AGENDA

State of Wisconsin
Livestock Facility Siting Review Board
Teleconference Meeting

Friday, August 21, 2009
10:00 a.m. to 2:45 p.m.
DATCP, Boardroom 106
2811 Agriculture Drive, Madison

10:00 a.m. Call to Order—Jim Holte, LFSRB Chair

- Open meeting notice
- Approval of agenda
- Approval of June 19, 2009, LFSRB open session meeting minutes
- Approval of June 19, 2009, LFSRB closed session meeting minutes

10:05 a.m. Status of appeal on *Larson Acres, Inc. v. Town of Magnolia, Docket No. 07-L-01* circuit court decision— Cheryl Daniels, Board Attorney

Van Dyke v. Racine County, Docket No. 09-L-01—Jim Holte

- Case review process
- Identification of issues on appeal
- Discussion
- LFSRB decision
- Set date for LFSRB signoff of final written decision on case

12:00 p.m. LUNCH BREAK

12:45 p.m. *Van Dyke v. Racine County, Docket No. 09-L-01* (continued)

Board schedule and future agenda items

- Remaining scheduled 2009 meetings—September 18, October 16, November 20, and December 18
- Future agenda items

2:45 p.m. ADJOURN

DRAFT MINUTES
LIVESTOCK FACILITY SITING REVIEW BOARD
OPEN SESSION OF THE
JUNE 19, 2009, TELECONFERENCE MEETING

Boardroom 106, 2811 Agriculture Drive, Madison, WI

Chair Holte called the meeting to order at 12:00 p.m. Other LFSRB members present by phone were Andy Johnson, Bob Selk, Fran Byerly, Lee Engelbrecht, Bob Topel, and Jerry Gaska. A quorum was present. DATCP staff present were Cheryl Daniels and Lori Price.

Call to order

Holte stated the meeting agenda was publicly noticed, as required, and then presented the agenda for approval with one change under the Call to Order where the Reappointment of Board Members would come before the Election of Officers. Johnson moved to approve the amended agenda, and Byerly seconded the motion. The motion passed.

Holte presented the December 19, 2008, meeting minutes for approval. Engelbrecht made a motion to approve the minutes as written, and Topel seconded the motion. The motion passed.

Daniels reported that on April 30, 2009, the DATCP Secretary reappointed Gaska and Selk to the Board pending state senate confirmation.

Daniels stated that according to the Board's bylaws, the Board is to elect its officers at the first meeting of each year. Byerly made a motion for the Board to elect Holte as Chair, Johnson as Vice-Chair, and Selk as Secretary. Engelbrecht seconded the motion. The motion passed.

Status of appeal on Larson Acres, Inc. v. Town of Magnolia, Docket No. 07-L-01, circuit court decision

Daniels reported that the appeal in the Larson Acres v. Town of Magnolia case circuit court decision has now been assigned to the District Court of Appeals with the case number as 2009AP608. Briefs from the parties involved with the appeal are due to the Court by the middle of July. The Board recently received a copy of the confidential brief put together by the Department of Justice's representative for the Board, Bob Hunter. The Board will be discussing the draft brief in closed session.

Holte stated the statutory exemption that allows the Board to go into closed session as listed in Wisconsin Statute 19.85(1) (g): conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is involved. Johnson made a motion for the Board to adjourn from open session and go into closed session. Selk seconded the motion. The motion passed, and the Board went into closed session at 12:12 p.m.

The Board returned to open session at 12:35 p.m. upon a motion by Selk, seconded by Byerly, and a unanimous vote by the Board members.

Livestock siting annual report

Murray reported that the third annual review of the livestock siting law involved contacting local governments who have adopted siting ordinances and some that chose not to, producers who have obtained a siting permit, and siting consultants in order to get their feedback on how the law is working. The survey confirmed that people are going through the learning process on running a livestock siting program where local governments are in the process of adopting siting ordinances. The annual review also highlights what DATCP can do to improve administration of the program in the areas of education and outreach, reporting, communication between different units of government, and developing monitoring protocols. Department staff also heard positives about the law in that it is a comprehensive approach where roles and responsibilities are well defined. A total of 55 siting ordinance have been adopted, and 42 siting applications have been approved. The department included on the siting webpage a link to a map showing where the ordinances are located. Staff anticipate more ordinances will be adopted with some of the ordinances tied in with the Working Lands Initiative, if it is passed in the state budget process. Local concerns about the siting law included the need for staff to run the program and the differences between the county departments in what they consider as important information in the siting application. For example, zoning departments might consider different elements from what county conservation departments might consider. Also, reviewing applications adds significant workload for local governments, but they feel that it is a commitment worth making. Local governments are also concerned with monitoring after a permit has been issued and how this will be done. The department is in the process of addressing these concerns but has found that locally led planning and zoning efforts help to apply the siting standards. Also, siting consultants have expressed concerns with the fact that farmers face other regulatory authorities that overlap with one another as well as with the siting law, and that it can be challenging to deal with the different units of government. In 2010, the siting law will have reached the 4-year mark where it will go through a comprehensive review. Staff will use the information gathered in annual reports and through the review to recommend revisions to the law.

After the presentation, Johnson commented that he was unclear as to the report's intent. Specifically, survey responses seemed to get lost in other discussions on future programming. Also, the report did not tap into what state policy makers sought for measures of success. Selk suggested that the LFSRB be asked for input on the law during the 2010 review. He suggested two areas of improvement to the law in connection with the LFSRB's duties: 1) have local governments require submittal of entire nutrient management plan with application; and 2) set limits on what local governments can set for conditions on permits, with the conditions based on monitoring and enforcement of standards.

Report on public comments on livestock siting law from May 13, 2009, ATCP Board Meeting

Daniels reported there was a great deal of public comment on the livestock siting law at the May 13, 2009, ATCP Board meeting in Madison. Comments on the law included insufficient local

control in the siting process and the law didn't do what people thought it would do. Many of the concerns could be addressed by adopting a local siting ordinance and doing land use planning.

Board schedule and future agenda items

The LFSRB members reviewed the future meeting dates for any conflicts, and there were none.

Daniels reported that she received an appeal from Audrey Van Dyke asking the LFSRB to review the decision made by Racine County to approve a siting permit for Noble Farms. Daniels will be sending out the notice of request for review and the request for the record within the next few days. Considering the time frame of when the record and statements of position are due, the LFSRB can expect to hear this case at their August 21st meeting with the LFSRB's written decision being reviewed at the September 18th meeting.

Adjourn

Being no other business before the LFSRB, Johnson moved to adjourn the meeting, and Byerly seconded the motion. The motion passed, and the meeting ended at 1:15 p.m.

Respectfully submitted,

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Bob Selk, Secretary Date

Recorder: LP