

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, ON **JUNE 7, 2022**

ATTEST: JACQUE S. WILLISON, COUNTY CLERK

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;

Chairman Matt Wells called the board to order at 6:30 p.m.

PLEDGE OF ALLGEINCE

ROLL CALL

The roll call by Chief Deputy County Clerk Courtney Sharp showing all members present except Craig Corzine, Linda Curtin, Ken Franklin, Ray Koonce, Vicki McMahon. There is a quorum.

PUBLIC COMMENTS

Chairman Wells called for public comments. There were no public comments.

BUSINESS

Attorney Amy L Jackson – Thank you all first of all for inviting Rammelkamp Bradney, my firm and myself here to give you a presentation tonight. My firm is located in Jacksonville, Illinois and we have 10 attorneys right now. Myself and Allen Yow, you have his biography in front of you, we are two of the shareholders of the firm. Five of our attorneys are shareholders; the others consist of associate attorneys and staff attorneys. Our firm just celebrated its 125th anniversary of practice in the Jacksonville community. We have not always been known by the name Rammelkamp Bradney but it is the same firm and it has just gone through different iterations of names over the years. So with regard to the issues that you are currently dealing with that involve the proposed carbon sequestration pipeline and storage facility. Wes asked me to come and give a brief presentation and then to make myself available for some questions. It is my understanding that you are in the process of trying to determine whether and if you need to hire outside counsel to help draft an ordinance that would help protect the county in the event this proposed facility does come to fruition. And if so, is Rammelkamp Bradney the firm that you would like to engage for this business. So those are my understanding of why I am here. It is my understanding that Wes probably found me because of my history with environmental law. I have a practice that consist of environmental practice currently. I started out years ago with the Illinois Attorney General’s office when Jim Ryan was the Attorney General, so I am dating myself because that was some time ago. Then I also did work for the Pollution Control Board. That environmental work involved environmental litigation, it involved rule making, and environmentally focused hearings, public hearings on matters that were of importance to different groups.

After leaving the State of Illinois, I transitioned into private practice and I have been with Rammelkamp Bradney ever since. My practice is primarily one of litigation. But within litigation you will see what is kind of a strange diversity in topics that I cover and they seem a bit diverse but I have come to that specialties here, there is different specialties rather organically in the course of my practice. Of course, I started with environmental law and when I moved to into private practice, I continued with environmental law in different variations. Litigations, assisting clients that may be purchased property or considering purchasing property that may have environmental issues and advising them of that. I currently represent individuals that are dealing with environmental matters whether it is with a neighbor or in litigation with the State of Illinois. So I think that is probably that background with environmental laws why Wes sought me out and asked me to come and give a presentation tonight. What I want to tell you is the thing about Rammelkamp Bradney and our attorneys; we are not what you consider a general practice firm. We do have cover general practice areas but among our attorneys, we each have our own specialties and one of mine is environmental law. I have given you the biography of Allen Yow and the reason I have done that is because one of Allen's specialties I think is very well suited to what you are looking to accomplish here. Allen has represented a number of municipalities and different governmental entities for many many years. He has been involved in drafting and the passage of numerous ordinances in terms of the policies and procedures that need to be considered in that regard. Allen has that level of expertise. When we think about representing a client, we want to provide the best representation for that client as possible and sometimes, that involves bringing in two or more attorneys who combined have the expertise that that client needs. Now we also want to be very good stewards of our clients funds whether our client is an individual entity, and insurance company or a governmental entity, we realize that really nobody wants to pay their attorneys a huge amount of money. So, when we do staff matters with more than one attorney, for example, if you do decide to go with Rammelkamp Bradney with myself and with Allen Yow, there would not be a situation where we would both, if you would require both of us to come here, we would both come, but you are not going to be double billed for two attorneys coming to talk to the board. Okay. So, this is not our way of trying to get more in attorney's fees. Really, it is our way to best serve the needs of the client. In this case, Christian County. We think Allen and I together could help you sort through the issues that you are dealing with related to the carbon sequestration.

Any questions at this point?

Bryan Sharp – did you have any dealings with the windmills or FutureGen project at the Jacksonville area?

Amy Jackson – so yes and no. I was not directly involved in the FutureGen project and I do not believe anyone in my firm was. I do, as you will see in my biography, have a portion of my practice that involves representing electric cooperatives. And, so in the course of my utility work I have had dealings with the wind turbine that are over there toward Sangamon Morgan County. Okay. So only in that regard, not in regard to writing ordinances, but relating to other agreements. Let us say between the electric coop and the entity. Good question. What I will add, and that makes me think of something else. Some of you may be familiar with Allen Yow or remember that name. In 2020 and early part of 2021, Allen was involved here in Christian County with helping draft or revise ordinances related with wind energy and solar energy. As well as, I believe,

proposing some changes to special use permits that perhaps Christian County already had in place that would be directly tailored towards the needs for the wind energy facilities. So Allen had some involvement here in Christian County and he was brought into that because of his expertise in that area. So, I have spoken with him about the situation going on here and we are both on board and we think together we can provide you with the ordinance writing skills, the environmental skills that together could give you a result that is ultimately the most protective and would address the needs of this board and of the communities that you serve.

Dale Livingston – can you tell us who you represented in Christian County.

I can tell you we represented the drainage districts. Writing ordinances for drain tile

Amy – couple of things real briefly that I would add to it, Mr. Chairman. We said a couple questions that you might have would involve what types of topics can be addressed in an ordinance. So, I thought I would speak to that very briefly. In my experience, in situation like this it would be reasonable for an ordinance to include such topics as set back provisions from residences, from perhaps bodies of water. Would also be reasonable for an ordinance to address monitoring and security provisions for the particular facility. Financial assurance, that if the entity that is developing this and installing this building it goes bankrupt or is unable to fulfill its financial obligations there is something in place. Whether it is insurance, bond of some sort, something to allow the county to step in and have the finances to do what is needed to protect your citizens. Also then potentially termination or abandonment procedures. I do not know all of the details about the term of this project or how long they will actually be injecting the carbon dioxide into the ground that we would want to be sure all of those different variables are addressed.

Now, whether and to what extent an ordinance can include the provisions that are more restrictive than federal or state regulations. I cannot tell you specifically because it really is dependent on the actual verbiage of those regulations. An example that comes to mind that we dealt with at Rammelkamp Bradney involved the livestock management facilities act. I do not know if you have had issues with that in Christian County confined animal feeding operations. The statute is very specific in terms of the citing provisions. We represented a municipality that wanted an ordinance with more restrictive citing provisions and that was not successful because the statute was so clearly written; we were not able to write an ordinance that was different from the statute. So to what extent something like that could be done in this case, we would have to get into the leads of it with the language of the applicable regulations and to determine what could be done within those parameters.

Thomas Snyder Jr. – the water department they pull about 1.2 to 1.4 million gallons of water a day. I just wanted to throw that number out there.

Mike Specha – Amy, we just had some light discussion a couple meetings about possible concerns by the attorney of conflicts and I am not sure exactly, I am going to make one up. Representing a farmer. Let us say has an easement problem and let us say it was in Morgan County. Are those conflicts of potential problems? I am just concerned about conflicts of interest

Amy – so conflicts of interest are a concern and we have an internal process in our firm when a new matter comes in we do a very detailed extensive conflict check to make sure we are not running afoul of any current client. Whether the situation you described would create a conflict or not. It would really depend on the individual circumstances of each matter so it would be fact. If Rammelkamp Bradney, for example, could represent the landowner who is getting an easement in Morgan County and nothing about the representation would impact Rammelkamp Bradney's ability to serve Christian County then there would not be a conflict. So it would really just depend on what the specifics are of each individual situation. We would look into that before we would actually enter into a written engagement agreement with Christian County.

Mike Specha – Christian County is going to have a unique situation. That sequestration field is located in the county. But this pipeline runs 1300 miles, which there is a gazillion county across the five states. So I am guessing some of those issues could be uniquely different. So if we decide, and you agree to do it are you going to do some sort of initial conflict before you would agree to take the engagement is that what I understood you to say.

Amy – Absolutely. That is correct. But I can tell you I did a preliminary check myself. The attorneys in our office do not do the conflict check but we have access to the electronic software database where we can do that. I did not see anything that set off any red flags. But it would be for our business manager to actually perform that check officially. Nothing that made me uncomfortable about coming here tonight certainly to provide this presentation.

Bryan – currently representing Morgan County and Sangamon County and counties to the west of you that are affected by this project, are you guys dealing with anyone outside of Christian County?

Amy – so, let me answer that carefully. As attorneys, we are bound by confidentiality rules so we are technically allowed to disclose yes or no. Do we represent someone or not. What I can tell you is that I did a preliminary check in our database and I did not find any information or current representations that made me uncomfortable about coming here and speaking with you tonight. That is probably all I can say at this point. We would confirm it before moving further.

Chairman Wells – let me ask one of the big questions here. I think that even though we all do not agree on what the exact wording should be, we all agree we need an ordinance for carbon sequestration. I guess one of the big questions is can you give us a ballpark on what the fee would be to write this ordinance.

Amy – I also thought about that. And what I did actually was look at the work Allen did related to the wind and solar ordinance work. He was involved in that for roughly ten months. Some of the work would have been very similar. May have even been more since he was dealing with two different ordinances and a special use permit. His total fees for that roughly ten-month period were just under \$7500. I cannot tell you more or less but in terms of a comparable example that was the best thing I could come up with.

Bryan – did I hear you correct \$7500

Chairman Wells – that is a ballpark guess at this point.

Amy – ballpark yes. It is based on the similar work he did in Christian County within the last couple of years.

Dale Livingston – does that have to do with drainage districts?

Amy – so it was work related to ordinances that I think were ultimately adopted by this board. I cannot really say for whom Allen was directly working at that time. Again similar type work.

Wes – A period generally - how long do you think a preliminary draft do you think that would take a month, two or three.

Amy – we try to be responsive to the needs of our clients. I did some research on what you guys are doing right now and what you are considering. Am I correct there is currently a moratorium in place?

Chairman Wells – Well most of us think so.

Amy – okay. So I guess to answer that question, if you provide us with a period in which you need an initial draft then that is the period within which we will work. It will not be tomorrow right. It probably will not be next week. But I think we can certainly work within the period that you would need.

Chairman Wells – let me put this out there. I think all of us would agree that we need an ordinance for this. Where the board may differ would be feet, dollars, setback footage and stuff like that. Does it possible to get an ordinance with kind of fill in the blank numbers so that after you present something to us we can come in here and do the arguing then the majority will rule without somebody have to be here every month? Bryan and I might not agree on how deep something could be; Venise and I might not agree on a fee, but are we going to have to pay to change \$5 to \$50 or 1000 feet to 1500 feet or can we just get something that is kind of a fill in the blank and once we get it all worked out, Mr. Poggenpohl can get it all back to you.

Amy – I think that is definitely doable in terms of we would provide you with a draft ordinance with different suggestions or proposals with the different terms. Ultimately, it would up to this board to determine what the final provisions of that ordinance will be. We will be able to coordinate with Wes. As I said earlier, we want to be good stewards of the county's funds. We are not going to want to make unnecessary trips here to change a word or two in the ordinance when you got Wes here who can handle that.

Wes – follow up to that. If they have a disagreement. I get it they are the ones making the decision. Ultimately we want somebody with experience to have input to give up us advice to say I think that change is fine; I think that change exposes us to liability. If they want change, we can get input from you.

Amy – Absolutely. Absolutely. You know I mentioned earlier that we would provide a written engagement agreement and I think these are terms we can include in that written engagement

agreement. So you all understand the parameters and we understand the parameters of what we are being asked to do. We can fulfill it according to the terms of that agreement.

Dale Livingston – so how many ordinances has your guys' firm been a part of for zoning.

Amy – oh my goodness. Hundreds. I cannot really tell you. Yeah, so, myself, personally not too many because I am not an ordinance writer. My specialty and what I bring to the table is the environmental background okay and what may be necessary in terms of being most protective of the environment and the people of Christian County. What Allen brings is the ordinance writing experience. I could not even tell you, 100 is probably a low number. He has been doing this for the better part of his practice and he has been practicing for I want to say 28 to 30 years.

Bryan – With regard to this number. I am not qualified to suggest a range or anything, you guys are or have the resources to do so—if there is a number to put into this it is probably backed up by an unbiased opinion. Fact based unbiased opinion. Personally, I am concerned about us putting a number on it with regards to a range. We do not have the expertise to do that is why you are here. The number to be proposed would be based on -

Amy – our research and yes, our review of the regulations in terms of, for example, setbacks, what you would need for financial, adequate financial assurance, that sort of thing. Yes, absolutely, we would provide recommendations on those things.

Dale Livingston – what is the cost

Chairman Wells – well she said best estimate \$7500. I guess I will ask. You said you were familiar with this. Here is where we are at. When we were first approached with this I could not make it but I was asked to go look at a carbon well in Macon County. I did not go. The Zoning officer and another board member went. I asked the Zoning Officer to get us a copy of Macon County's ordinance. He informed me Macon County does not have an ordinance. I asked him to get me a copy of Decatur's ordinance. He informed me Decatur does not have an ordinance. We went through the process of what I thought was the process we have been using in the past. Sent information to the Zoning Board. They tabled it. So, what has happened now is Mr. Poggenpohl told us he thought we could pass a moratorium, which the board voted to do. That moratorium has not been to the Zoning Board and we do not have today; we have a moratorium but we do not have an ordinance for carbon sequestration. My question to you is this; if someone in Macon County can go to the state and the federal government and get a permit and put a carbon well into the ground, even though we passed a moratorium, we have no ordinance regulating a carbon well. Does a moratorium do us any good as far as the state or federal government issuing permits and a landowner and a carbon company being able to start putting carbon in the ground in Christian County?

Amy – so what I can tell you, I cannot speak to the effectiveness of the moratorium. I think that would probably be an opinion for Wes to provide you with. What I can tell you is that in Illinois the licensing of a carbon dioxide pipeline and or sequestration facility must be approved by the Illinois Commerce Commission. The laws, the carbon dioxide transportation and sequestration act it governs the procedures by which an entity must apply for a license. The licensure hearing is

that, it is a public hearing where public entities are allowed input good and bad, being put is sought and to my understanding from the commerce commission and there are specific set of findings that the commerce commission must make before they grant that certificate or licensure for the pipeline. So there is a process. The entity cannot just come in to Christian County tomorrow and plop down a pipeline or drop a sequestration well or it's certain spot. And the county would have to be given notice when that application is filed with the commerce commission. So you would be on notice from day one when that entity goes into the commerce commission seeking the approval to do this.

Dale Livingston – for both the well and the pipeline? What if they truck it in?

Amy – Well, that is an excellent question and I cannot tell you the answer tonight. My best guess would be both because you are not going to get a sequestration facility without a pipeline coming to it.

Bev Graham – I cannot understand what he is saying. He is mumbling. You are saying they cannot do one without the other.

Amy – Well, if they are going to be using the pipeline to get to the sequestration facility, which is my understanding of what the project, entails here. They would have to get that licensure from the commerce commission. Could not have one without the other. The question was what if they truck it in. And I do not know. I honestly do not know.

Bev – so as far as we know right now, unless you know differently, they have not received a permit.

Amy – I looked on line and I was not able to find any application filed by this particular entity with the commerce commission. And the rules in that transportation sequestration act require entity to give notice, not just public notice, but specific notice to any property owners that maybe impacted and to the location where this is going to take place.

Chuck – I believe ADM is already in the process of doing that in Macon County. How did they get that through?

Chairman Wells – there is no ordinance. They had no resistance. There is no ordinance from the county or city of Decatur. So they went and got a permit. Be my guess.

Bryan – I would just suggest ADM could probably do whatever they want to do.

Chairman Wells – that could be an issue for us. We do not know how far this stuff goes.

Bev – yeah, you just said they did not have any resistance. Here in Christian County they have plenty of resistance.

Chairman Wells – I did not say they did not have any resistance here.

Bev – No, you said in Macon County they did not have resistance.

Chairman Wells – nobody in Macon County was arguing with ADM

Bev – we do not have ADM

Chairman Wells – Thank you very much.

Amy – Thank you. I appreciate it.

Chairman Wells – closed session. Under 5 ILCS 120/2 c (1) the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity.

Chairman Wells asked for a motion to go into closed session. *Mike Specha made a motion to go into closed session with a second by Dale Livingston.* With no discussion to go into closed session, Chairman Wells called for a roll call.

A roll call vote being called upon polled the following: Timothy Carlson, Bev Graham, Dale Livingston, Venise McWard, Clint Epley, David Puccetti, Bryan Sharp (n), Chuck Smedley, Thomas Snyder, Jr., Mike Specha, Matt Wells (10) aye; (1) nay; (5) absent. The motion carried.

Let me apologize I should have listed board members at the meeting tonight, States Attorney, Administrative Assistant and Chief Deputy Clerk will be the ones going into closed session.

Dale Livingston made a motion to come out of closed session with a second by Chuck Smedley. With no discussion, Chairman Wells called for a roll call.

A roll call vote being called upon polled the following: Bev Graham, Dale Livingston, Venise McWard, Clint Epley, David Puccetti, Bryan Sharp (n), Chuck Smedley, Thomas Snyder, Jr., Mike Specha, Matt Wells, Timothy Carlson, (10) aye; (1) nay; (5) absent. The motion carried.

Chairman Wells – returning to open meeting. Christian County Board Meeting as of June 7, 2022 is reopened at 7:20 pm, please call roll.

A roll call vote being called upon polled the following: Dale Livingston, Venise McWard, Clint Epley, David Puccetti, Bryan Sharp, Chuck Smedley, Thomas Snyder, Jr., Mike Specha, Matt Wells, Timothy Carlson, Bev Graham, (10) aye; (1) nay; (5) absent.

Chairman Wells – we are back in open session are there any motions.

Bev Graham made a motion to allow the board members who were not here tonight to have time to review the information the lady spoke about and so they can go over this then bring that back to the full county board meeting. Clint Epley second the motion. Chairman Wells called for discussion.

Mike Specha – I am unclear Mr. Chairman what kind of time frame that motion puts on us.

Chairman Wells – it did not put one on us. It did not. Let them review it and then bring it back to the board.

Mike Specha – just my concern - my personal feeling is I am fine right now but I understand seeing somebody else but I still think we need a date to get somebody else. This dragging our feet and not moving forward is a concern.

Chairman Wells – me too.

Bryan Sharp – can we amend her motion

Chairman Wells – you can make a motion to amend you do not need her permission to make a motion to amend.

Bev Graham – he's just talking

Bryan Sharp – vote on this at the next board meeting and that could give the other folks time to review

Chairman Wells – so the motion is to amend it, let them review it and vote at the June 21 board meeting.

Bryan Sharp – see to it that everybody receives a copy

Chairman Wells – I have an amendment to the motion on the floor is there a second. I have a second. Is there any discussion.

Mike Specha – Mr. Chairman –I am not disagreeing with the amendment. I just want to be clear on the amendment. So are we saying that we will take the proposal and let the other five board members review it and take a vote yes or no on this attorney in two weeks? Is that what the amendment is for? How does that accomplish getting them to returning it? That is my question.

Bev Graham – that allows Wes to have the time to call the person back again. And if he does not hear then we know there is not another interested. Is that enough time or not.

Wes – I have a lot going on and I know you guys realize this. I am not going to sit and play phone tag. If they want to do it, they should respond to the call. That is one thing I get frustrated with is calling people and not getting a response. As much as, if anybody else wants to talk to this person they are more than welcome to. I have already called him twice without a response; I am not going to beg this person for a response.

Chairman Wells – to clarify that - the motion was to let them review it and then vote on it later. Then the amendment to the motion is to let them review it to have it voted on at the June meeting.

I said the 17th but it is really 21. I believe that is the amendment to the motion. Is there any other discussion on the amendment? Then let us vote on the amendment.

All those in favor of the amendment signify by saying Aye. Those opposed same sign. Dale Livingston replied no. Motion carried 10-1-5.

So, now we are voting on a motion to let the other board members review what was presented to us tonight and then to vote at the June meeting to have Mr. Poggenpohl tell them we want them to send us an engagement letter so that we can decide at the July meeting whether or not we want to hire them

Bryan – would there be any way to have the engagement letter here to review before the next meeting.

Chairman Wells – not unless we take action and tell her we want to hire her for the \$7500 to send the engagement letter. You vote this motion down then we can do that. Then the full board can decide whether they want to hire them or not for the \$7500 – hire them with the engagement letter the way it reads and to me the big issue is after Mr. Poggenpohl reads the engagement letter advises yes, you want to hire these people. Because we are in legal territory and I sure – put it this way, if we decide to do that whether it's June, July or August and that engagement letter comes her and Wes is not here that night, I am not going to be here that night because I do not want any part of trying to figure that out. That is the biggest issue right there is him looking at an engagement letter and deciding whether or not it's – he feels as an attorney and it's in our best interest to hire that company. We will not ask her to send an engagement letter with the motion that is on the floor now.

Mike Specha – Mr. Chairman so if we were to vote down this motion – what I heard Bryan say right now he could put a motion out there requesting an engagement letter and vote on it in two weeks based on the terms in that engagement letter whether we approve it or not because we don't know the terms of the letter.

Chairman Wells – that is correct

Mike Specha – we keep saying \$7500

Chairman Wells – it may come in at \$40,000

Mike Specha – it may come in at \$2500

There was discussion amongst all of the members present.

Bryan – asked how do we get that letter

Mike Specha – first we have to vote down this motion

Chairman Wells – no, Bryan is procedurally right here. That motion at this time belongs to Bev. Bev can withdraw that motion any time she wants to. She does not then it would have to be voted on. The maker of the motion can withdraw it any time they want to withdraw it until the board votes on it it belongs to her.

Bev Graham – Wes, do you think she could have that letter in two weeks.

Wes – I think so.

Much discussion going on with all the board members at once.

Bev Graham – I think we have it in our head that it is going to be \$7500.

Chairman Wells – I agree with that

Bev Graham – she was giving an example of what he charged somebody many years ago.

Chairman Wells – quite honestly, we should have a lot better idea what it is going to cost us once we get an engagement letter.

Bev Graham – I am sure their attorney fees have gone up since he did that.

Chairman Wells – quite a bit. I assure you her ride over here from Jacksonville more because of the price of gas. This service is going to cost us.

Bev Graham – the retainer fees have gone up

Chairman Wells called for any other discussion.

There was talking amongst the board members regarding what happens if Bev does not drop her motion.

Chairman Wells – then we have to vote on it.

Bev – stated she would change her motion

Chairman Wells – stated that she could not change her motion but she could withdraw her motion.

Bev – withdrew her motion.

Chairman Wells – Motion has been withdrawn and we are back to basics. Is there any other motions

Mike Specha made a motion that we request an engagement letter from this attorney to be reviewed in two weeks at our board meeting which time we will make based on terms and conditions of the engagement letter an approval or denial of the services. Dale Livingston seconded the motion.

Chairman Wells state we have a motion and a second – any discussion.

Bev Graham – the people who were not here tonight need time to review what was presented here tonight. That needs to be put in there also. That they have the information to them before the 21st. So they can review it and then they will have the letter that night.

Chairman Wells – he does not have to put that in his motion that he made. You can make a motion to amend his motion to include that if you choose.

Bev Graham – I do not think they should be excluded.

Chairman Wells – Bev, let me just tell you this. First thing I will ask Liz to do tomorrow is get copies of all the information that you have tonight and get it emailed to the members who are not here. So now, we have a motion on the floor. Is there any discussion. Chairman Wells called for a roll call.

A roll call vote being called upon polled the following: Dale Livingston, Venise McWard, Clint Epley, David Puccetti, Bryan Sharp, Chuck Smedley, Thomas Snyder, Jr., Mike Specha, Matt Wells, Timothy Carlson, Bev Graham, (10) aye; (1) nay; (5) absent. Motion carried

ADJOURNMENT

With no other unfinished business to come before the Board, a *motion was made by Thomas Snyder, Jr. and seconded by Dale Livingston to adjourn.* A roll call vote being called upon polled all ayes. (11) Aye; (0) nay; (5) absent; the motion carried.