

**PROCEEDINGS OF THE COUNTY BOARD**

AT A SPECIAL MEETING OF THE COUNTY BOARD MEMBERS OF CHRISTIAN COUNTY ILLINOIS, BEGUN AND HELD AT THE CHRISTIAN COUNTY COURTHOUSE IN TAYLORVILLE, ILLINOIS, AND BY TELECONFERENCE ON **August 3, 2020**

*ATTEST: MICHAEL C. GIANASI, COUNTY CLERK*

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The following proceeding had and entered at large upon the records of said Board, which is done accordingly in the following words and figures to wit;

In accordance with Executive Order 2020-07, issued by Governor JB Pritzker, this County Board meeting is being conducted by teleconference with remote participation by County Board members.

Chairwoman Becky Edwards called the meeting to order at 12:00p.m

**ROLL CALL**

The roll call by County Clerk Michael Gianasi showing all members present did signify a quorum and was declared. Linda Curtin, Becky Edwards, Dale Livingston, Mike McClure, Vicki McMahon, Clark Pearce and Phil Schneider participated remotely.

**ADDITIONAL APPROPRIATIONS FOR SPECIAL ASSISTANT STATE’S ATTORNEY**

Chairwoman Becky Edwards called this special meeting for the sole purpose to approve additional appropriations for Special Assistant State’s Attorney Ben Jacobi to provide legal counsel to the County and the Zoning Board of Appeals in the continuation of public hearings regarding the WECS (Wind Energy Conversion System) text amendments. Mr. Jacobi has submitted an explanation of the events since his hire and Chairwoman asked for him to explain the situation to the board.

Mr. Jacobi started by saying that he and his law firm OKGC (O’Halloran, Kosoff, Geitner & Cook, LLC) have had a great relationship with the county for some time. Being the general counsel for the risk management pool for a few decades, the firm is currently representing Christian County in five or six open claims. Because the WECS ordinance, anticipated special use, and amendments do not fall within the county’s carrier policy, the county independently hired OKGC to provide guidance on the issues. This was due to a conflict of interest found with the previous firm of Giffin, Winning, Cohen, & Bodewes, P.C.

His responsibilities have included reviewing the entire zoning system and making sure the procedures and processes are less susceptible to challenge, which limits exposure to the county. Much work has been done over the last seven months and a letter was circulated to county board members that described actions taken over this time. The separate WECS and solar ordinances were adopted into the zoning code and the entire zoning code has been researched along with the applicable counties code provisions. Assistance was provided to the Zoning Board of Appeals to develop their own Articles of Rules and Procedures, and to the Zoning Administrator to develop applications for the public to use.

Ben also discussed helping the Zoning Administrator with the text amendments received from the wind farm companies, PCC, the Zoning Administrator, and the county board. The public hearings began on June 22. Ben advises the chairman of the ZBA before each hearing and between hearings on issues coming up and processes going forward. He is the point of contact for all of the other attorneys involved and met with them before the hearings began to answer questions and go through the procedures. Ben worked with the Zoning Administrator on how to present his application and discuss what issues might arise. Ben has answered questions from the members of the Zoning Board of Appeals, given guidance during the meetings, and provided independent research outside of the hearings if needed. WECS ordinances from other counties were also researched for comparison.

The county board had allocated \$50,000 for legal expenses. Toward the end of July, Ben determined that the amount would be exceeded by the end of the month. Expenses slightly exceeded \$50,000 and the extra was discounted. When Ben issues the latest invoice the total expenses through the end of July will be \$50,000. The ZBA has now entered deliberations and is getting close to the end. Ben estimates two more nights of ZBA deliberations followed by drafting an advisory report with recommendations for the county board. The ZBA has been reviewing all applications and consolidating the best parts of each into one recommendation for the county board to review, with reasoning included. Many times the attorney will draft the

report for the ZBA to approve in complex cases such as this and he is willing to complete that task.

Ben has been in attendance at all hearings and anticipates being in person at the remaining hearings. He has addressed legal issues and answered questions about legality and exposure to the county and finds it easier to answer those at the ZBA hearings. He tracks the recommendations of the ZBA as they progress and ultimately vote on their final recommendation to the board.

Ben has projected a budget for the remaining hearings and final report. He hopes the advisory report provided to the county board will give it a sense of direction and have good reasoning behind it. Ben has also been compiling the official record of the hearings and will provide it to the board. The record includes all of the applications, exhibits from applicants, written comments, exhibits from interested parties, and official transcripts.

For comparison, Ben looked at other work where he had reviewed, revised, and researched another WECS ordinance in Edwards County. About fifteen hours were used there, which is consistent with these proceedings. He was also involved in a successful litigation for Douglas County where the judge dismissed the case a few weeks ago. Ben ended by saying he hoped the letter and explanation gave the board a sense of where the ZBA was at and what they would need going forward.

The first question was from Matt Wells and he asked what happens if the board gets a recommendation that the majority of the board will not agree upon? If they recommend a setback that a majority of the board won't agree to, what happens? Ben responded that the county board starts with what the ordinance says now, and the applicants have suggested amendments that ordinance. As an example, if the ZBA recommends a 3,260 ft. setback and the county board cannot get a majority to agree to accept the change, the ordinance remains the same as it is. Matt continued by asking if the board cannot agree on the new tower height, does the ordinance remain the same. Ben responded that unless a change is approved by the majority, the ordinance will remain the same. Ben continued that there are other options going forward requiring more work for the ZBA, county board, and likely an attorney. Redrafting amendments, having the county board propose new amendments, having the ZBA propose new amendments; all would require having new ZBA hearings. Ben stated that the county board can accept or reject any of the new amendments proposed but they can't write their own unless they go back to a new public hearing. Matt asked about having three possible setback recommendations and Ben said that the board can accept any recommendations from the ZBA, or none of them, but they cannot write their own at this stage. A new application can be written and submitted but it would have to go through a new public hearing.

Venise McWard asked Ben if he felt he needed to be here in person for the meetings on August 5 and 6. Ben answered that he had thought about appearing virtually, which would save about seven hours of travel time. He said helping the ZBA in deliberations go through edits one-by-one and answering questions would be better in person, but could be done otherwise.

Next, Ray Koonce asked how much more was going to be allocated and how long would it last. Ben said that in his letter to the board he had budgeted about \$7,500 to complete the ZBA hearings and the advisory report to the county board. Ray asked Chairwoman Edwards where the money would come from, if approved. Becky said she had confirmed that the contingency fund had \$23,770 remaining and the money would come from there.

Chairwoman Edwards called upon Steve Sipes, chairman of the Zoning Board of Appeals to speak next. Chairman Sipes addressed the board about budgets and how decisions about money are difficult. He said working in person with Mr. Jacobi has been invaluable and with the process so close to the end, finishing with him virtually would make the process much harder. He mentioned that he is not happy with the setbacks presented, but they cannot make their own text amendments at this time. He recommended to the county board that they approve the \$7,500 and that the ZBA would work diligently to get it wrapped up in two more meetings.

Vicki McMahon asked Chairman Sipes if the money was not approved, what would it look like for the ZBA. He answered that it might take more meetings because with the attorney present at the meetings issues are handled easily.

Chairwoman Edwards asked Ben Jacobi who drafts the advisory report if the additional money is not approved. Traditionally, the Zoning Administrator, as part of the ZBA staff, writes the advisory report, but the ordinance does not require that person to write it.

Vicki asked Becky if there was a policy that any request for money over \$5,000 goes to the Finance committee first for approval. Becky thought it more like \$20,000, but asked Jan Bland for clarification. Jan said that the \$20,000 amount was for public bids and the money being discussed was for a contingency expense. Because this was a timely issue and the ZBA had tentatively scheduled meetings for later this week, the special meeting was called for the full

board. Jan added she did not believe a particular amount had to go to the Finance committee. In the past, amounts of \$2,000 or more usually required several quotes and \$20,000 or more required bidding. When asked about the tentative scheduling of the ZBA meetings, she said they had been decided by the ZBA and posted. She said Steve or Ben would have to answer what would happen if this wasn't approved. Steve Sipes answered that other ZBA members have told him they are not comfortable proceeding without the attorney. He was not saying it wasn't possible, but he did not advise proceeding without the attorney. Vicki continued that the meetings are tentatively scheduled and could they be moved. Steve said that they've been posted but could be cancelled. He added that he believed Jan was right about the amounts provided. Ben Jacobi added that the ZBA is eager to finish and that is why he was encouraging the board to consider this issue today since the meetings were scheduled and the ZBA has made good progress and they did not want to lose momentum. But they could be continued, he said. Venise added that Vicki brings up a valid point since the Finance committee met last Wednesday and Thursday. Becky said that the July billing had not been submitted yet and they did not know where they would be landing with respect to the \$50,000. Clark Pearce, the chairman of the Finance committee, said that he feels it does not need to go to the Finance committee with the full board meeting right now. The funds are available and we can vote today.

*A motion was made by Vicki McMahan and seconded by Venise McWard to send the additional appropriations request for \$7,500 to the Finance committee.*

Discussion:

Jan asked what additional information would be needed if the matter was referred to Finance and Mike McClure responded "Absolutely nothing" and Clark Pearce agreed. Dale Livingston asked where the money was coming from and Becky responded it was coming from the contingency fund and there is \$23,770 remaining in that budget. Dale said he had reservations where to spend money with the way the year has been going. Vicki responded to Dale's comment with "Thank you Dale." Becky stated that she has been watching the ZBA meetings and the board and Vince Harris have been working very hard to get where they're at today. She recommends they allow this to keep going because of the time the ZBA has put into this to get it done.

Craig Corzine said that it is a big issue and there should not be urgency just to get it off their plate. He's concerned that if the \$7,500 is approved, where does it stop. The board has been warned that additional expenses related to COVID-19 would be coming and would the contingency money be needed for other county expenses. It's only \$7,500 but we don't know what's going to happen. He said he's not saying they should or should not do it. Craig wants to get it right even if it takes a couple or three weeks to let more explanation go to the Finance committee to make an educated motion to the full board.

Mike McClure said if we don't pass this then there's no point in the zoning board going forward since Mr. Jacobi won't be working for them. He said it was ridiculous to postpone this two or three weeks and not have the attorney here to ok or recommend something else.

Vicki McMahan added that she is not negating what the ZBA, Mr. Harris, and Mr. Jacobi have done; they have done a remarkable job. Her concern are increases across the board after two nights of budget hearings. We're talking about taking money out of contingency which is supposed to start the year at \$100,000. After COVID, and hearing about the CARES Act and CURES Act, what does the big picture look like. We can spend \$7,000 here, \$10,000 here, and \$500 there, but what's the big picture; somewhere it's got to stop. I don't mean stop the process. Let's look at the big picture. Mike McClure asked who's going to take over and advise ZBA. He said this is a stalling tactic to not approve Mr. Jacobi's bill. He agrees that the budget has been exceeded but Mike said we don't have a choice on this. Vicki continued that she is not saying to get someone else or not have Mr. Jacobi, she just wants the big picture. Mike's response was that either we don't have Mr. Jacobi or we pay him; that's the big picture. He said two of the Finance committee members would automatically vote for it. If you've got at least two members if not three that are going to pass it right out of committee, what's the point of sending it back. The board should decide it anyway.

Clark Pearce stressed that we were only talking about this year's budget and contingency fund, not next year's. Craig said that just because the money is there, we don't have to spend it. He continued saying that he didn't think anyone wanted Mr. Jacobi to go away or not advise the ZBA. He said the point was to let it go to Finance and let them hammer it out. Then you can talk about the whole big picture, because you're probably going to need the \$23,000 spread out over somewhere. Let's not do a knee-jerk reaction since we just found out about this Friday. Craig said to take a few weeks and let the Finance committee do their homework and make a decision. Mike McClure responded that we either pay Mr. Jacobi or we don't pay Mr. Jacobi. Craig said it's not just this issue but you're going to have COVID stuff and everything else to talk about and contingency funds are going to need to go to some of that. Clark Pearce said that COVID

expenses are reimbursable. Craig responded that you still need the cash to pay them up front. Clark then said cash flow is a different thing than what your budget is.

Vicki said that in the Finance committee it was said that we need a big picture plan. Many increased budget requests were heard by the Finance committee. She asked Clark what he saw as the big picture. Clark responded that the huge task of the WECS ordinance has been undertaken this year and money is running out. There is money in contingency to finish the project and that is all that is being asked. Next year's budgets do not have anything to do with WECS or the money being spent this year. The considerations taken for budget increases across the board – some will not be approved and some we'll have to approve due to legislation. That's the big picture and we're looking at one small thing we're trying to finish.

Matt Wells stated that he feels the board appreciates the work done by Steve Sipes and the ZBA. His concern is the three setbacks, where none seem right to him, and this could be more money after more money. He said that he understands that the ZBA wants Mr. Jacobi there at the meetings, but there is a motion on the floor that must be dealt with. Matt asked that if the board talked about putting up \$5,000 to get Mr. Jacobi to two meetings, would the person who made the motion and the person that seconded the motion withdraw the motion to table. Let Mr. Jacobi come to these two meetings and let the Finance committee decide what to do with the rest of this money. Matt asked this question of the person who made the motion and the second. He said he is not thrilled of having the process redone later if they don't agree upon it. He continued that there is a motion on the floor to table this which he thought would delay and tie up the ZBA, which he does not want to do. So maybe if we were willing to put up \$5,000 to get Mr. Jacobi to the two meetings and let the Finance committee settle the rest of it, maybe we could get something done today that will keep the ZBA moving and everybody somewhat happier.

Steve Sipes said he appreciated Matt's comments. He continued that if the ZBA sent something to the county board and nobody was happy with the setbacks, granted it's a new text amendment, if you're happy with everything else in the recommendation, you only have to deal with a text amendment about setbacks. With the process the ZBA has been through, Steve believes they may be able to complete that without much in the way of attorney's fees. Steve said they had to start from 'A' and had to redo everything to get this right. Going forward, the procedure will not be nearly as complicated.

Matt asked if Mr. Jacobi can get to these two meetings in the next week if the motion is withdrawn and have a motion for \$5,000 and have the Finance committee deal with the rest at their next meeting. Mr. Jacobi responded that he could make it to the next two meetings for \$5,000 or less.

Phil Schneider said that he appreciated the statement from Steve Sipes and the points addressed by Matt Wells. He also understood the point to send it to Finance. Having been in similar meetings as what the ZBA has been going through and the monumental task they have, Phil said he sees the value of having Mr. Jacobi at the two meetings to see the process through. Mr. Jacobi has been helping the process continue forward in a legal manner and that is very important. Whatever our personal feelings are is one thing, but figuring out the legal process is pretty important and he's a valuable asset for the ZBA, especially at the end of it. Phil thinks Matt has a good point. Steve Sipes had another meeting and had to leave the conference call.

Chairwoman Edwards asked Vicki McMahan if she would consider Matt's recommendation and Vicki withdrew the motion. Becky then called for a motion to transfer \$5,000 from contingency to continue payment to attorney Jacobi for the completion of the WECS text amendment hearings. *A motion was made by Matt Wells and seconded by Ray Koonce to transfer \$5,000 from contingency to continue payment to attorney Jacobi for the completion of the WECS text amendment hearings.*

#### Discussion:

Ray commented that if we know something is coming up or finances are getting close, we need to utilize the committees as best we can. We do not need special meetings if at all possible. He said he is not talking about just today, but that things should not be put the county board at the last minute. We need to use these committees; that's what they're set up for. Ray said he's seen a pattern of this since he's been on the county board. He said it was not done on the city council, and this isn't the city council, but the committees are there for a reason. Only if it's an absolute must, should there be a special meeting or special committee meeting thrown on the county board at the last second. He ended by saying he would like to see it on the committee level if at all possible, and that he would support this today.

Mike McClure stated that he's been on the board twelve years and we've never had special meetings until the last year, so don't make it sound like we're always doing this. He could not recall having a special meeting that wasn't an absolute emergency, and he wasn't sure there were any of those. It's just been in the last year we've had to have these; there's got to be some reason.

Matt asked if Chairwoman Edwards would contact Mr. Sipes if the motion passed and she said she would. Chairwoman Edwards called for a roll call vote on the motion. A roll call vote being called upon polled the following: Phil Schneider, Matt Wells, Brian Wilbur, Molly Alaria, Tim Carlson, Craig Corzine, Linda Curtin, Charles DeClerck, Becky Edwards, Donna Hibbetts, Ray Koonce, Dale Livingston, Mike McClure, Vicki McMahon, Venise McWard, Clark Pearce, (16) aye; (0) nay; (0) absent; The motion carried.

### **PUBLIC COMMENTS**

Chairwoman Edwards called for public comments.

Steve Craggs asked if Mr. Jacobi could use the remote access to save five hours. Instead of personally attending the meetings could he remote in and still get his job done effectively? Chairwoman Edwards stated that the motion had passed for the \$5,000 which include Mr. Jacobi's trip to attend the meetings in person. Steve was asking the question to Mr. Jacobi as to whether he could do the job remotely and save the money since money was tight. With no further response, Chairwoman Edwards mentioned that public comments does not necessarily mean there will be a remark back.

### **ADJOURNMENT**

With no other unfinished business to come before the Board, a *motion was made by Mike McClure and seconded by Brian Wilbur to adjourn until **August, 18, 2020** for the regular County Board meeting at 6:30 p.m.* A roll call vote being called upon polled the following: Matt Wells, Brian Wilbur, Molly Alaria, Tim Carlson, Craig Corzine, Linda Curtin, Charles DeClerck, Becky Edwards, Donna Hibbetts, Ray Koonce, Dale Livingston, Mike McClure, Vicki McMahon, Venise McWard, Clark Pearce, Phil Schneider, (16) aye; (0) nay; (0) absent; The motion carried.