

MCHENRY COUNTY BOARD
MINUTES OF THE REGULAR SESSION MEETING
OCTOBER 17, 2006

Chairman of the Board – Kenneth D. Koehler (District 2)

District 1 Donald R. Brewer Marc Munaretto Anna May Miller Dan Shea	District 2 Marie M. Chmiel James Heisler Kenneth Koehler Lyn Orphal	District 3 Ed Dvorak Blake Hobson Nick Provenzano Barbara Wheeler
District 4 Sue Draffkorn John Hammerand Pete Merkel Sandra Fay Salgado	District 5 John Jung Jr. Perry Moy Virginia Peschke Tina Hill	District 6 Ann Gilman Vacant Don Larson Mary Lou Zierer

The Honorable County Board of McHenry County, Illinois met in Regular Session on Tuesday, October 17, 2006.

Chairman Koehler called the meeting to order at 7:00 p.m. The Pledge of Allegiance to the Flag was led by County Clerk Katherine C. Schultz with Members of the Board, department heads and visitors participating. Mr. Shea gave the invocation/personal remarks.

ROLL CALL

The roll was called by County Clerk Katherine C. Schultz. The following members responded: Zierer, Brewer, Chmiel, Draffkorn, Dvorak, Gilman, Hammerand, Heisler, Hill, Hobson, Jung, Larson, Miller, Moy, Munaretto, Orphal, Peschke, Provenzano, Shea, Wheeler and Koehler. Absent: Merkel and Salgado. The vote being twenty-one (21) ayes noting two (2) absent and one vacancy, Chairman Koehler declared a quorum present.

MINUTES

None

CHAIRMAN'S REMARKS

Chairman Koehler told the board that we received acceptance into the NACo program for the McHenry County Prescription Drug discount card which is available to our citizens now. Board members should have cards and information at their desks for distribution. This costs the county no money and it costs the participants no money to participate and an opportunity to save slightly over 20% on prescription drugs, specifically for people who do not have health insurance or might be under insured when it comes to the prescription component of their insurance. He said that residents of the county can call or come in to the county offices and we will provide them a card. Chairman Koehler also mentioned that the county has received six applications for the District 6 vacancy left by the untimely death of Mr. Klasen. If the board knows of anyone else interested in applying from District 6 the deadline for applications is October 24th.

SPECIAL PRESENTATIONS

2007 Budget Presentation – METRA

Chairman Koehler introduced Ms. Carole Doris, Chairwoman of Metra along with Rick Mack from Metra and Jack Schaefer, our representative. Ms. Doris told the board that there will be no fare increase this year however operating expenses are growing much faster than the money being received. This is the third year that they will be turning to their capital funds to subsidize operating expenses which could be as high as \$60 million dollars. She noted that they realize the need is huge to expand public transportation within McHenry County, Mr. Schaefer agreed.

He said that 55% of cost comes from fares, and they have regional sales tax which makes up the rest of operations under normal circumstances and the state and federal governments were to come up with the capital money that they needed to maintain the system. Mr. Mack came forward and talked about the proposed expansions for McHenry County from new yard sites to expansion of existing sites. This could take 5-7 years before we see any expansion taking place because it is a long process with all of the studies that have to be done as well as the costs involved to complete these projects Ms. Peschke noted that a way to increase revenue would be to make sure that Metra conductors collect fares from riders. She was on the train recently and observed that fares were not being collected from riders nor were cards being checked or punched. Mr. Mack said this is something that they will check into. Chairman Koehler thanked the representatives from Metra for coming in today.

ZBA CONSENT AGENDA

Ms. Gilman asked if anyone wished to remove any petition, there was none.

Ms. Gilman made a motion seconded by Mr. Brewer to approve the following Petitions:

Exb. #06-43; Nunda Twp; Harms/Copley; reclass of B1/B3 to B1V/B3V

Exb. #06-51; Coral Twp; Coral Woods, LLC; reclass of A1 to PDE

Exb. #06-64; Marengo Twp; Arlette V. Nelson Trust; reclass of A1 to A1V

Exb. #06-74; Algonquin Twp; Jungk; reclass of E1 to R1

Chairman Koehler asked for a roll call vote. The following people responded aye: Zierer, Brewer, Chmiel, Draffkorn, Dvorak, Gilman, Hammerand, Heisler, Hill, Hobson, Jung, Larson, Miller, Moy, Munaretto, Orphal, Peschke, Provenzano, Shea, Wheeler and Koehler. Absent: Merkel and Salgado. The vote being twenty-one (21) ayes, noting two (2) absent and one (1) vacancy, Chairman Koehler declared the motion passed.

ZBA REGULAR AGENDA

Ms. Gilman made a **motion** seconded by Mr. Shea **to deny** the following Petition as recommended by the ZBA:

Exb. #06-34; Algonquin Twp; Sandblom; reclass of E2 to E2V

Ms. Miller made a **motion to amend to approve the above-named Petition** seconded by Mr. Brewer.

Chairman Koehler asked for any discussion on the motion to amend. Ms. Miller referred to the findings of fact where the zoning officer made a comment about the hardship upon the owner as opposed to inconvenience, and she believes it is a hardship to the owner.

Mr. Munaretto expressed his concern over being able to amend a motion to deny to approval. It was noted that it appears that we are rewarding the homeowner by giving him his zoning without having acquired the proper permitting to make the changes he has made. Several board members agreed and did not support this motion to amend. It was asked of Ms. Ehardt what kind of fine is imposed for someone who has constructed something without a permit. Ms. Ehardt responded that the only punitive damage in regard to the building codes would be payment of a double permit fee. Ms. Ehardt said it is not uncommon for people to building something without a permit and then look for approval of what they have built, however it is less common now than it used to be. Ms. Peschke suggested that Ms. Miller misunderstood the findings of fact because the zoning office was not saying that it is a particular hardship as opposed to an inconvenience; that is the standard of what she is looking for. Her response to that was that it is unusual but it's able to sustain an existing home and 2-car garage without variation. Other board members agreed with Ms. Peschke. It was noted that this petitioner is familiar with the county's ordinance because he received a permit for the expansion of his home. It would appear that seeking forgiveness is easier than asking for permission.

Chairman Koehler asked for a voice vote on the motion to amend, the nays having it, the motion to approve this petition is denied.

Chairman Koehler said this brings us back to the motion to deny.
Ms. Chmiel noted that the petitioners failed to provide proof that they could not build this somewhere else.

Chairman Koehler said a yes vote is to deny, and in order to reverse the denial you need a $\frac{3}{4}$ vote against the denial. Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Brewer, Chmiel, Draffkorn, Dvorak, Gilman, Hammerand, Heisler, Hill, Hobson, Jung, Larson, Moy, Munaretto, Orphal, Peschke, Provenzano, Shea and Wheeler and Koehler. Nay: Miller. Absent: Merkel and Salgado. The vote being twenty (20) ayes, one (1) nay, noting two absent and one vacancy, the Chairman declared the motion to deny has been approved for Petition #06-34.

Ms. Gilman asked for a motion from the floor as there was no recommendation from the ZBA on the next petition.

Ms. Chmiel made a motion seconded by Mr. Larson to approve the following Petition:
Exb. #06-40; Coral Twp; Britton Trust; reclass of A1C to B3

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Brewer, Chmiel, Draffkorn, Dvorak, Gilman, Hammerand, Heisler, Hill, Hobson, Jung, Larson, Miller, Moy, Munaretto, Orphal, Peschke, Provenzano, Shea, Wheeler and Koehler. Absent: Merkel and Salgado. The vote being twenty-one (21) ayes, noting two absent and one vacancy, Chairman Koehler declared the motion to approve Petition #06-40 has been passed.

PLATS
None

PUBLIC PARTICIPATION

Chairman Koehler explained the rules of public participation. The following people spoke:

Deborah Fulton of Barrington Hills	against	Barrington Farms proposal
Frank Cools of Barrington Hills	against	Barrington Farms proposal
Linda Cools of Barrington Hills	against	Barrington Farms proposal
Kathy Soeder of Barrington Hills	against	Barrington Farms proposal
Connie Mueller of Wonder Lake	for	Petition #05-83
Patricia Sherwin of Barrington Hills	against	Barrington Farms proposal
Cliff Sherwin of Barrington Hills	against	Barrington Farms proposal
Steve Cuda of Woodstock	for	Petition #05-83
Charles Dubsy of Wonder Lake	against	Petition #05-83
Robert Abboud of Barrington Hills	against	Barrington Farms proposal
Nancy Laterza of Barrington Hills	against	Barrington Farms proposal

Chairman Koehler indicated that the 30 minute time allotted for public participation had run out and asked for a motion from the board to extend.

Ms. Hill made a motion seconded by Ms. Wheeler to extend public participation. Chairman Koehler asked for a voice vote, the ayes having it, the motion is passed.

Raymond Busch of Barrington Hills	against	Barrington Farms proposal
Susan Hanson of Barrington Hills	against	Barrington Farms proposal
Julie McKeivill of Barrington Hills	against	Barrington Farms proposal
Thomas Burney of Crystal Lake	regarding	Barrington Farms proposal

Noting no others wishing to speak, Chairman Koehler closed public participation.

NEW AND UNFINISHED BUSINESS

Resolution declaring Zoning Petition #05-83 approved and amending the zoning from A1 to E2

Ms. Gilman made a motion seconded by Ms. Chmiel to approve the above-named resolution.

Asst. State's Attorney Dave Stone told the board that when this petition came before the board there was an objection raised by the petitioner that the objection/protest filed by the Hebron Township was not valid. Out ordinance did not provide a methodology for resolving that issue and since the board has in the past taken protests on their face as accurate the Chairman had ruled that the objection was valid and a ¾ majority vote was necessary to pass the petition. At that time the vote was one vote shy of a ¾ majority therefore the Chairman declared that the motion to approve had failed. Mr. Stone went on to say that the petitioner then filed a lawsuit challenging the validity of the objection filed by Hebron Township on the basis that the Township had not conducted a meeting to actually approve the objection that had been filed by their attorney. The case went into default because the County took the position that it was not their battle to defend the validity of the objection, it was the obligation of Hebron Twp. to defend their objection. They were informed that we would not defend the case and Hebron Twp. did not do anything to intervene in the case and as a result a default order was entered wherein the judge ruled that the objection was invalid. Mr. Stone said the purpose of this resolution is simply to authorize the Planning & Development Department that this petition and its zoning change is valid, as the vote of 17-7 was an approval and by the judges order a majority vote was not necessary.

Chairman Koehler asked if there was any discussion. Several board members were unclear whether this resolution was really necessary as we have to abide by the judges orders. It was asked if the word "approved" could be changed to "accepted" as some board members voted no on this petition in the first place. Mr. Stone read the judge's order which indicated that the court used the word "approved". Mr. Munaretto indicated by reading the judge's order, that this resolution is affirmation of this order. Mr. Stone said that Ms. Ehardt requested something from this board indicating that the zoning has changed on this petition based on an order from the court. Chairman Koehler asked if the motioner and seconder would withdraw their motion to approve this resolution, they agreed to withdraw. Chairman Koehler asked for a new motion indicating that we accept with the judge's conclusion and it is noted in the minutes.

Ms. Hill made a motion seconded by Mr. Hammerand acknowledging and accepting the judges ruling on Petition #05-83 that the Hebron Township objection was invalid and that the original vote of 17-7 effectively grants the zoning requested.

Ms. Ehardt clarified that the problem here is that the court can not give zoning but they can render an opinion that the objection was invalid. The concern is that our records reflect that the request was defeated so there has to be some affirmation that based upon the judges ruling that the objection was not valid, that the board now accepts that the zoning is now changed as would have been done if the objection was not in place at the initial time of voting. The previous minutes can not be changed as they have already been approved. Today's vote will show acceptance of the zoning.

Chairman Koehler asked for a voice vote, the ayes having it, the **motion is passed to accept the judges ruling on Petition #05-83 granting the zoning on this petition.**

APPOINTMENTS

Mr. Brewer made a motion seconded by Mr. Provenzano to approve the following appointment:
Marengo Rescue Squad District
Caryn Beisner, Trustee term to 12/2009

Mr. Brewer commented that the two applicants interviewed were two of the finest applicants that he has ever interviewed for an appointment, Mr. Larson agreed. He pointed out that the laptops do not indicate who was appointed as there is no attachment. This will be looked into.

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Brewer, Chmiel, Draffkorn, Dvorak, Gilman, Hammerand, Heisler, Hill, Hobson, Jung, Larson, Miller, Moy, Munaretto, Orphal, Peschke, Provenzano, Shea and Wheeler. Nay: Koehler. Absent: Merkel and Salgado. The vote being twenty (20) ayes, one (1) nay and two (2) absent noting one vacancy, Chairman Koehler declared the motion passed.

ROUTINE CONSENT AGENDA

Chairman Koehler asked if any one wished to remove an item from the agenda, there were none. Mr. Shea made a motion seconded by Ms. Chmiel to approve the Routine Consent Agenda as presented.

Chairman Koehler asked for a roll call vote. The following members responded aye: Zierer, Brewer, Chmiel, Draffkorn, Dvorak, Gilman, Hammerand, Heisler, Hill, Hobson, Jung, Larson, Miller, Moy, Munaretto, Orphal, Peschke, Provenzano, Shea, Wheeler and Koehler. Absent: Merkel and Salgado. The vote being twenty-one (21) ayes, noting one (1) vacancy, Chairman Koehler declared the motion passed.

ORDINANCES

***For Review: Ordinance authorizing the Annual Appropriations for fiscal year 06-07 budget.
Ordinance providing for the levy of taxes for McHenry County for fiscal year December 1, 2006 through November 30, 2007.***

Mr. Munaretto explained the ordinances that are up for review. A draft is on display for public inspection in the County Clerk's office.

For Action: Ordinance to correct a scrivener's error – Petition #05-100

Ms. Gilman made a motion seconded by Ms. Chmiel to approve the above named ordinance. Chairman Koehler asked for a voice vote, the ayes having it, the motion is passed.

ADMINISTRATOR'S REPORT

Mr. Austin reminded everyone that Friday at 11:30 a.m. there will be a ribbon cutting ceremony at Valley Hi, he hope that everyone can attend. Also, he pointed out that on the evening of October 24th the Management Services Committee will be interviewing potential designers/builders for the Animal Control facility in Crystal Lake and they hope a firm will be identified shortly. Also, in the strategic planning session there was a desire to put forward a stronger legislative agenda. He has been involved with McHenry County Council of Govt. (MCCOG's) legislative committee and is following what they are working on in terms of legislative items. Also with Chairman Koehler on the metro counties state legislative program, but if we want to put together a list of McHenry County's legislative issues, we need to do this soon.

EXECUTIVE SESSION

None

MEMBER'S COMMENTS

Ms. Hill noted that she and Ms. Draffkorn went to Partners and Planning in Bloomington. Once they learned what they did they realized how far ahead of the curve McHenry County is.

Ms. Peschke said in view of some of the comments made during Public Participation regarding Barrington Farms, she thinks it would be helpful for the board to review the procedures for Planning and Development so that the board knows what is and is not permissible. Chairman Koehler said on Thursday there will be a training session held by Planning & Development and he hopes that everyone will be in attendance.

Ms. Chmiel commented that she is on the Planning & Development Committee and does not feel that she was presented a sales job, as was asserted during public participation. It is still going through a detailed review process. She said she asked for a copy of the plan with a detailed narrative at the same time that it goes to Staff Plat Review.

Ms. Gilman addressed a couple of issues regarding the Barrington Farms issue stating that when the revisions were brought to the Planning & Development Committee they appeared to address many of the objections that residents and the ZBA had but there were major changes. She said this was not support for the plan, our zoning ordinance does not allow for something to go back to the ZBA, it allows for the Planning & Development Committee to make changes to planned developments which they have done in the past. Because these changes were major, they decided that it should go back to Staff Plat. At that time they also said they wanted to make sure that when it went to Staff Plat that all of the neighboring communities were specifically notified so that they could be in attendance at Staff Plat, it was also specified that a letter should be sent to neighboring communities that when it does eventually come back to Planning & Development that they are invited along with the ZBA members to be at that meeting. Ms. Gilman said they are following the county's ordinance.

Chairman Koehler said believing also that we are following our ordinance and understanding that there needed to be hopefully more dialogue between the municipalities and the developer he tried to orchestrate a meeting where they could get together. The biggest drawback was the attorney's always getting in the way. A first meeting was set for today with both sides, the developer and the Village, and there was a lot of disagreement as there was in the past but at least there was some agreement where they saw each others points and they agreed to meet again. Chairman Koehler said this is good that they are in a talking mode which hadn't been the case before. Chairman Koehler highly encouraged board members to attend the training session on Thursday in Planning & Development as it will be very helpful.

ADJOURNMENT

Mr. Heisler made a motion seconded by Ms. Wheeler to adjourn at 8:56 p.m. Chairman Koehler declared the motion passed on a unanimous voice vote.

Dated and approved at Woodstock, Illinois this 21st day of November, A.D., 2006.

S/ Kenneth D. Koehler
Kenneth D. Koehler, Chairman
McHenry County Board

ATTEST:

S/ Katherine C. Schultz
Katherine C. Schultz, County Clerk