SITING, RULES & ORDINANCE SUB-COMMITTEE MEETING
August 31, 2016
5:30 P.M.

MEMBERS PRESENT
Matt Brown
Jerry Potts
Patty Cox
Gary Minich

COUNTY PERSONNEL PRESENT
Mike Baggett, State's Attorney's Office
Jennifer Hoffman, P&Z

MEMBERS NOT PRESENT
Bill Oliver
Pat Dawson
Verzell Taylor

Jeannie Durham, County Board Office

The meeting was called to order by Chair Matt Brown at the Macon County Office Building.

MINUTES
Motion to approve the minutes of prior meeting, 3/29/16, made by Mr. Potts, seconded by Ms. Cox and motion carried 4-0.

CITIZEN'S REMARKS
Ms. Sue Clark, 2765 Essix Place, Decatur, IL
After distributing a copy of the City of Decatur's Ordinance No. 2016-19 to committee members, Ms. Clark informed the members that she is the owner of Cake Lady Supply @ 328 W. Eldorado, a candidate for this board for the fall for the 2 year term and an advocate for the board to enact an ordinance for the Home Kitchen Ordinance Law also known as the Cupcake Law. She said they have been working since December, 2015 with the EEHW Committee and she said that she saw 3 members of that committee in attendance today. She said she hoped what they remembered what had been presented at those meetings. She said they had attended in December, January, & February and then also came back in May. In April, the issue was taken to the City Council and they wrote an ordinance for the City and passed it within 2 weeks. At the May meeting of the EEHW Committee, she said it was their understanding that it would be put on the agenda in June, but Mr. Dudley had notified her that it had been referred to this committee and they have been awaiting since that time notice on that because Mr. Dudley had told her that this committee was working on it. She said she was hoping that is the case and if not, she hoped she had supplied everything they needed and said she would be happy to fill in the blanks on anything else. She went on to explain that the State had amended the Illinois Food Handlers Regulatory Food Act in May, 2014 and added the newly passed Home Kitchens Operations Act which is known as the Cupcake Law. As previously explained, we are not talking about cupcakes, we are talking about home decorators who, for generations, have made wedding cakes, tiered cakes for anniversaries, birthdays and any event. These are specialty cakes that cannot be purchased at grocery stores. An ordinance for this act, a provision in the Home Kitchens Operations Act, is that each local governing body pass an ordinance for it. Hence, the City passed it. It is, in effect, the exact type of legislation that enabled farmers to sell raw eggs and milk out of their farms. It reads almost identical, but it does not have the provision that each local governing body has to pass an

ordinance. That is why this board was not asked to pass one. They simply started operating underneath it. So, Ms. Clark said she had previously told them who it affects. It affects a lot of people who are just trying to just better themselves, make a little money. According to the ordinance, they can only make less than $1,000 a month. They have to notify their customers that they are in-home, unlicensed bakeries, they have to label all of their products with allergens. The City, in addition to what the state wrote, added the addition that they have to have a food handlers license. That is 2c of their ordinance. She said she supports that and doesn't think it is a bad thing. She said she thought that people preparing food for their kids could benefit from having that license and it is not hard to obtain. She said she respectfully asked the SRO committee adopt the City of Decatur's Ordinance or write one for Macon County and set it for an agenda as soon as possible.

Ms. Pam Mathias, 6398 Riley Road, Macon, IL (unincorporated part of the County)
Ms. Mathias said that she would like to see this law passed because she does some baking for family and friends, but can't sell because of the law. It also affects students that want to bake cupcakes to sell at their school. This is an artistic outlet for them. It is a chance to earn some extra money. She said she would like to do it to supplement their income now that they are getting ready to retire. She said she would like for the committee to look at it, think it over, and hopefully approve it soon.

OLD BUSINESS

Mr. Minich said he would like to move . . . He said that he thinks that EEHW has jerked these people around enough that we have our legal counsel look at the City's Ordinance and bring a presentation. He said he understands that the county only governs the unincorporated area, but he understands that in the unincorporated area, our Health Department has been harassing people. He said he feels that it needs to be clarified what the law is for the people in the unincorporated area.

Mr. Baggett explained that the normal procedure for enacting ordinances within the County is for a department head or elected official to seek a change or to seek an amendment to an ordinance. Without that, the State's Attorney's Office does not draft an ordinance independently unless they are the ones seeking the change. As everyone well knows, the Health Department which exercises jurisdiction over this issue is adamantly opposed to the ordinance. Mr. Baggett said he has not been asked by the Health Department or any member of this board prior to this evening to prepare or draft any ordinance with respect to the Cupcake Law. Now, with Mr. Minich's request, and for the purposes of this meeting, it is not a motion, but is a request by a board member and that gives the authorization and authority necessary to look at and draft an ordinance for the committee's consideration. He said he would look at the City's Ordinance and draft an ordinance that is in line with what the county would need, whether it is identical or whether any changes are necessary for the County's purposes, will have to be determined. He said that once he has a chance to draft an ordinance, he will notify Chairman Brown and another meeting of this committee will be called to consider it. Ms. Clark asked if they would be notified when the meeting is scheduled. Chairman Brown told her that if she would send him her request in an email to his email address on the County Board website, he would notify her of the next meeting. Mr. Baggett explained that the SRO is an ad hoc committee that only meets when necessary to consider business. Until the ordinance is drafted, there will not be a meeting set. He went on saying he hoped he had explained why they had not seen movement on this issue yet. He said he knew that they had gone

before EEHW because it has a standing schedule repeatedly and there was a misunderstanding there until he (Mr. Baggett) was asked to clarify, but EEHW does not have the authority to adopt an ordinance or to present ordinances to the full county board. Now that he has the request from the County Board, he will draft the ordinance in line with the Statute and what the County needs if it is anything different and present it to SRO. He said he will act expeditiously on it, but asked that everyone understand that he is the only one in the office who does what he does and this is not the only thing he does. He said he will get on it quickly as he was aware that they had been waiting a long time, but don't expect it by next week. Chairman Brown asked for an explanation of the process. Mr. Baggett said this committee does not report to EEHW, but is required by County Board rules to notify the Chairman of the EEHW. It then goes straight to the full board for consideration.

NEW BUSINESS

Macon County Board Ordinance Amending Section 17 of Chapter 153 of the Macon County Code

Mr. Baggett explained that this has to do with the LWECS (Large Wind Energy Conservation System). When the wind farm ordinance was enacted 2 or 3 years ago, a provision was inserted in the wrong place. Paragraph 3 subsection (A) gave the Zoning Administrator discretionary authority to extend deadlines. The way the ordinance was adopted and inserted into the Code, it only applied to special use permits. That was an error. The authority to extend deadlines was meant to apply to both the special use permits as well as building permits. The amendment presented tonight would cut the language from Paragraph A3 and insert it as Paragraph C which would make it applicable to both special use permits and building permits.

Mr. Potts asked what the reason for the extensions? Mr. Baggett said it is up to the Zoning Administrator. You are delegating the discretion to the Zoning Administrator as to what is reasonable. Mr. Potts said he wondered if there should be a 30 day or 60 day . . . Mr. Baggett said he would strongly caution against that. You don't want to become too specific. The entire purpose of that is to grant the Administrator discretionary authority in those circumstances where it is necessary. If we impose a time deadline, then you run the risk, without any fault of the administrator or the applicant, of having them go through an entirely new application process. That is the entire purpose of this section – to avoid that situation.

Mr. Minich said it seems like circumstances could arise where . . . You talk like this only applies to the wind farm, but it seems like if we do this, we could end up losing track of permits. Somebody could be sitting out there with a permit that was approved 3 to 4 years ago and has almost gone dormant when they all of a sudden decide to build. Maybe circumstances have changed, but they've got a permit and they've got an extension. Mr. Baggett said this does only apply to the wind farms because chapter 153 only applies to the wind farms. It is exclusive to wind farms. Building permits, special use permits for other than wind farms are covered by chapter 150 or 151. Chapter 153 is exclusive to wind farms. With respect to the concern about someone coming in in 3 to 4 years, understand that these things automatically expire within 18 months unless the extension is sought prior to the expiration. If they don't seek out the Zoning Administrator before the expiration date and seek out the extension, the extension cannot be retroactively applied. That should make all concern about them coming in well after expiration

seeking an extension go away. That would not be permissible. It would be an illegal act for the Zoning Administrator to do something like that.

Mr. Potts made a motion to approve forwarding the ordinance on to the full board with recommendation to approve the change in the ordinance as presented by Mr. Baggett, seconded by Ms. Cox. The motion carried 4-0.

CLOSED SESSION
None

ADJOURNMENT
Motion to adjourn made by Mr. Potts, seconded by Ms. Cox and motion carried 4-0 and the meeting adjourned at 5:45 p.m.

Minutes submitted by Jeannie Durham
Macon County Board Office