

MINUTES

SANGAMON COUNTY BOARD

AUGUST 8, 2006

The Sangamon County Board met in Reconvened Adjourned June Session on August 8, 2006 in the County Board Chambers. Chairman VanMeter called the meeting to order at 7:10 p.m. Mr. Montalbano gave the Invocation and Mr. Pace led the Board in the Pledge of Allegiance.

ROLL CALL

Chairman VanMeter asked the Clerk to call the roll. There were 29 Present – 0 Absent.

APPROVAL OF MINUTES

A motion was made by Mrs. Long, seconded by Mrs. Turner, for approval of the Minutes of July 11, 2006. A voice vote was unanimous.

MOTION CARRIED
MINUTES ADOPTED

CORRESPONDENCE

A. Illinois Department of Transportation Motor Fuel Tax Allotment and Transactions for June, 2006.

A motion was made by Mrs. Long, seconded by Mrs. Turner, to place the Correspondence on file with the County Clerk. A voice vote was unanimous.

MOTION CARRIED
CORRESPONDENCE FILED

RESOLUTION 1

1. Resolution approving Class III truck routes for the harvest season.

A motion was made by Mr. Hall, seconded by Mr. Goleman, for the adoption of Resolution 1. Upon a roll call vote, there were 29 Yeas – 0 Nays.

MOTION CARRIED
RESOLUTION ADOPTED

RESOLUTIONS 2 – 4

2. Resolution approving the jurisdictional transfer of County Highway 23-Woodside Road to Woodside Township.

A motion was made by Mr. Montalbano, seconded by Mr. Stephens, for the adoption of Resolution 2. A motion was made by Mr. Bunch, seconded by Mr. Pace, to consolidate Resolutions 2 – 4. Chairman VanMeter asked the Clerk to read Resolutions 3 and 4.

3. Resolution approving the jurisdictional transfer of County Highway 23-Extended-2nd Street to Woodside Township.
4. Resolution approving a supplemental Engineering Agreement with IE Consultants, Inc. for Bradfordton Road.

A voice vote was unanimous on the consolidation. A motion was made by Mr. Goleman, seconded by Mrs. Scaife, that the roll call vote for Resolution 1 stand as the roll call vote for Resolutions 2 – 4, as consolidated. A voice vote was unanimous.

MOTIONS CARRIED
RESOLUTIONS ADOPTED

RESOLUTION 5

5. 2006-37 – Willard G. George, 1713 Hood Street, Springfield – Granting a Variance. County Board Member – Joel Tjelmeland, District #14.

A motion was made by Mr. Tjelmeland, seconded by Ms. VanHoos, for the adoption of Resolution 5. Chairman VanMeter asked the professional staff to give the procedural history of the case.

Susan Poludniak, professional staff, stated that the petitioner is requesting a variance to allow for an 8-foot privacy fence rather than a 6-foot privacy fence, and a variance to allow the fence within 5 feet of the east side lot line instead of the required 12.5 feet. Cyndi Tomlin, professional staff, stated that the petitioner originally proposed building an 8-foot fence along his rear (north) property line to within 5-feet of his east side lot line. The request was amended to request the variance to allow the 8-foot fence to within 18-feet of his east side lot line. A 6-foot fence could be built in this location.

Ms. Poludniak stated that the Planning Commission recommends denial because the fence being built within 5 feet of the east property line would block visibility of traffic from the south for the neighbor's driveway and an 8-foot fence would be out of character with the neighborhood. Ms. Tomlin stated that the Zoning Board of Appeals recommends approval. They felt the variance was warranted since the petitioner's back yard is lower than the neighbor to the north.

Willard George, Petitioner, addressed the Board. He stated that his address is 1713 Hood in Springfield and he wants to build a fence for privacy. He explained that his back yard is lower than the house and there is about a 3-foot decline between the house, deck and north portion of the property. He explained that a 6-foot fence would not give any privacy and that is why he is asking for an 8-foot fence.

Mr. Montalbano asked Mr. George if he would consider a 6-foot fence if the 8-foot is not granted. Mr. George agreed that he would go with a 6-foot fence if he had to.

Mr. Griffin asked if the location of the fence has been changed and if it is going to be even with the front of the house. Mr. George explained that it would be 18-feet back from Stanton Street which is about 14 feet out in front of the house.

Flora Wells, residing at 3619 Stanton in Springfield, addressed the Board. She stated that her drive is on the north side of Mr. George's property. She explained that his fence is in front of her property and she cannot see on that side of the street even while getting out of the driveway into traffic because of the fence. She suggested he put the fence in line with the buildings on Stanton Street which would be enough to compensate for his privacy. She stated that they cannot see getting in and out of the drive; they can't see the children at the bus stop or anything else there. The fence would not be pretty and could make the property value go down because this is not that type of neighborhood.

Mrs. Long asked if they would still be able to see with a 6-foot fence. Ms. Wells agreed it would be fine as long as he can get it even with his house.

Mr. Fulgenzi asked if a 6-foot fence would be required to be kept back more than 18 feet. Ms. Poludniak, professional staff, stated that with a side yard set back there is only 12 ½ feet. There would be a side yard variance needed. Mr. Fulgenzi asked if he is keeping it 5 ½ feet farther back than he needs to. Ms. Poludniak stated that he is. The side set back is ½ of the required front yard, which would be 12 ½ feet.

Ms. Wells stated that Mr. George has also planted four trees at the corner of the driveway since he put the application in for this fence. There would then be a 6-foot fence and a 14-foot tree.

Ms. Cimarossa pointed out pictures from the objections which show this would be an obstacle. It would be an accident waiting to happen.

Mr. Vaughn pointed out that he does not recall the objector offering this documentation at the public hearing. A lot of the documentation given tonight was not given to the Zoning Board of Appeals.

Mr. George explained that the trees she mentioned, which were planted in the northeast portion of the yard, are lilac bushes and this is just a temporary spot for them until they can be moved. Also, 18 feet back from Stanton should allow them a view and there should not be any obstruction.

Mr. Moss asked him how long he has lived there. Mr. George stated he has been there for six years.

Mr. Cahnman asked if he built the deck. Mr. George stated that it was there when he bought the house. He also explained that he had a Magnolia Tree taken down for their convenience because they were complaining about it.

Ms. Wells stated that he had the tree taken down was more for his own convenience than for hers. There was also a petition from 142 neighbors at the last meeting who were opposed to the 8-foot fence.

Mr. Pace asked how long she has lived at her residence. Ms. Wells stated she has been there for 15 years.

Mr. Bunch asked if she would have any objection to the 6-foot fence. She stated she would not be opposed to that, but she is opposed to the variance he is asking for.

Mr. Montalbano stated that Ms. Well's objection mentions there has been nothing but problems since Mr. George moved in there. He asked her to clarify what those objections are. Ms. Wells stated that Mr. George has a problem with living next door to black people. The whole issue boils down to that, and once he gets the fence up it will just be something else.

Mr. Bunch asked if Mr. George knew they were a minority when he moved in there. Ms. Wells stated that he did know.

Ms. Cimarossa asked if there are any special restrictions for a privacy fence on a corner lot. Ms. Poludniak explained that there are not. The issue is addressed because there is a larger side set back on corner lots. In this case it would be 12 ½ feet. People need to understand they are talking about from the edge of the right-of-way, which should be about a foot on the house side past the sidewalk.

Chairman VanMeter asked for a roll call vote on the motion to adopt Resolution 5. Upon the roll call vote, there were 14 Yeas – 14 Nays. Chairman VanMeter voted nay to break the tie vote with the final vote being 14 Yeas – 15 Nays. Resolution 5 written “to grant a variance” was denied.

Those voting nay were: Bond, Cahnman, Cimarossa, Forsyth, Fraase, Hall, Long, Montalbano, Pace, Scaife, Stumpf, Tjelmeland, Turner, VanHoos, and VanMeter.

MOTIONS CARRIED
RESOLUTION DENIED

RESOLUTION 6

6. 2006-38 – Robert Bolton, 2218 N. 15th St., Springfield – Granting a Variance. County Board Member – John Fulgenzi, District #17.

A motion was made by Mr. Fulgenzi, seconded by Mr. Tjelmeland, for the adoption of Resolution 6. A motion was made by Mr. Griffin, seconded by Mrs. Long, to amend Resolution 6. Mr. Griffin stated that Number 3 under the Findings of Fact should be stricken because it has no relevance to this case. A voice vote was unanimous.

A motion was made by Mr. Moore to waive the reading of the professional staff's report. There were no objections.

Mr. Fulgenzi explained that he spoke with Mr. Bolton regarding the actual measurements of the property and was assured the size of the garage is 22 feet. Some objections raised by the Springfield Township Commissioner was where the property line is in regards to the water line, with the water line being covered over, and with where the cars would be parked. Mr. Bolton assured him several of the cars would be gone after the construction is finished.

Chairman VanMeter asked for a roll call vote on the motion to adopt Resolution 6, as amended. Upon the roll call vote, there were 21 Yeas – 7 Nays. Those voting nay were: Bond, Bunch, Cimarossa, Long, Pace, Turner, and Vaughn. Resolution 6 written "to grant a variance" was adopted.

MOTIONS CARRIED
RESOLUTION ADOPTED

RESOLUTION 7

7. 2006-39 – Janet McGuire, 6667 Curran Road, New Berlin – Granting a Variance. County Board Member – Tom Fraase, District #1.

A motion was made by Mr. Fraase, seconded by Mr. Hall, for the adoption of Resolution 7. A motion was made by Mr. Moore to waive the reading of the professional staff's report. There were no objections.

A voice vote was unanimous on the motion to adopt Resolution 7.

MOTIONS CARRIED
RESOLUTION ADOPTED

RESOLUTION 8

8. 2006-40 – John Sunley, 719 Prospect Street, Springfield – Granting a Variance. County Board Member – Debbie Cimarossa, District #23.

A motion was made by Ms. Cimarossa, seconded by Ms. VanHoos, for the adoption of Resolution 8. A motion was made by Mr. Moore to waive the reading of the professional staff’s report. There were no objections. A voice vote carried on the motion to adopt Resolution 8. Mr. Moss voted Present.

MOTIONS CARRIED
RESOLUTION ADOPTED

RESOLUTION 9

9. 2006-41 – Daniel Sronce, 2601 S. Lowell & 600 W. Lenox, Springfield – Granting a Use Variance. County Board Member – Clyde Bunch, District #21.

A motion was made by Mr. Bunch, seconded by Mr. O’Neill, for the adoption of Resolution 9. A motion was made by Mr. Moore to waive the reading of the professional staff’s report. There were no objections. A voice vote was unanimous on the motion to adopt Resolution 9.

MOTIONS CARRIED
RESOLUTION ADOPTED

RESOLUTION 10

10. 2006-43 – The Estate of Nick L. Miller and Mary J. Miller, 3304 & 3240 South Douglas, Springfield – Denying a Rezoning. County Board Member – Cathy Scaife, District #12.

A motion was made by Mr. Mendenhall, seconded by Mrs. Musgrave, for the adoption of Resolution 10. Chairman VanMeter asked the professional staff to give the procedural history of the case.

Susan Poludniak, professional staff, stated that the petitioner is requesting a rezoning from “R-1” single family residence to “B-3” general business. Cyndi Tomlin, professional staff, stated that the petitioner wants to operate a heating and air conditioning contractor business, plumbing shop, and lawn irrigation business. Ms. Poludniak stated that the staff recommends denial.

The “B-3” spot zoning surrounded by residential uses would deteriorate the neighborhood. Ms. Tomlin stated that the Zoning Board of Appeals concurs with the staff report and recommends denial.

Jim Nicholson, Attorney with Brown, Hay & Stephens, addressed the Board. He stated that he is representing the petitioners. A use variance will not suffice in this situation simply because it expires after a year and this is property subject to a contract for sale and the intended transfer of the business from its old location to its new location cannot take place within that year. They do need the full re-classification, rather than a simple use variance, for parcels 1, 2 and 3 and the parcels they are seeking to be re-zoned to “B-3”. Between two parcels there is a single “R-1” parcel owned by Eleanor Haseley who is in favor of the re-classification. Directly to the east of parcel 2 is property owned by the Harmony’s, who are not objecting to this. There are also two other parcels owned by the Harmony’s. There are two adjacent parcels zoned “R-1”, which were granted variances to operate businesses. There is a run-down house directly north and north of that are “I-1” industrial and “B-3”. Some of the neighborhood is changing to where the subject property is being completely surrounded by businesses and business property.

Eleanor Haseley, residing at 3300 S. Douglas in Springfield, addressed the Board. She explained that she would like to see this business there instead of a whole bunch of apartments next to her because she is located right in the middle.

Mr. Bunch asked if use variances go away after a year once they are granted. Ms. Poludniak explained that they would if the project is not started.

Mr. Moore asked if a conditional permitted use could be applied for. Ms. Poludniak stated that they could not apply for a conditional permitted use, but could apply for a use variance. A conditional permitted use would not be appropriate because it would have to be in a zoning district that already lists that as a conditional permitted use. A use variance would be the only thing appropriate.

Mr. Montalbano explained that “B-3” would be quite an intrusion. Anything that would enhance the neighborhood would be good. If you put a “B-3” there and the property is sold, it would allow just about anything they would want there.

Mr. Mendenhall asked if they would be able to work with them somehow since the time will expire with the use variance and they will not be ready. Jim Grohne, Assistant State’s Attorney, explained that it is really clear in the zoning ordinance which states if you don’t get it started in one year you lose it.

Mr. Fulgenzi asked what the properties directly south and north are zoned. Ms. Poludniak stated that the properties directly to the north are single family residences and business and to the south are single family residences and apartments. The immediate surrounding zoning is all “R-1”. To the north it does become “I-1” and “B-3”.

Mr. Cahnman asked what is on the property now. Mr. Nicholson stated that there is currently a rental house on two and one is vacant. Mr. Cahnman asked if they intend to knock down the rental houses and construct there. Mr. Nicholson stated they would eventually do that.

Mr. Moore asked if they could come back after a year and get another variance if this is denied. Mr. Grohne confirmed that they could come back and re-apply.

Jerri Mayfield, residing at 3301 S. Douglas in Springfield, addressed the Board. She stated that she has resided there for 10 years and her property is directly across the street from Eleanor's property so this would affect her from the east, north and south. She explained she did not buy in a business area and there are all residences in the area.

George Gochenour, residing at 3239 S. MacArthur in Springfield, addressed the Board. He stated that his concern is with the 30 to 40 employees and the fact that the area will have to be paved because of all the vehicles. This will cause a problem with water since this is a low area which takes on water already. There are also concerns about traffic, safety of the children, and outside storage.

Lee Patton, residing at 3228 S. Douglas in Springfield, addressed the Board. He stated he was born and raised in that neighborhood about 80 years ago and has seen a lot of changes there. Next door is Gary Bryant's, which was kept real nice at first and now the logs and stuff they have there are almost to the street. Also Power Plumbing is a disgrace and they should have put a fence up so they could not see it. There will be big heavy equipment and trucks coming in there also.

Doug Rothe, residing at 1910 Cardinal Drive in Springfield, addressed the Board. He explained that this is a residential neighborhood and this business would be out of character. Most of the neighbors in the area have signed a petition opposing this. Most of the other businesses in the area are 400 yards or more away from this location. He stressed that he is not ready for this area to turn into a business district.

Mrs. Scaife asked Mr. Rothe if he tried to buy this property. Mr. Rothe stated that he did not try to buy it.

Ms. Cimarossa asked Mr. Rothe where he lives in proximity to the property. Mr. Rothe stated that he owns the property directly south, but does not live there.

Mr. Cahnman asked to see the petition which was signed by the objectors. Mr. Rothe stated that he could.

Mr. Nicholson explained that they do not want to come back and re-apply after one year because there is a contract out there and if the petitioners are denied the variance a year later they are stuck with property and won't be able to do what they intended to do with it. The property owned by Mr. Rothe to the south is apartment buildings and he does not live there.

Steve Unverzagt, residing at 1329 S. 4th in Springfield, addressed the Board. He pointed out the pictures of the surrounding businesses which are within less than 200 feet of the subject property. The properties to the south are the apartment complex and vacant boarded up house.

Mr. Moore asked Mr. Nicholson why they don't want to come back for another variance. Mr. Nicholson explained that Allied Plumbing and Heating intends to move their business there and have a contingency clause in their purchase contract to allow them to re-classify the zoning. If they are granted a variance they already know they cannot complete what they need to do within a year mainly because of the estate and probate going on with the death of Mr. Miller. When the year expires, their variance expires and they will have no guarantees as to what will happen if they come back a year later. Mr. Moore stated that they have put the Board in the same situation by asking for a "B-3" if the construction is not started within that cycle.

Mr. Bunch suggested they table this until the probate is done and they will then have ample time to do what they need to do. Mr. Nicholson stated that he is not sure the seller would want to sit on this. Mr. Vaughn explained they could not table a zoning matter for more than 90 days.

Mr. Moore asked if they could withdraw it and re-submit within a certain time. Mr. Grohne explained that it would take a motion from the Board to withdraw it from consideration with a second and a vote on that.

Jerri Mayfield stated that she has not seen the packages with the photos and does not know if they included photos of other properties in the area except for the ones they wanted you to see. There are other well kept owner occupied properties in that area. Springfield should think about keeping business districts more separate from residential districts instead of letting the businesses come into the established residential areas. There are many vacant business areas in Springfield that would be available for this type of business.

Mr. Rothe stated that they should keep this residential. He explained that he does not live in the neighborhood and assumes the sellers won't live there either. The bottom line is, this is residential except for the corners and they should not split it up anymore.

Mrs. Scaife stated that this is a nice residential area and this would be a change. The Board will have to vote their conscience here because there are some neighbors who are more for a business than apartments.

Chairman VanMeter explained that those voting nay are voting to grant the rezoning and those voting yea are voting to deny the rezoning. He asked for a roll call vote on the motion to adopt Resolution 10. Upon the roll call vote, there were 16 Yeas – 12 Nays.

Those voting nay were: Bond, Buecker, Bunch, Cimarossa, Griffin, Hall, Musgrave, O'Neill, Stephens, Tjelmeland, VanHoos, and Wieland. Resolution 10 written "to deny a rezoning" was adopted and the rezoning is denied.

MOTIONS CARRIED
RESOLUTION ADOPTED

RESOLUTION 11

11. 2006-44 – Text Amendment to the Sangamon County Zoning Ordinance regarding wind energy conversion systems.

A motion was made by Mr. Vaughn, seconded by Mr. Tjelmeland, for the adoption of Resolution 11. Mr. Hall expressed his concern with not having an agricultural exemption on this because of the height.

A voice vote carried on the motion to adopt Resolution 11. Mr. Hall voted Nay.

MOTION CARRIED
RESOLUTION ADOPTED

WAIVER OF TEN-DAY FILING PERIOD

A motion was made by Mrs. Turner, seconded by Mrs. Long, to waive the ten-day filing period. A voice vote was unanimous.

MOTION CARRIED
TEN-DAY FILING PERIOD WAIVED

RESOLUTION 12

12. Resolution designating the week of August 27, 2006 as Workforce Development Week.

A motion was made by Mrs. Scaife, seconded by Mr. Bunch, for the adoption of Resolution 12. A voice vote was unanimous.

MOTION CARRIED
RESOLUTION ADOPTED

RESOLUTION 13

13. Resolution approving funding to the Public Building Commission for the re-surfacing of three parking lots that serve the Sangamon County Complex.

A motion was made by Mrs. Long, seconded by Mr. Buecker, for the adoption of Resolution 13. A voice vote was unanimous.

MOTION CARRIED
RESOLUTION ADOPTED

RESOLUTION 14

14. Resolution enacting Chapter 8.18 of the Title 8 of the Sangamon County Code regarding the Clean Indoor Air Ordinance.

A motion was made by Ms. Cimarossa, seconded by Mrs. Long, for the adoption of Resolution 14. A motion was made by Mr. Cahnman, seconded by Mrs. Long, to amend Resolution 14. Mr. Cahnman stated that Section 8.18.030 should be amended by deleting paragraph (b) and re-designating paragraphs (c), (d), and (e) as (b), (c), and (d) respectively. A voice vote was unanimous on the amendment.

Mr. Stephens thanked everyone who submitted letters and made phone calls regarding this. Unfortunately most of them came from people in the incorporated areas, which are not affected by this. He stated that he did receive a few from people in his un-incorporated area but not enough to get an idea how his constituents feel about the issue. He expressed his concern with not having enough time to provide a copy of this ordinance to his constituents and to discuss this with them. Another concern was with the two public hearings held in the incorporated areas of the City of Springfield and none in the un-incorporated areas. He stated that he is also very concerned with the fact that they are going to tell the Veterans who fought for freedom they can no longer have a place where they can enjoy their freedom. Another issue to consider is that the City is going through issues as to whether this is actually constitutional and legal.

A motion was made by Mr. Stephens, seconded by Mr. Bunch, to table Resolution 14. Upon a roll call vote, there were 11 Yeas – 17 Nays. The motion to table failed. Those voting nay were: Bond, Buecker, Cahnman, Cimarossa, Forsyth, Fulgenzi, Goleman, Griffin, Long, Montalbano, Moss, Pace, Scaife, Stumpf, Turner, VanHoos, and Vaughn.

A motion was made by Mr. Wieland, seconded by Mr. Moore, to amend Resolution 14. Mr. Wieland stated that under Section 8.18.050-Exemptions paragraph (g) should be added to read: “(g) Private clubs, at such times that the facility is being used exclusively by club members and the general public is not invited, served, or allowed on premises; or at such times the club is rented to private individuals for private functions such as, but not limited to, wedding receptions, anniversary parties, and banquets.” Mr. Wieland stated that the purpose of this amendment is to allow private clubs that don’t have public in attendance to continue business the way they always have. Chairman VanMeter asked if that had been the intent of the Committee all along when drafting the ordinance. Mrs. Long clarified that it had been their intent, but this amendment just makes it a little clearer.

Mr. Cahnman asked if this amendment allows private clubs to be open to people who are invited to weddings and parties and are not members of the club and if they would still allow smoking. Jim Grohne, Assistant State's Attorney, explained that if it is rented for a private function it would be up to the sponsors of the function whether they want to allow smoking.

Mr. Stephens asked if smoking would still be banned if the private club has a liquor license. Mr. Grohne stated that the issue is not whether they have a liquor license it is whether or not it is a totally private club to which the public is not invited. If it is and they have a liquor license, they can still allow smoking for their own members. Mr. Stephens asked if this only applies when the public is invited. Mr. Grohne stated that it does and Mr. Wieland's proposed amendment clarifies that issue. Chairman VanMeter stated that this amendment clarifies the Resolution as it was reported by committee and affirms the status of the law as it currently applies to their authority to regulate.

Mr. Cahnman asked how this compares to the City's Smoking Ban Ordinance and if they even have the legal authority to ban smoking in the facilities as described in subsection (g). Mr. Grohne stated that he can't compare it to the City's because he does not know their definitions of private clubs. The County would not have the authority to prohibit smoking in purely private clubs. Mr. Wieland's amendment provided clarification of this.

Mr. Bunch asked if this means the private lake clubs located in the County would be permitted to smoke. Mr. Grohne stated that is correct as long as the public is not invited to the club. The purpose of this ordinance is a public health issue aimed at protecting members of the public from second hand smoke. If you have a private club which the public is not invited then that is not within the purpose of the ordinance, therefore, the County would not have the authority to regulate purely private conduct. Mr. Bunch asked if members of the club could smoke. Mr. Grohne stated they could as long as members of the public are not present.

Mr. Pace asked if the public could come to the club as an invited guest and smoke if there is no public event. Mr. Grohne explained that an invited guest of a member is different than an open invitation to the general public. Mr. Pace asked if a private club could allow smoking when they have a smoking policy, but have a private function where one of the members has a party and invites guests. Mr. Grohne explained that they could if that is the policy of the club.

Mr. Vaughn clarified that the private club could not have any employees. It would have to be maintained by the private members only. The members would have to do such things as bartend and take care of maintenance. They could not hire an outside person and allow smoking.

Mr. Stephens stated that this was not the original intent of the ordinance from what he heard at the public hearings. It clearly was that a private club open to the public at any time was not allowed to have smoking. There is a lot of confusion about this. He asked if they are 100% sure and everyone agrees this was the intent of the ordinance originally that a lake club that has no employees and is completely maintained by their membership can smoke in the club until they have a public event such as a chicken fry. During that time only they would have to ban smoking. Mr. Grohne stated that is correct.

Mr. Fulgenzi asked if the definition of a private club mentioned in Section 8.18.010 applies to Section (g) that they just talked about. Mr. Grohne stated that he thinks they are overlapping. Mr. Fulgenzi stated that he just wanted to make sure this definition of private clubs doesn't conflict with the other. He asked if this is just a further definition of what a private club is. Mr. Grohne stated that it is. As a governmental unit the County has the authority to regulate smoking in private clubs to the extent they are public places or employers. If they are neither, then the County does not have the authority to prohibit smoking. That is what Mr. Wieland's amendment hopefully clarifies. Chairman VanMeter clarified that this was always the intent of the Resolution. The amendment was to clarify this issue because there was some misunderstanding from some Board members.

Mr. Montalbano asked if smoking would be allowed during chicken fry's. Mr. Grohne stated that is not correct. When the public is invited there is no smoking. John Schmidt, State's Attorney, stated that they cannot say a chicken fry is right or wrong. It is an interpretation of the law and this amendment has been proposed as a clarification. They have to stop at every question and look at the law each and every time. The difference between private and public is well defined in the ordinance. Either you employee somebody or you invite the public.

Chairman VanMeter asked if they could smoke if the private club were having a chicken fry only for its members. Mr. Schmidt stated that they could. Chairman VanMeter asked if the private club were having a chicken fry and advertised to the general public to come then they could not smoke. Mr. Schmidt stated that is correct.

Mr. Cahnman stated that this is not a definition; this is put in as an exemption in the exemption section. He asked Mr. Wieland if he would accept a friendly amendment to his amendment which would insert after private clubs "private clubs which have no employees". This would clarify the matter even further. There was no second to Mr. Cahnman's proposed amendment. The proposed amendment dies.

Chairman VanMeter asked for a roll call vote on the amendment made by Mr. Wieland. Upon the roll call vote, there were 26 Yeas – 2 Nays. The amendment was approved. Those voting nay were: Mr. Buecker and Mr. Fulgenzi.

A motion was made by Mr. Mendenhall, seconded by Mr. Moss, for another proposed amendment to Resolution 14.

The amendment would add Section 8.18.095-Smoking License and would state the following: “Notwithstanding any other provisions of this Ordinance, bars and restaurants holding a liquor license may allow smoking after having obtained a license to do so. The smoking license shall be issued by the Sangamon County Department of Public Health after payment of a fee determined by the Public Health, Safety and Zoning Committee. Such licensed establishments shall state, in all advertisements in print or electronic media that smoking is allowed in such establishments. All such establishments shall post, next to the main point of ingress or egress, a sign stating that smoking is allowed inside the premises, and that the Surgeon General has determined that second hand smoke is an extreme health hazard. The penalty for violation of this Section shall be revocation of the smoking license for a period of 6 months.”

Mr. Pace stated that there should be specific language where the signs are posted. Chairman VanMeter stated that the professional staff would have to take a look at that.

Mr. Cahnman stated that one of the reasons he supports a smoking ban is to protect children because they do not have a choice about going into non-smoking establishments since they go where their parents or guardians take them. This amendment would allow restaurants with liquor licenses to allow smoking and the only way an exemption like this would make any sense would be if it is required that any business allowing this exemption would prohibit anyone under 21 from entering the establishment. This language is not mentioned anywhere in here. He stated that he would vote no on this and urged his colleagues to also vote no.

Ms. Cimarossa pointed out that all of these establishments will still have employees, delivery workers, and all of the people they are trying to protect from second hand smoke and she encouraged everyone to vote no on this amendment.

Mrs. Scaife stated that her concern with the amendment is that they are saying it is alright to go ahead and smoke and then charge them for it. It is just not right.

Mr. Moss stated that he believes anyone who invests their money in a bar that allowed smoking from the time they opened it and they have a sign posted which says there is smoking allowed then the public should be able to make up their own mind if they want to come in.

Mr. Hall asked if the fee could be used to help educate people on smoking. Mr. Mendenhall stated that if it were legal he would support that. It would be controlled by Public Health.

Mr. Stumpf stated that he understands where Mr. Mendenhall is coming from, but an overwhelming number of people were in favor of a comprehensive ban and the voters are saying they want this.

Chairman VanMeter asked for a roll call vote on the proposed amendment made by Mr. Mendenhall. Upon the roll call vote, there were 14 Yeas – 14 Nays.

Chairman VanMeter voted nay to break the tie vote with the final vote being 14 Yeas – 15 Nays. Those voting nay were: Bond, Buecker, Cahnman, Cimarossa, Forsyth, Fulgenzi, Griffin, Long, Montalbano, Pace, Scaife, Stumpf, VanHoos, Vaughn and VanMeter. The proposed amendment failed.

Mr. Cahnman stated that this gives the opportunity to save lives and protect public health. This ordinance and others like it across the State have the potential of saving lives and most importantly to protect the lives of the children. He expressed that they should not allow their children or neighbor's children to be exposed to the dangers and health hazards of second hand smoke. Sangamon County now has the opportunity to become the first down state county to pass a smoking ban and only the second county in the State of Illinois to pass it.

Mrs. Long stated that as Chairman of the Ad Hoc Committee this decision has been one of the most difficult she has had to make. Both sides have strong cases for their point of view, which has not made this any easier. She stated that as a Republican she is always concerned about adding another law to restrict people's choices and actions. As a believer in small businesses it is difficult to vote for an issue that could cause a hardship on small businesses. On the other hand there is concern about the health issues of second hand smoke and the harm it may cause. She stated that after listening to her constituents, hearing the testimonies at the public health hearings, and the surgeon general's report, she is convinced that voting for the smoking ban is the right thing to do.

Mr. Stephens explained that there are a lot of things that obviously bother him about this ordinance, but talking about the effects of children as a political issue really bothers him. If you look at the surgeon general's report it mentions people smoking at home. You will find the causes of infant death syndrome are caused by people smoking at home and not because they are hanging out in bars. The opportunity was opened up to give people a choice and that was shot down. People should be provided with a choice on this. It would obviously be a limited choice, but as an adult they should be able to make that decision and not have the government regulating their lives. He stated that he is a non-smoker, but can still chose where he wants to go and if Mr. Mendenhall's amendment would have been adopted he could have chose to go into a non-smoking or smoking bar or restaurant. He encouraged everyone to vote no on this as it stands right now.

Mr. Mendenhall stated that he is also a non-smoker and has had the ability to understand this is a health hazard, but also knows he has the choice to not walk into a bar that allows smoking. He expressed that he is not comfortable dictating to businesses in Sangamon County when he believes in free enterprise and they are smart enough to make the choice for themselves. He stated that other people in the room apparently think it is necessary to tell a business how to run, but he cannot do that and he will be voting no.

Mr. Bunch stated that the Board took an oath of office that they would represent all the people of Sangamon County to the best of their ability. He expressed that he knows smoking is not good for people and he is also a non-smoker, but he tried to make up his mind to do what he thought was best for everybody in this County. He stated that he could not support this because people are not being treated fairly.

Mr. Fulgenzi stated that he feels it is important to say they are voting for the only people they can vote for which are the people in the un-incorporated areas of Sangamon County. Government is out there to regulate businesses and provide a safe environment for everyone to live in. This just boils down to a simple decision, if you believe what the surgeon general is saying then you should vote for the smoking ban.

Ms. Cimarossa agreed with Mr. Fulgenzi that they need to protect the health of those in the un-incorporated areas of Sangamon County. There has been a mass confusion as to what their legislative powers are and it is not to regulate smoking in Chatham, Jerome or other incorporated areas of the County. She stated that it is a good healthy start to protect the citizens of the County and State.

Mr. Cahnman expressed gratitude to Jim Grohne from the State's Attorney's Office for the excellent job he did in putting this ordinance together. He clarified that children are exposed to smoke not only in their homes but also in bowling alleys, restaurants, and even in bars. If this ordinance is passed they won't be opposed to it in the un-incorporated areas of Sangamon County.

Chairman VanMeter asked for a roll call vote on the adoption of Resolution 14, as amended. Upon the roll call vote, there were 16 Yeas – 13 Nays. Resolution 14 is adopted. Those voting nay were: Bunch, Fraase, Goleman, Hall, Mendenhall, Moore, Moss, Musgrave, O'Neill, Snell, Stephens, Tjelmeland, and Wieland. Chairman VanMeter voted yea on the adoption.

MOTIONS CARRIED
RESOLUTION ADOPTED

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

A. Resolutions

There were no new resolutions.

B. Appointments

Appointment of Richard Austin to the Springfield Airport Authority to replace Connie Humphrey for a term expiring June, 2011.

Appointment to the Mobile Home Shelter Ad Hoc Committee:

Craig Hall	Don Stephens, Jr.	Jess Spradlin
David Mendenhall	David Butt	Michael Ashenfelter
Clyde Bunch	Rose Burger	

A motion was made by Mrs. Long, seconded by Mrs. Turner, for approval of the appointments. A voice vote was unanimous.

MOTION CARRIED
APPOINTMENTS ADOPTED

COMMITTEE REPORT ON CLAIMS

A motion was made by Mrs. Turner, seconded by Mrs. Long, to place the Committee Report on Claims on file with the County Clerk. A voice vote was unanimous.

MOTION CARRIED
REPORT FILED

RECESS

A motion was made by Mrs. Long, seconded by Mrs. Turner, to recess the meeting to September 12, 2006 at 7:00 p.m. A voice vote was unanimous.

MOTION CARRIED
MEETING RECESSED

