

MCHENRY COUNTY BOARD  
MINUTES OF THE REGULAR SESSION MEETING  
DECEMBER 19, 2006

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

<b>District 1</b> Yvonne M. Barnes Marc Munaretto Anna May Miller Dan Shea	<b>District 2</b> Marie M. Chmiel James Heisler Kenneth Koehler Lyn Orphal	<b>District 3</b> Ed Dvorak Mary L Donner Nick Provenzano Barbara Wheeler
<b>District 4</b> Sue Draffkorn John Hammerand Pete Merkel Sandra Fay Salgado	<b>District 5</b> John Jung Jr. James P Kennedy Virginia Peschke Tina Hill	<b>District 6</b> Randall Donley Mary T McCann Daniel P Ryan Mary Lou Zierer

The Honorable County Board of McHenry County, Illinois met in Regular Session on Tuesday, December 19, 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. Chairman Koehler gave the invocation/personal remarks.

**ROLL CALL**

The roll was called by County Clerk Katherine C. Schultz. The following members responded: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Absent: Jung. Chairman Koehler declared a quorum present with twenty-three (23) members responding.

**MINUTES**

Mr. Shea made a motion seconded by Ms. Orphal to approve County Board minutes from November 21, 2006 regular session meeting, November 30, 2006 special meeting and December 4, 2006 organizational meeting. Chairman Koehler asked if there were any corrections, noting none, he asked for a voice vote, the ayes having it, the County Board minutes are approved as presented.

**CHAIRMAN'S REMARKS**

Chairman Koehler recognized Sheriff Nygren for the donation of a defibrillator for this building. Sheriff Nygren told that board that Erin Anderegg from Woodstock lost her daughter Sara to a sudden unexplained cardiac arrest in 2002. Her mother decided that she wanted to do something to help save other people who might experience the same problem and she created the Sara Shack memorial fund. The purpose of that fund is to raise money to purchase and donate automatic external defibrillators. Ms. Anderegg donated four of these devices to the Sheriff's Department. Sheriff Nygren asked Ms. Anderegg if it would be acceptable to her to have one of these machines placed in the Administration Building and she agreed. Sheriff Nygren thanked Ms. Anderegg for her generous donation and said that for training there are a couple of people in the Sheriff's Department who are certified to train people and he would be happy to set up the training for these devices.

Chairman Koehler told the board that there will be no board meeting on January 2<sup>nd</sup> due to no business coming forward from committees as those meetings were canceled during the holiday.

SPECIAL RECOGNITION

Mr. Ryan made a motion seconded by Ms. Zierer to approve the following Eagle Scout resolution:

Andrew Waters of Troop #167 Huntley  
Ethan Peterman of Troop #163 Marengo

Chairman Koehler asked for a voice vote, the ayes having it, the motion is passed. Chairman Koehler asked Andrew Waters to come forward and congratulated him on behalf of the County Board for his accomplishments.

ZBA CONSENT AGENDA

Chairman Koehler asked if anyone wished to pull a petition from the ZBA consent agenda. There were none.

Ms. Wheeler made a motion seconded by Mr. Shea to approve the following Petitions:

Exb. #06-27; Nunda Twp; George/Lynne Knoblack; reclass E1 to E1V  
Exb. #06-52; Alden Twp; Forehamm, LLC; reclass of A1C to A1C  
Exb. #06-71; Seneca Twp; Harris Bk Wdstk Tr. 2444; reclass of A1 to A2  
Exb. #06-72; Nunda Twp; Dwayne/Deborah Cope; reclass of R1 to R1V  
Exb. #06-81; Riley Twp; Krause Trust/Wesemann; reclass of A1 to A1  
Exb. #06-83; Nunda Twp; Chris Allen; reclass of R1 to R1V  
Exb. #06-84; McHenry Twp; Leroy/Valerie Roesti; reclass of R1 to R1V

Noting no discussion, Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Absent: Jung. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

ZBA REGULAR AGENDA

Exb. #06-20; Seneca Twp; Barbara L Janet; reclass A1 to A1C; ZBA recommends deny

Chairman Koehler said by request of the petitioner's attorney, Exb. #06-20 is being pulled from the agenda today to be brought back next month.

PUBLIC PARTICIPATION

None

NEW AND UNFINISHED BUSINESS

***Resolution authorizing a budget line item transfer in the FY 06 budget between General Fund Departments Non-Departmental and County Coroner***

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

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Absent: Jung. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

***Resolution amending the mileage reimbursement rate beginning January 1, 2007.***

Mr. Munaretto made a motion seconded by Mr. Dvorak to approve the above-named resolution.

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller,

Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Absent: Jung. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

***Resolution authorizing a budget line item transfer in the FY 06 budget between the General Fund Non-Departmental and Facilities Management.***

Mr. Munaretto made a motion seconded by Mr. Ryan to approve the above-named resolution.

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Absent: Jung. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

***Resolution authorizing the appointment of membership on standing committees and liaison agencies.***

Chairman Koehler noted that Mr. Donley's name should be removed as liaison from the Agritourism Committee.

Mr. Provenzano made a motion seconded by Ms. Wheeler to approve the above-named resolution.

Ms. Peschke expressed her disappointment with being removed from the Planning & Development Committee as she has much knowledge and experience to offer; noting that she will work hard on the other committees that she has been assigned to. Ms. Hill commented that she felt it was good to switch members on committees so that they can learn about the different topics first hand from the different committees. She also thanked Ms. Peschke for her loyal service to the committee.

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Nay: Peschke. Absent: Jung. The vote being twenty-two (22) ayes and one (1) nay noting one (1) absent, Chairman Koehler declared the motion passed.

***Authorizing the acquisition of right-of-way for highway purposes pursuant to eminent domain.***

Mr. Shea made a motion seconded by Ms. Salgado to approve the above-named resolution.

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Absent: Jung. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

**APPOINTMENTS**

Ms. Wheeler made a motion second by Ms. Peschke to approve the following appointments:

**Historic Preservation Commission**

David Gervais  
Bonnie Duresa

term to 11/26/2011  
term to 11/26/2011

**Mental Health (708) Board**

Caren C Gardner term to 01/01/2011  
Don Larson term to 01/01/2011  
Kathleen L Ludwikowski term to 01/01/2011

**Zoning Board of Appeals**

Edward J Haerter term to expire 12/15/2008

**Community Development Block Grant Commission**

Joseph Powalowski – Citizen-at-large term to 11/30/2008  
Mark Ruda – McHenry County Housing Authority term to 01/23/2008

**Housing Authority**

Karen Stunkel term to 06/30/2010

A spelling error was noted and will be corrected. Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Absent: Jung. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

Routine Consent Agenda

Chairman Koehler asked if anyone wished to remove an item. Mr. Munaretto removed 14.2 G(1)

Ms. Chmiel made a motion seconded by Ms. Orphal to approve the Routine Consent Agenda with one item removed.

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Absent: Jung. The vote being twenty-three (23) ayes noting one (1) absent, Chairman Koehler declared the motion passed.

***Authorizing approval of a resolution in support of promoting Agritourism as an emerging industry in McHenry County.***

Ms. Wheeler made a motion seconded by Mr. Heisler to approve the above-named resolution.

Mr. Munaretto told the board that the State's Attorney's office has had an opportunity to look over this resolution and they have made some suggestions for amendments to the resolution. With that being said;

Mr. Munaretto made a **motion to amend** seconded by Mr. Heisler **to add the following language to paragraph #3:**

“Property owners engaged in agritourism will comply will all order of the Health Department officials with regard to the serving of food to the public during any period of time that other enforcement action is stayed pursuant to this paragraph”

“Prior consent shall not be required for either enforcement officer to take legal action where there is an imminent threat to life, health or safety”

“Section 3 of this resolution shall become effective as of the date that is agreed to and affirmed by resolution adopted by the McHenry County Board of Health”.

Mr. Hammerand asked how, if at all, this will affect liquor licenses.

Chairman Koehler said at this point he is not sure but the liquor commission will be made a part of it. Mr. Munaretto clarified that there will be a need for us to engage the liquor commission/committee to enhance the array of licenses that may not be available in McHenry County in particular with respect to wine making. They will go to the liquor commission at some time in the future asking them to adopt language that allows us to have a certified wine maker license in McHenry County so that the emerging wine industry in McHenry County will be able to produce and market their wines in Illinois. Mr. Hammerand said several years ago this was discussed at length because we had a gentleman who wanted to be a wine producer and at that time as long as he was not selling by the bottle in the county we didn't have an objection to him being a wine maker in the county, he had to comply with the state licensing requirements. He would like to see wording added about the liquor so that if someone has a license and they are not complying with the food ordinances that the liquor license be suspended immediately. Mr. Munaretto said there is a difference because we're talking about ordinance actions and if someone is in violation of the liquor laws it is different than what we are talking about here. Chairman Koehler stated that we are attempting to make whatever we are going to do user friendly for Ag-tourism but we're not going to not follow through with what is right when it comes to our liquor laws and liquor commission.

Ms. Peschke said she is not sure about the wording in the amendment in regard to "prior consent". She is not sure why we have to have the part about complying with the orders of the Health Department with regard to serving of food because she thought that was part of what was being discussed. By saying "stay of enforcement" that everyone has to obey the Health Department with respect to serving of food it seems to be saying that it's only if there is threat to their health. Mr. Munaretto deferred to the State's Attorney as this raises a good point. As he looks through this a little more, the imminent threat language is much more important than agreeing to the serving of food. He said if we agree that prior consent shall not be required where there is an imminent threat to life, health or safety, and we agree that a part of the study of this taskforce really does concern itself with food service, defining the impacts of the different types of food service as it relates to our ordinances and the deficiencies that clearly exist in his mind, then in his mind we have taken a big part of what this taskforce really wanted to undertake. Mr. Stone responded that the drafting of the language was from the minutes of the Health Committee. He said that there could be food service orders that are not necessarily imminent to life, safety or health. He was under the impression that we wanted to keep the food serving requirements of the inspectors in place during the time that the taskforce is being worked on. Mr. Munaretto added that they do intend to evaluate that, the language of the resolution not withstanding. Chairman Koehler said this resolution has a deadline of one year and hopes to be working with Ag-tourism entities in the next season and to have something that is doable and workable by all parties. Ms. Peschke reiterated her concern was the phraseology "will comply with all orders of the Health Department officials". Mr. Provenzano commented that he felt the language was too in depth. Ms. Hill said she understands that the Health Department enforces our ordinances approved by the board but under #4 she didn't understand why we would need a resolution adopted by the McHenry County Department of Health before this would become effective. Mr. Munaretto said it should read Board of Health. Mr. Stone said that there is an Attorney General opinion that says when you create a agency such as the Mental Health Board that you lose jurisdiction over controlling what they do and don't enforce so we need their consent where it has to do with staying enforcement provisions, unless you get the consent of the relevant committee. We can't do that unless the Board of Health agrees because they are an agency and we have given them the authority to do this and we can not interfere with it according to the Attorney General. They are only saying yes or no to this restriction on enforcement saying that the code enforcement officers have to get consent of the committee in Agritourism only; not the whole resolution. Paragraph #4 should read Board of Health and will be corrected.

Chairman Koehler asked for a **voice vote on the addition of language** amendment, the ayes having it, the **motion to amend has passed.**

Ms. Peschke made a **motion to amend** seconded by Mr. Kennedy to **add two Board of Health members to the Agritourism taskforce being formed.** Ms. Peschke said she was requested to do this by the Board of Health.

Mr. Provenzano made a **motion to amend the amendment** seconded by Ms. Draffkorn to **add only one member of the Board of Health to the Agritourism taskforce being formed.**

Ms. Peschke commented that generally speaking the chairman of Public Health & Human Services is a member of the Board of Health, it doesn't have to be but that is the way it's been, so if they were doing that they would be taking two places but one seat; so the question is are they representing Public Health & Human Services or the Board of Health. She thinks it would be good to have an independent member of the Board of Health on there.

Chairman Koehler asked for a **voice vote on the motion to amend the amendment** from two to one Board of Health member(s) being on the taskforce. The ayes having it, the **motion is passed, one member from the Board of Health will be added to the Agritourism taskforce.**

Chairman Koehler asked for a **voice vote on the motion to amend, adding one member of the Board of Health to the Agritourism taskforce.** The ayes having it, the **motion is passed.**

Chairman Koehler asked for any discussion on the main motion. Mr. Provenzano said he supports this resolution however he believes that someone from the Liquor License Committee should have a voice on this taskforce. Discussions have already taken place at the Liquor License Committee about wineries.

Mr. Provenzano made a **motion to amend** seconded by Mr. Hammerand to **have one member of the Liquor and License Committee on the Agritourism taskforce being formed.**

Chairman Koehler asked for discussion on the motion to amend. Mr. Munaretto disagreed saying that he doesn't feel we will be consuming ourselves with the liquor and license laws. There may be things such as the certified wine maker's license that may be desirable but the taskforce will not be embarking on that, that will be in the area of the Liquor and License Committee.

Chairman Koehler asked for a **voice vote on the motion to amend**, the nays having it, the **motion to amend to add one member of the Liquor and License Committee to the Agritourism taskforce has failed.** Ms. Hill asked for a hand count. Chairman Koehler counted nine (9) yes and fourteen (14) no, motion has failed.

Chairman Koehler asked for any other discussion on the main motion to support the Agritourism resolution. Ms. Wheeler asked if there were any recommendations from the fire department in Spring Grove. Ms. Ehardt said the meeting was not until tomorrow. Ms. Wheeler said one of their recommendations was that one or two members from their department should be part of the taskforce. Chairman Koehler responded that there will be many people who will want to participate in this. Mr. Munaretto added that although the resolution attempts to try and address who the members of the taskforce may be, it is not meant to be exclusionary and hopeful that it will be inclusionary.

Chairman Koehler asked for a voice vote, the ayes having it, the **motion is passed to support the Agritourism resolution with changes noted.**

Ordinances

Chairman Koehler commented on the Animal Control Ordinance Article XVII. This was supposed to come back to the board but the State's Attorney's office is reviewing this very carefully and it still needs to go back to Public Health to look at again. In addition Jamie Rein would like to be the one to present this to Public Health and there is a timing issue. He asked Ms. Peschke to make a motion to bring this back at a date certain.

Ms. Peschke made a motion seconded by Ms. Wheeler to bring Article XVII of the Public Health Ordinance back before the board on February 20, 2007.

Chairman Koehler asked for a voice vote, the ayes having it, the motion is passed.

For Action: ***Ordinance adopting the establishment of an altered speed zone (waiver of 30 day review requested)***

Mr. Shea made a motion seconded by Mr. Dvorak to approve the above-named ordinance.

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Zierer and Barnes. Nay: Hammerand, Heisler, Wheeler and Koehler. Absent: Jung. The vote being nineteen (19) ayes and four (4) nays, noting one (1) absent, Chairman Koehler declared the motion passed.

For Action: ***Ordinance adopting the establishment of an altered speed zone (waiver of 30 day review requested)***

Mr. Shea made a motion seconded by Mr. Dvorak to approve the above-named ordinance.

Mr. Hammerand commented about the change of speed on E Wonder Lake Road near Stillwell in McHenry Twp., the longer section that goes into Ringwood. Mr. Shea responded that this was done based on a request from the Township Highway Commissioner. The process was explained and how the recommended speed is arrived at. Mr. Hammerand did not see a need to reduce the speed in this area.

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Zierer and Barnes. Nay: Wheeler and Koehler. Absent: Jung. The vote being twenty-one (21) ayes and two (2) nays noting one (1) absent, Chairman Koehler declared the motion passed.

ADMINISTRATOR'S REPORT

Mr. Austin told the new members if they had any trouble getting wired into the county system to let his office know and they will get you in touch with IT. He thanked the Auditor's office and Purchasing Department and those additional people who helped for putting on such a nice employee Christmas luncheon. Also, he thanked Mr. Donley and staff for the County Board Christmas dinner. Lastly, Mr. Austin said a move date has been set for Valley Hi for January 7, 2006.

EXECUTIVE SESSION

Chairman Koehler said there was a need to go into executive session to discuss Pending Litigation.

Ms. Peschke made a motion seconded by Mr. Heisler to go into executive session.

Ms. Wheeler made a motion seconded by Mr. Heisler to go back into open session.

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann, Miller, Munaretto, Orphal Peschke, Provenzano, Ryan, Salgado, Shea, Wheeler, Zierer, Barnes and Koehler. Absent: Jung and Merkel. The vote being twenty-two (22) ayes noting two (2) absent, Chairman Koehler declared the motion passed.

Executive Session ran from 8:17 p.m. to 9:26 p.m.

MEMBERS' COMMENTS

Ms. Zierer thanked the County Board, the County Clerk's office and the Purchasing Department for all of the nice gifts for residents at Valley Hi. They will be appreciated very much.

Chairman Koehler thanked Mr. Donley and his staff for doing all of the work on the Christmas dinner for the board. Anyone who has not given their \$10 should give it to him or to Mr. Austin to help defray some of the cost. Lastly, Chairman Koehler said he passed out assignments for the Chairmanships of the various committees. He said a great deal of time was spent putting these committees together and choosing a Chairman. He promised the board to attempt to work a little bit closer with the Chairman of the committees, not to interfere, to make sure that the agendas that this County Board wants to see accomplished are done.

He also reminded the board that the January 2<sup>nd</sup>, 2007 board meeting is canceled because all of the committees have canceled their meetings so there is not enough to address at that meeting. Merry Christmas and Happy New Year to everyone.

ADJOURNMENT

Mr. Hammerand made a motion seconded by Ms. Barnes to adjourn at 9:30 p.m. Chairman Koehler declared the motion passed on a unanimous voice vote.

Dated and approved at Woodstock, Illinois this 16<sup>th</sup> day of January, A.D., 2007.

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

ATTEST:

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