the 15th of each month following the end of each quarter (Section 10.2 of the draft Franchise Agreement should be amended to reflect this date). Funds are placed in the County's General Fund;

Mr. Vowell noted it would take the company longer to calculate the appropriate fee. He requested that the number of days be increased to 45 days from the end of each quarter. Mr. Miller responded that the requirement may be written into the County's Code and that he would confer with the State's Attorney. If necessary, Mr. Miller hypothesized an estimated amount might be paid by the 15th with the remaining to be paid following the necessary calculations.

Item 5. After the public hearing and before action by the County Board on the franchise request, the applicant will be required to pay all outstanding costs of processing the application. Staff will provide an invoice for these costs following the September 28 Committee meeting;

Mr. Vowell asked that these fee be offset by future franchise fees. Mr. Miller disagreed, he stated that the fee are nominal and cover the County's costs for setting up and publishing notice for the Public Hearing. Mr. Vowell indicated no further objection.

Item 10. Section 8.3 of the draft Franchise Agreement indicates that the applicant may offset the costs of construction permit fees for any construction within County road rights-of-way by reducing the amount of the franchise fee by an equal amount. Staff recommends this provision be stricken from the final version of the franchise agreement; and

Mr. Vowell noted that this was State Law in Wisconsin and asserted that this is the practice elsewhere. Mr. Miller observed that this was a philosophical issue, arguing that the costs of doing business should not reduce the County's revenue. Mr. Miller appreciated that Mr. Vowell did not want to set new precedent and agreed to review any evidence of IL State Law that required this allowance.

Item 11. If the franchise is granted, any future transfer or assignment of the franchise to a different entity may only take place after approval by the County Board following a review and approval process consistent with the requirements of Chapter 18 of the County Code.

Mr. Vowell said that this was the biggest issue for the applicant. He explained that the Company had many internal entities to which this franchise agreement may need to be transferred. Mr. Miller agreed that the language could be revised to allow for internal transfers but with a prohibition from transferring the franchise to outside interests. Mr. Vowell agreed to follow-up with the State Attorney's office to confer over the outstanding legal issues.

Mr. Armstrong, Sycamore Township Road Commissioner, confirmed that the Township would review the proposed locations of cable prior to installation. Mr. Miller explained that the County required the applicant to have Township approval prior to installation.

Mr. Whelan inquired if there were any competitors in the proposed service areas. Mr. Vowell noted that there were fiber optics in the vicinity and that he thought AT&T may be in the area.

Mr. Miller offered that the franchise agreement would be non-exclusive.

Mr. Hulsberg asked if the utilities would be under or aboveground. Tom Phillips with Charter Communications responded that the company would use existing poles if ComEd grants them approval. In addition, he stated that the cable would follow other utilities underground. Mr. Phillips stated that the company would not be installing any new utility poles.

The Committee briefly discussed damage to existing utilities and abandonment. Mr. Vowell explained that the company would be responsible for costs of removal and repair.

Mr. Armstrong asked if he could reject or restrict access to the road rights-of-way (ROW). Mr. Miller responded that his understanding is that the Township controls the ROW but that the Township would also need just cause to deny access in approved utility easements.

Mr. Cribben confirmed that the cables could be identified by J.U.L.I.E.. Mr. Phillips explained that the cables have indicators that indicate their location and depth.

Mr. Andersen closed the Public Hearing at 7:35 p.m.

Ms. Vary moved to approve the Franchise Agreement subject to the revisions discussed during the public hearing, seconded by Mr. Whelan, and the motion carried unanimously.

Mr. Miller asked the applicant to submit the revised agreement no later than November 7, 2011.

FY 12 BUDGET APPEAL

Mr. Miller read the Budget Appeal submitted by County Board Member Charles Foster to the Committee. He provided the Committee with a report prepared by staff detailing a response to the appeal.

Mr. Andersen recognized Mr. Foster to explain the appeal.

Mr. Foster stated that he had reviewed the proposed budget and was opposed to reducing the reserve funds by \$900,000. He stated that his appeal to reduce staff was not about the Planning and Zoning Department but a broad brushed approach at reducing the amount of reserve funds necessary to balance the budget. He noted that he did not take the reduction of staff lightly.

Ms. Vary emphasized the Planning and Zoning Department was one of the County's outstanding Departments, with an award-winning Comprehensive Plan. She argued that the Department had

reduced the amount of staff devoted to building activity since 2004. Ms. Vary noted that the Department had a full plate with only a small staff to complete numerous tasks. She observed that the use of the reserve funds was appropriate, noting that independent auditors had indicated that the County had over the amount necessary in reserve. She stated that salaries should not be cut when the County continues to have funds to pay those salaries. Ms. Vary opposed any cuts to the Department.

Mr. Hulseberg asked Mr. Foster if he had contacted the Department Director, Paul Miller, prior to making this appeal. Mr. Foster responded he had not contacted Mr. Miller. Mr. Hulseberg questioned Mr. Foster's rationale that a lack of growth would only effect the Planning and Zoning Department, he stated that the Treasurer and County Clerk offices would also be impacted by a lack of growth yet there were no appeals to revise those Department budgets.

Mr. Miller informed the Committee that even with a slowing economy the Department was expecting a busy 2012. He explained that the mitigation of Evergreen Village is slated to receive funding before the end of 2011, which would require hundreds of man hours to purchase, assist with relocation, and removal of the actual units. He also noted that a member of staff would be using Family Medical Leave during 2012, reducing staff by one for at least three months. Mr. Miller explained that these issues would be in addition to the handling of Building Permits, zoning actions, complaints, grading permits, and enforcement of floodplain regulations. He argued that the Department was as lean as possible without cutting services.

Mr. Foster said that he had reviewed the P&Z Department budgets going back to 2003, and the number of staff had remained constant from then until now despite the reduction in building activity. Mr. Miller explained that as building activity has slowed, other activities in the Department have increased, including complaints, grading permits, and floodplain administration. In 2005, the Department had two full-time building inspectors. It now has one. This shows that staffing has already been adjusted in response to the downturn in the economy.

Mr. Cribben asked to hear from Mr. Hanson regarding the appeal and his recommendations for the budget.

Mr. Hanson noted that the appeal was from the proposed budget which he had recommended for approval. He noted that the proposed budget utilizes the general fund consistent with the advice of the auditors. He acknowledged that a third year of reducing the general fund without cutting personnel was hard to envision. However, he emphasized that FY 2012 would only be the second year of using these funds and will allow the County the opportunity to try and get through it without personnel cuts.

The Committee briefly discussed full time equivalent (FTE) numbers for the Department.

Mr. Whelan noted that the Department with the Director was only 5 and 1/4 employees. He stated that he agreed with Ms. Vary and that he thought the mitigation project would require many hours of work.

Mr. Emerson informed the Committee he was happy with the level of service he had received and that he did not think there needed to be cuts at this time.

The Committee briefly debated the definition of an unbalanced budget and the County's budgeting process.

Mr. Andersen stated his dislike of the appeal process as a method of discussing the budget. He explained that he had spoken with his constituents and confirmed that they were willing to take a cut in services. He noted he was not in favor of eliminating jobs, but felt that expenditures need to be cut because the County's revenues were down.

Mr. Foster offered that he also disliked the appeal process. He also wanted a larger discussion about the overall County Budget, because he feared there was little incentive for the County to become more efficient. He suggested that over recent years that there has been a significant increase in cost to the County for personnel.

Mr. Miller pointed out that the increased costs were due to increasing health insurance premiums not in salary increases. He also emphasized that the appeal would give citizens less service for the same expense since the tax rate would stay the same.

Mr. Andersen suggested that something must be done and thanked the Committee for their discussion.

Ms. Vary moved to deny the appeal to reduce the Planning and Zoning Budget by \$70,000, seconded by Mr. Hulseberg, and the motion carried by a vote of four in favor with Mr. Andersen and Mr. Cribben in opposition.

PRESENTATION - Farm House Splits

Mr. Miller made a presentation showing the new layer added to the County's GIS which displayed approved 4.02.D.2 splits. Such splits separate an older farm house from the surrounding farm fields. The resultant residential parcel is legal, nonconforming, while some portion of the farm totaling 40 acres is rendered "non-buildable" for future residences. In this way, the farmer gets the value of being able to sell a smaller parcel containing a house, while the County maintains its average one-house-per-40-acres standard. Mr. Miller explained that in an effort to make information more accessible staff worked with the Information Management Office to show approved divisions on the County's web site.

DISCUSSION ITEM - Renewable Energy Production District Act

Mr. Andersen informed the Committee he had heard about recent legislation that allows the creations of "renewable energy production districts" and wanted to bring it to the Committee's attention. Mr. Miller provided a staff report summarizing the details of the legislation.

Ms. Vary asked why a private entity would be interested in establishing such a district. Mr. Miller assumed that a some sort of profit sharing agreement might lead a private developer to partner with the County.

Following further discussion, Mr. Andersen stated he would call Senator Johnson or Representative Pritchard to ask for clarification.

DISCUSSION ITEM - P&Z Committee Meetings for November and December

The Committee decided to meet on November 30, 2011 at 7 p.m. in the Conference Room East. This meeting would serve for both the November and December 2011 meetings of the P&Z Committee.

Ms. Vary moved to cancel the regularly scheduled November and December meetings and meet on November 30, 2011, seconded by Mr. Whelan, and the motion carried unanimously.

MONTHLY REPORT

Mr. Andersen asked that the Committee be informed of Code Violation Hearings. Staff agreed to forward notification to the Committee Members.

PUBLIC COMMENTS

Mr. Andersen asked the public present if they had any comments for the Committee. No comments were offered.

ADJOURNMENT

The Planning and Zoning Committee is next scheduled to meet November 30, 2011 at 7:00 p.m. in the Conference Room East.

Ms. Vary moved to adjourn, seconded by Mr. Whelan, and the motion carried unanimously.

Respectfully submitted,

Ken Andersen
Planning and Zoning Committee Chairman

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