

MCHENRY COUNTY BOARD
MINUTES OF THE REGULAR SESSION MEETING
SEPTEMBER 18, 2007

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

District 1 Yvonne M. Barnes Marc Munaretto Anna May Miller Dan Shea	District 2 Marie M. Chmiel James Heisler Kenneth Koehler Lyn Orphal	District 3 Ed Dvorak Mary L Donner Nick Provenzano Barbara Wheeler
District 4 Sue Draffkorn John Hammerand Pete Merkel Sandra Fay Salgado	District 5 John Jung Jr. James P Kennedy Virginia Peschke Tina Hill	District 6 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, September 18, 2007.

Chairman Koehler called the meeting to order at 7:00 p.m. The Pledge of Allegiance to the Flag was led by Chief Deputy County Clerk Terry Madsen with Members of the Board, department heads and visitors participating. Ms. Peschke gave the invocation/personal remarks.

ROLL CALL

The roll was called by Chief Deputy County Clerk Terry Madsen. The following members responded: Chmiel, Donley, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Provenzano, Ryan, Salgado, Shea, Zierer, Barnes and Koehler. Absent: Donner and Wheeler. Chairman Koehler declared a quorum present with twenty-two (22) members responding.

MINUTES

Ms. Orphal made a motion seconded by Ms. Miller to approve County Board minutes from September 4th, 2007 and Committee of the Whole meeting minutes from September 4th. Chairman Koehler asked if there were any corrections, there were none. Chairman Koehler asked for a voice vote, the ayes having it, the County Board minutes and Committee of the Whole minutes are approved.

CHAIRMAN'S REMARKS

Chairman Koehler commented that there is a trip being planned to go to Springfield by the McHenry County Better Roads Coalition on October 3rd. He said it would be great if as many board members as possible were able to attend. Please let him know if you will be able to go so he has an accurate count for the bus being chartered. It will be a one day trip.

SPECIAL RECOGNITION/REPORTS

Chairman Koehler asked Barry Valentine to report on the aftermath of the flooding that took place in the County in August. Mr. Valentine said the storms started on August 7th and from west to east we received about 7 ½ inches at the Boone/McHenry County line to 2 ½ inches by the time it got to the eastern border of the County. Flash flooding occurred in Marengo, Union and the City of Woodstock with a considerable amount of damage incurred. There was a huge distribution of sand bags throughout McHenry County, over 100,000 of them. The State of IL sent their regional coordinator to McHenry County to assist us and an action plan was developed and accepted by the state. A Disaster Declaration was prepared at the County level basically stating that we've reached a certain point to where we don't feel we can give people the type of help that we feel

they need. This is the first step for the state to make the declaration for the County as well. There were 943 residents and/or businesses affected by the floods, with five of those having major flooding, over a foot of water in the first floor of their structure. After the damage assessment was completed it was determined McHenry County's damages amounted to \$1,537,813 of which 75% could be reimbursed if we are declared a federal disaster area and if they are eligible claims. Mr. Valentine said the townships and municipalities were very helpful in working with people in these difficult situations. He thanked everyone involved for their help and dedication in getting a handle on this disaster. Ms. Miller asked if there is somewhere she can direct her constituents to regarding some kind of reimbursement for damages as some of their homeowner's policies have denied coverage. Mr. Valentine said every instance is different, but a disaster center will be set up and they will work with them and tell them what they are eligible for. Mr. Valentine said the disaster relief will do a press release once they have all of the information as to when and where this will be set up.

SPECIAL PRESENTATIONS

County Seal – Peter Austin

Mr. Austin said the Management Services Committee has been talking about the possibility of getting a new County seal, as the seal we now use is a replica of the State of Illinois. The resolution on the agenda this evening is just to see if the board has any interest in exploring this. He gave a brief power point presentation of what the County seal could look like, and said that it should be something unique to the County, a trademark. Chairman Koehler thanked Mr. Austin for the presentation.

ZBA CONSENT AGENDA

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

Mr. Heisler made a motion seconded by Mr. Dvorak to approve the following Petitions:

- Exb. #07-20; McHenry Twp; Boldt Trust; reclass of E1 to E1V
- Exb. #07-23; Mchenry Twp; Brett Lebda; reclass of R1 to R1V
- Exb. #07-28; McHenry Twp; Eric Storlie; reclass of A1 to B3C
- Exb. #07-29; Hebron Twp; Simes/Tonyan/Linden Lakes; reclass of A1C to A1C (renew)
- Exb. #07-32; Grafton Twp; Thos & Sherry Dritelein; reclass of A1 to A1CV
- Exb. #07-47; Nunda Twp; Murray & Dominoe Kennels; reclass of A1CV to A1CV (renew
And amend)
- Exb. #07-60; Dorr Twp; Schultz Estate; reclass of A1 to E5V
- Exb. #07-64; Nunda Twp; Roy Renteria; reclass of R1 to R1V
- Exb. #07-67; Riley Twp; Harris Trust X4627 Grismer; reclass of A1 to A2
- Exb. #07-70; Hartland Twp; Michael & Lauren Fisher; reclass of A1 to A2

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

ZBA REGULAR AGENDA

Mr. Heisler said this petition comes with no recommendation from the ZBA, so a motion from the floor is needed. Mr. Munaretto made a motion seconded by Ms. Chmiel to approve the following Petition:

- Exb. #07-19; Seneca Twp; Enbridge Energy; reclass of A1 to A1C

Chairman Koehler asked for any discussion on the motion.

Ms. Peschke made a **motion to amend to DENY Petition #07-19**, seconded by Ms. McCann.

Chairman Koehler asked for any discussion on the motion to amend. Ms. Peschke said she felt that there was enough evidence to be concerned about the groundwater issues that would come up should there be a leak of any kind. Ms. McCann reminded the board that the issue is about a pumping station not about the pipe line. She said under the law we are allowed to permit citing locations for these kinds of items. She also referred to reports from the soil and water conservation district that cites the aquifer sensitivity map which says that this parcel lies within geologic material that has moderately high potential for aquifer contamination. Ms. Hill said she shared people's concerns however she is against the denial. She said that pumping stations are not new to McHenry County, there is a pumping station just north of Crystal Lake and she does realize that the soils are different however it has been operating for several years without incident. She read a statement to the board about her review into this request and how she came to her thoughts on this issue. She said she believed that Enbridge has made a significant effort to address the concerns of the public. Ms. Hill said that in the ZBA report one of the members stated that the pipe line was allowed by an authority beyond this County and for us to sit here and have some jurisdiction over what she feels is an accessory use to this pipe line she doesn't understand. Ms. Hill said she is concerned that some federal court is going to decide what the design standards are for this instead of us as a County and then the board acting as representatives for the residents of the County are going to lose control and then we will no longer have those conditions and safety's put in place. Ms. Hill said later on in the discussion she will attempt to add an additional condition to add two down stream monitoring wells to protect against any contamination so that we could monitor because it is an important decision and she doesn't take it lightly Mr. Provenzano expressed concern about an issue brought up wherein it was said that the State's Attorneys communication to us as their client was not consistent with other findings such as federal jurisdiction. Chairman Koehler consulted with Mr. Carroll from the State's Attorneys office as to whether we should discuss this in executive session. Because there is no pending litigation on this, Mr. Carroll did not feel executive session was warranted. Mr. Carroll indicated to Chairman Koehler that if anyone wanted to post pone this to a date certain you can and then talk with the State's Attorneys office on a one on one basis.

Mr. Ryan made a **motion to postpone voting on this until October 16th**, seconded by Mr. Merkel, to get clarification from counsel.

Chairman Koehler asked for any discussion on the motion to post pone. Mr. Munaretto said board members should have researched this before tonight if they had issues pertaining to the legal characteristics, so he doesn't agree with postponement.

Chairman Koehler asked for a voice vote on the motion to postpone. Noting just a couple of ayes and many nays, the nays have it, and the **motion to postpone has been denied**.

Chairman Koehler asked for any more discussion on the motion to amend. Noting no one wishing to speak, he said **a yes vote is to change the main motion to a motion to deny**.

Chairman Koehler asked for a roll call vote. The following members responded aye: Donley, Hammerand, Heisler, Jung, Kennedy, McCann, Miller, Peschke, Provenzano, Ryan, Salgado, Zierer and Barnes. Nay: Chmiel, Draffkorn, Dvorak, Hill, Merkel, Munaretto, Orphal, Shea and Koehler. Absent: Donner and Wheeler. The vote being thirteen (13) aye and nine (9) nay noting two (2) absent, Chairman Koehler declared the **motion to amend has passed**.

Chairman Koehler asked for any further discussion on the main motion as it has been amended. Noting no other discussion he said **a yes vote is to DENY Petition #07-19**.

discuss the issues before the board. He said they have not received the legislation yet but it should be coming shortly. He thought that this was a great improvement.

ROUTINE CONSENT AGENDA

Chairman Koehler asked if anyone wished to remove an item from the Routine Consent Agenda. Mr. Shea asked to remove #15.2 I(1); Ms. Salgado asked to remove # 15.2 G(1) and G(2).

Mr. Heisler made a motion seconded by Ms. Chmiel to approve the Routine Consent Agenda with three items removed.

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

15.2 G(1) Resolution authorizing adoption of additional Community Development Block Grant amended action plan funding allocation for program year 2007

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

Ms. Salgado said she would be abstaining from the vote because of her relationship with Pioneer Center.

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

15.2 G(2) Resolution authorizing adoption of Community Development Block Grant action plan funding allocations for program year 2008

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

Ms. Salgado said she would be abstaining from the vote because of her relationship with Pioneer Center. Ms. Peschke said she would be abstaining from the vote and asked to be removed from the roll call for the same reason.

Chairman Koehler asked for a roll call vote. The following members responded aye: Chmiel, Donley, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Merkel Miller, Munaretto, Orphal, Provenzano, Ryan, Shea, Zierer, Barnes and Koehler. Abstain: Peschke and Salgado. Absent: Donner and Wheeler. The vote being twenty (20) ayes noting two (2) abstentions and two (2) absent, Chairman Koehler declared the motion passed.

15.2 I(1) Resolution supporting improvements to the Union Pacific Northwest Commuter Rail Line

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

Chairman Koehler said he would be abstaining from the vote on this.

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

ORDINANCES

For Action: Ordinance for the Open Burning of Landscape Waste

Ms. Peschke made a motion seconded by Ms. Salgado to approve the above-named ordinance.

Mr. Austin said there were some questions being asked about enforcement of the ordinance and possible alternatives. Patty Nomm, Environmental Health Director gave a brief power point presentation and talked about the possible alternatives available to burning as well as the chain of enforcement officials that could possibly enforce this ordinance. Mr. Austin said there is the possibility of having a call center as this is an issue that deserves attention in the evenings and on the weekends. He added that the flow chart described here came after lengthy meetings with the Sheriff's office, State's Attorneys office, Health Department, Planning & Development, Mr. Labaj, Chairman Koehler and himself. Chairman Koehler thanked everyone for their work on this. Several board members expressed concern about the ability to enforce this type of ordinance as nothing is in place yet as well as not having any alternatives in place before approving this ordinance. A few members felt that Planning & Development should be removed from the list of enforcers. Mr. Hammerand stated that in his district many residents were against this ordinance as it is not equitable. The fire districts in his area wanted nothing to do with it either. He would like to see some type of smoke ordinance in place and noted that he is not in favor of this ordinance. It was noted that Bull Valley has filed an objection to this ordinance as well. Ms. Miller said that this ordinance was a compromise as everyone knows that this is a health and safety issue. Mr. Dvorak cited an example in his neighborhood where a letter was sent to every home about burning. Because nothing is enforced the letter was ignored and people continue to burn.

Ms. Peschke said she felt that people have heard or read much misinformation on this ordinance. She said many of the fire districts do buy into this ordinance and waste haulers could be an alternative for leaf disposal. In regard to Bull Valley objecting to this ordinance, she said none of the people on the board who voted had really sat down and read the ordinance. On larger lots as they exist in Bull Valley, burning is allowed.

Ms. Peschke put forth the following amendments noting these changes had been done

Definition for Sections 300 A-D; 400 A & B; 500 B 1-3; and 600 B; shall not apply to prescribed burns associated with ecologic restoration or natural landscape management. Any burning of landscape waste for purposes of habitat reclamation or firefighter training.

Ms. Peschke said it is an expanded definition and all of those exemptions should not include the one that says that you have to have someone 18 years of age (600 A), there should be a person 18 years of age at all of the fires. Ms. Peschke said the corrected ordinance as she just read was not connected to the agenda tonight. Everyone has the original ordinance that was up for 30-day review.

Mr. Provenzano called a point of order to table this discussion until March 18, 2008, seconded by Mr. Ryan.

Chairman Koehler asked for any discussion. Mr. Provenzano felt that this ordinance should be well thought out and effective when the alternatives and enforcement details are in place not just proposed. Mr. Hammerand said he hoped that if this amendment passes he would like to see Bull Valley pass a resolution that negates the resolution that they passed objecting to this ordinance. He also noted that he has talked to people in other communities such as Johnsburg, Ringwood, Richmond and McHenry not just Wonder Lake people. Ms. Salgado stated that even after 30-day review of an ordinance amendments are often made to those ordinances on the board floor. She felt that the changes came off a little more confusing than they actually are. Ms. Peschke added that if this is postponed, she would like to hear from any and all board members

with their specific objections to this ordinance. Until the board decides what exactly they want in this ordinance this isn't going to work and no one is going to put extra work into it if the board isn't backing it.

Chairman Koehler asked for a voice vote on the motion to postpone to March 18, 2008, the nays having it, the motion to postpone to March 18, 2008 has failed.

Ms. Peschke made a motion to postpone to December 4, 2007 seconded by Ms. McCann.

Chairman Koehler asked for any discussion. Mr. Provenzano asked Mr. Austin and Mr. McNulty if they felt comfortable being able to come back in December and report on the alternative programs for leaves that have just fallen late in the fall. Mr. Austin said that was not possible without an ordinance in place. Mr. Labaj added that without the ordinance in place it is difficult to set things in place, such as getting a program together for waste haulers to pick up the leaves. With this alternative there would be contract negotiations with the waste haulers as well as agreements with townships.

Chairman Koehler asked for a voice vote on the motion to postpone to December 4, 2007. On a voice vote being too close to call, Chairman Koehler took a hand count. There were twelve (12) raised hands to postpone and ten (10) raised hands not to postpone. By majority of the hand count, Chairman Koehler declared the **motion to postpone to December 4, 2007 has passed**. Chairman Koehler asked everyone to talk with Ms. Peschke with your objections and suggestions for this ordinance.

ADMINISTRATOR'S REPORT

Mr. Austin said September 26th is the Council of Governments meeting and there will be a presentation on conservation design that some have been working on. In regard to the budget schedule, Mr. Austin said he would like to tentatively plan a CALF meeting for October 5th.

He said prior to the board meeting on October 16th a reception is being planned with a light dinner with the company that completed the performance contracting work in the courthouse. Also on this date he hopes to have the budget on display for review.

Mr. Austin said on November 6th at the morning board meeting he is hoping to have a representative from the Ferguson Group here to highlight the successes of this past federal legislative program. He will be here for a day or two to meet with our reps and talk about what we want to work towards next year.

Finally, Mr. Austin said that before the evening meeting on November 20th there will be a reception with the MCEDC from 5 to 6:30 at the Compass Ridge Conference Center. Chairman Koehler asked if the date of the CALF meeting could be changed from October 5th as he is not available.

EXECUTIVE SESSION

Chairman Koehler said there is a need to have an executive session to review executive session minutes, however due to the lateness of the evening and if everyone is in agreement we can review these at the next meeting on October 2nd. The board was in agreement.

MEMBERS' COMMENTS

Ms. Miller said she became a grandma again on September 12th. She said he is doing well and asked that everyone keep him in their prayers.

Ms. Hill asked to add to our next agenda under New and Unfinished Business a reconsideration of the vote on the precinct line changes that we made in August.

Ms. Zierer said on October 6th at Valley Hi it will be a day of entertainment. She said she needs small prizes to give out, anywhere between \$1 and \$5 and she needs about a hundred of them. You can bring them here to Ms. Zierer or you can take them out to Valley Hi.

Ms. Peschke said that she will get copies for everyone of the proposed changes to the Burning Ordinance that was discussed this evening. Also she said that Jamie Rein of the State's Attorney Office and Captain Cundiff came to the Public Health Committee and have had some successes with the Disorderly Conduct Ordinance where it seems to be working in places where we don't have a noise ordinance or other things.

Mr. Provenzano brought up a situation that occurred about a week ago. He said as we reflect on the situation in Iraq, it is very difficult when it comes home and to your area and neighborhood. He asked everyone to keep the Nurnbergs' in their prayers during this time.

Chairman Koehler said that we are sponsoring MCCOG this month. It will be at Deeter's starting at 5:30 and dinner will be at 7 p.m. The program will be on the Land First Initiative. Also, he reminded board members to let him know if they can travel to Springfield. He is hopeful that the group going down will be able to meet with some people who are involved with the transportation area.

ADJOURNMENT

Ms. Orphal made a motion seconded by Mr. Shea to adjourn at 9:25 p.m. Chairman Koehler declared the motion passed on a unanimous voice vote.

Dated and approved at Woodstock, Illinois this 16th day of October, A.D., 2007.

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

ATTEST:

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