



KANE COUNTY
COUNTY DEVELOPMENT COMMITTEE
TUESDAY, APRIL 18, 2017

County Board Room

Minutes

10:00 AM

Kane County Government Center, 719 S. Batavia Ave., Bldg. A, Geneva, IL 60134

1. Call to Order

Chairman Kojzarek called the meeting to order at 10:00 AM.

Attendee Name	Title	Status	Arrived
Margaret Auger	Board Member	Present	
Theresa Barreiro	Board Member	Late	10:06 AM
Brian Dahl	Board Member	Present	
Drew Frasz	Ex-Officio (Transportation Chairman)	Present	
Michael Kenyon	Ex-Officio (Forest Preserve President)	Present	
Bill Lenert	Board Member	Present	
John Martin	Vice Chair	Present	
Thomas Smith	Board Member	Present	
Kurt R. Kojzarek	Chairman	Present	

Also present: Co. Bd. Chairman Lauzen & staff Nagel; Co. Bd. members Molina, Wojnicki, Allan, Gillam, Wegman, Sanchez; Finance staff Waggoner; Development Dir. VanKerkhoff & staff Miller, Berkhout; Environmental/Water Resources Dir. Anderson & staff Wollnik; KDOT staff T. Rickert; ITD staff Peters; members of the press and public.

2. Approval of Minutes: March 21, 2017

RESULT:	APPROVED WITH VOICE VOTE [UNANIMOUS]
MOVER:	Brian Dahl, Board Member
SECONDER:	Drew Frasz, Ex-Officio (Transportation Chairman)
AYES:	Margaret Auger, Brian Dahl, Drew Frasz, Michael Kenyon, Bill Lenert, John Martin, Thomas Smith, Kurt R. Kojzarek
ABSENT:	Theresa Barreiro

3. Monthly Financials

Monthly reports were included in the agenda packet. Finance staff Waggoner reported there were no budget concerns at this time.

4. Public Comment

Chairman Kojzarek asked those signed up to speak on zoning petitions hold their comments until the item comes up on the agenda. There was no comment on other agenda items.

5. Building & Zoning Division

Dev. Dir. VanKerkhoff reviewed the following Zoning Petitions:

A. Zoning Petitions

1. PETITION NO. 2017-0004: Kane County Forest Preserve District

The petitioner is requesting rezoning from PUD-Planned Unit Development to F-District Farming. The ZBA voted to approve. (Barriero arrives @ 10:06 a.m.)

Mr. Nate Sumner from Heritage Prairie Farms spoke in opposition explaining that his property would have direct sight lines of the proposed natural resources facility building. He said they

were happy to be neighbors with the Forest Preserve, but they strongly object to the location of this building. Sumner said he had no objection to the building itself, just its location. While the Forest Preserve offered to push it back, Sumner felt it didn't make it less visible from his property or from the rustic road. He asked that this not be approved unless there is a firm commitment from the Forest Preserve to making this building invisible from Brundige Road.

Frasz emphasized that they were here today to discuss rezoning this from PUD to Farming, noting that the majority, if not all of the neighbors support it. They are just going back to farmland so they can make this a Forest Preserve, which is what everyone has been pushing for.

RESULT:	MOVED FORWARD BY VOICE VOTE [UNANIMOUS]	Next: 5/9/2017 9:45 AM
TO:	Executive Committee	
MOVER:	Michael Kenyon, Ex-Officio (Forest Preserve President)	
SECONDER:	Drew Frasz, Ex-Officio (Transportation Chairman)	
AYES:	Margaret Auger, Theresa Barreiro, Brian Dahl, Drew Frasz, Michael Kenyon, Bill Lenert, John Martin, Thomas Smith, Kurt R. Kojzarek	

2. PETITION NO. 4364: Glenwood Academy/Maxxam Partners, LLC

The petitioner is asking for a Special Use for a private-pay alcoholism and substance abuse treatment facility. The ZBA voted to deny. There are objectors, including area property owners and the Village of Campton Hills. Referencing a PowerPoint presentation, Dev. Dir. VanKerkhoff shared the history on this request.

Chairman Kojzarek opened the floor for public comment. Due to the number of people signed up to speak, **motion was made by Kenyon, seconded by Martin to limit each speaker to three minutes of public comment so that everyone could speak. Motion carried unanimously by voice vote.** Kojzarek indicated the petitioner would be allowed to speak first.

Atty. Andrew Kolb, General Corporate & Zoning Counsel for Maxxam Partners, said he was fully confident their application satisfied all the elements of a Special Use. He noted that in the most recent round of public hearings before the newly appointed ZBA, those who voted against it raised two primary issues having to do with an agreement with the Fire Protection District (FPD) and Maxxam's management team and business operations. Kolb said they had been working with Mr. Ken Shepro who represents the FPD, and were confident they could come to an agreement with them in terms of compensation, which they believe is far in excess of what the burden will be. Kolb said that the management team had retained on a preliminary basis a qualified CEO candidate to operate the facility, and they were confident that the appropriate team was in place.

Atty. Steve Polin, FHA Litigation Counsel for Maxxam Partners, discussed fair housing implications of the entire zoning proceeding. He explained that the Fair Housing Act protects people with disabilities including recovering addicts and alcoholics, and extends to zoning. He acknowledged that there had been 21 hearings on this with a lot of controversy and opposition and cited discriminatory comments they felt were made. He said the Board had a duty to apply the facts and not take into consideration the discriminatory comments made by opponents. A reasonable accommodation request was made two years ago that the use of the property be treated the same as Glenwood and that request was denied.

Atty. Ken Shepro, representing the FPD, distributed a letter clarifying their position. He said he was disappointed that discussions that started in a meaningful way resulted in a document drafted by Mr. Marco personally and sent without knowledge of attorneys. While Marco had emailed board members that there was a preliminary agreement with the FPD, Shepro said that was premature at best. A draft agreement was received on Monday, but at this point there were

still many issues to be addressed, including whether or not the Zoning Board recommendation for 75 versus 125 units goes forward or not because it impacts the whole structure of the agreement. He said he had advised Kolbe and Marco that the board met last night, but this was not on the agenda so they could not legally consider it. After a lengthy discussion, the board voted to call a special meeting for Friday, April 26, and directed Shepro to work with the applicant to hopefully bring to them a final agreement that could be voted on by the board without further negotiations. Shepro said he believes the agreement will be voted up or down at that time.

Mr. Richard Johansen, Campton Township Clerk, said there was no agreement for the FPD to withdraw its objections to the proposal. He felt this petitioner should not be granted a special use permit to establish this facility at this particular farming zoned location. He pointed out that many government bodies agree on this and encouraged committee members to vote no.

Ms. Maureen Zwier, neighboring property owner, said she was aware of the need for such a facility, but believed the ZBA made the right decision on this. She said no one really knows what Maxxam's plans for the property are. She believed that only two of the nine conditions listed by Maxxam were enforceable, and that Mr. Marco had been extremely uncooperative.

Mr. Van Richards, neighbor, questioned what was new since this was presented last year other than a threat of a lawsuit if the petition is denied. He said a new ZBA had heard this and came up with the same conclusion. He asked that the decision made previously be validated by the County Board.

Mr. Jeff Zwier, neighboring property owner, discussed public safety concerns noting there were very good reasons why 22 of 23 similar facilities in the state are located on hospital campuses. He asked that the Board uphold the decisions of two ZBAs as it fails the public safety criteria.

Mr. Bob Wagner, distant neighbor, spoke in opposition as he felt this did not meet what he considered reasonable zoning and was not a good idea.

Atty. Kevin Carrarra, representing one of the adjoining property owners, said a special use was not allowed as a matter of right, and things outside the six zoning factors don't matter. He said that tax revenue and the threat of litigation cannot be considered, and that Maxxam failed to meet its burden to meet the six zoning factors. He expressed concerns about the facility's proximity to a hospital, decreased property values, and pointed out that facilities licensed by the State cannot issue controlled substances in a Farm District. He felt Maxxam hadn't shown anything new in the second round of hearings, and reiterated that the focus needed to be solely on the zoning matters.

Mr. Harry Blecker, President-Village of Campton Hills, cited public safety concerns noted the Village has very limited resources to cover 18 square miles. He said that while Maxxam reached out to the FPD, they never came to the Village to offer help.

Mr. James Cartee, neighboring property owner, said he did not believe the county was built on bullying and threats and encouraged everyone to vote no.

Mr. Constantinos Paraskevas, neighbor, expressed concern about the intense use of emergency services this facility would require and that, if approved, this would be making a historic departure from the county's consistent record of turning away spot zoning requests like this. He encouraged the committee to follow the recommendation of the ZBA.

Ms. Cathy Bourel-Cartee, neighbor, felt the special use would impair and diminish property values and tax revenue would go down as a result.

Ms. Patricia Hartman, representing area farmers/neighbors, said the request does not fit zoning regulations and suggested other uses for the property.

Mr. Abe Andrzejewski, neighboring property owners, felt the petitioner had not presented a good case on the zoning matters. He pointed out that a full traffic study was never done and the petitioner never testified. He thought the county accommodated Maxxam by bringing this back to a new ZBA. He pointed out that the petitioner refused to comment 117 times at the first hearing, and that there were gaps in the record.

Mr. Joe Miller, Campton Township Trustee, noted that the petitioner has no relative experience in this area, and cited public safety concerns. He felt the petition should be denied simply on its merit. He submitted written comments.

Mr. Marco with Maxxam felt a lot had changed in a year. He denied bullying tactics, saying nothing could be further from the truth. He addressed comments made by others saying it is on record that they were given the opportunity, but no one called him to testify. He pointed out that when asked, he did testify for five hours. He said that Atty. Shepro told him yesterday they had a preliminary agreement with the FPD. He said Maxxam signed and committed to an agreement with them. He added that in order to provide more transparency he flew in the CEO of the facility.

Chairman Kojzarek closed the Public Comment portion of the committee meeting and asked for a motion to make a recommendation either up or down on the petition. **Motion was made by Barreiro, seconded by Dahl to approve the petition.**

The floor was opened to discussion by the committee. Frasz pointed out that there has been consistent opposition to this and felt the petitioner had been uncooperative and showed a lack of respect for the ZBA. He thought Maxxam had not met Special Use requirements. Atty. Kinnally said the petitioner would agree that the Special use would not be transferrable, but wasn't sure if that was enforceable or not. Wojnicki, who represents the district, felt the county had done its due diligence and urged a no vote.

In response to a question, Atty. Kolbe said they were amendable to any conditions that were legally enforceable. Marco disputed comments made that 22 of 23 of these types of facilities were located adjacent to a hospital. He offered to provide the committee with a list of free standing facilities. He said he'd like the condition limiting the bed count to 75 to be removed as it would be an unnecessary burden. They will, however, monitor growth. As for a lack of a public safety plan, Marco said it was not a requirement that life safety plans be provided.

Frasz said he felt the county had made every effort to accommodate the petitioner and thought the opposition had been consistent and respectful. He said he would vote with the opposition and encouraged others to do so as well.

Co. Bd. Chairman Lauzen questioned the quality of information on the number of onsite locations. Mr. Andrzejewski said the statistics had been provided by Maxxam's expert witness report, which specifically stated that a level 4 facility is commonly located on a hospital campus. Marco responded that the purpose of that particular report was to show hospitals in Illinois that had detox. The opinion cited was on whether or not those facilities were similar to a hospital.

In response to Kenyon's concerns that a medical director would only be on site 40 hours a week, it was noted by Marco that the ZBA had agreed to that and the licensure requirement only requires a half-time director.

Chairman Kojzarek clarified that the **motion was to move this forward with a positive recommendation.** Anticipating a slit vote, he asked for a Roll Call Vote. **Motion carried by Roll Call vote.** (Aye: Auger, Barreiro, Dahl, Lenert, Martin; Nay: Smith, Frasz, Kenyon, Kojzarek). Kojzarek restated that it was the committee’s recommendation to move the petition forward in the affirmative with a positive recommendation on a 5-4 vote.

RESULT:	MOVED FORWARD BY ROLLCALL VOTE [UNANIMOUS]	Next: 5/9/2017 9:45 AM
TO:	County Board	
MOVER:	Theresa Barreiro, Board Member	
SECONDER:	Brian Dahl, Board Member	
AYES:	Margaret Auger, Theresa Barreiro, Brian Dahl, Drew Frasz, Michael Kenyon, Bill Lenert, John Martin, Thomas Smith, Kurt R. Kojzarek	

B. Resolution: Approving a Grant from the Illinois Housing Development Authority's Abandoned Residential Property Municipal Relief Program

This accepts a \$250,000 grant award. A resolution amending the 2017 Budget will be executed at a later time.

RESULT:	MOVED FORWARD WITH VOICE VOTE [UNANIMOUS]	Next: 4/26/2017 9:00 AM
TO:	Finance and Budget Committee	
MOVER:	Drew Frasz, Ex-Officio (Transportation Chairman)	
SECONDER:	Theresa Barreiro, Board Member	
AYES:	Margaret Auger, Theresa Barreiro, Brian Dahl, Drew Frasz, Michael Kenyon, Bill Lenert, John Martin, Thomas Smith, Kurt R. Kojzarek	

C. Presentation: Draft Regulations for Roosters and other Fowl

Development Dir. VanKerkhoff provided an update on potential zoning ordinance revisions regarding roosters and other fowl. He noted that they currently regulate chickens, but there is nothing specific for roosters. This has been to the Kane County Farm Bureau Board twice for their feedback, and they are supportive, recommending the restriction be added for peacocks and guinea fowl. Staff is currently recommending roosters be prohibited on all estate, residential, farm and F-1 zoned parcels that are less than 5 acres unless kept at a minimum distance from adjacent residences. He said this would move on to the Agriculture Committee on Thursday and staff would work on draft ordinance language that would be the subject of a public hearing for broader public input.

6. Planning & Special Projects

Dir. VanKerkhoff provided highlights from the monthly report that was included in the agenda packet.

7. Subdivision

None

8. Environmental Resources

None

9. Water Resources

None

10. Office of Community Reinvestment

None

11. Settler's Hill End Use Update

None

12. New Business

A. Discussion: Amending Section 2-80 of County Code - Use of County-Owned Vehicles

RESULT:	TABLED
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13. Reports Placed On File

RESULT:	PLACE WRITTEN REPORTS ON FILE [UNANIMOUS]
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MOVER:	Brian Dahl, Board Member
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SECONDER:	Drew Frasz, Ex-Officio (Transportation Chairman)
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AYES:	Margaret Auger, Theresa Barreiro, Brian Dahl, Drew Frasz, Michael Kenyon, Bill Lenert, John Martin, Thomas Smith, Kurt R. Kojzarek
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14. Executive Session (IF NEEDED)

None

15. Adjournment

RESULT:	ADJOURNED BY VOICE VOTE [UNANIMOUS]
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MOVER:	Thomas Smith, Board Member
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SECONDER:	Michael Kenyon, Ex-Officio (Forest Preserve President)
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AYES:	Margaret Auger, Theresa Barreiro, Brian Dahl, Drew Frasz, Michael Kenyon, Bill Lenert, John Martin, Thomas Smith, Kurt R. Kojzarek
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This meeting was adjourned at 12:06 PM.

Ellyn McGrath
Recording Secretary