

MCHENRY COUNTY BOARD  
MINUTES OF THE SPECIAL SESSION MEETING  
OCTOBER 14, 2008

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 Special Session on Tuesday, October 14, 2008.

Chairman Koehler called the meeting to order at 11:00 a.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. Ms. Hill gave the invocation/personal remarks.

ROLL CALL

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

CHAIRMAN'S REMARKS

Chairman Koehler thanked everyone for coming to this special meeting. He said back in February the board discussed the ICC issue thinking it was strictly relocation towing and felt that it was a good consumer protection issue that McHenry County needed to address and action was taken at that time. Since then some issues have come up and that is why we are having this meeting today. Senator Althoff is here today to talk about this. Representative Franks and Tryon were unable to attend today.

PUBLIC COMMENT

Chairman Koehler explained the rules of Public Comment. The following people spoke:

Lori Cwerenz of Johnsburg	for	ICC towing agreement
Dan Hunt of McHenry	against	ICC towing agreement
Vince Feltner of McHenry	against	ICC towing agreement
William Hellyer of Algonquin	regarding	ICC towing agreement
Jim Olson of Harvard	for	ICC towing agreement
Pete Olson of Harvard	for	ICC towing agreement
Colleen Smith of Union	regarding	ICC towing agreement
Michael Lyp of Huntley	against	ICC Safety towing agreement
Bill Howard of Oswego	regarding	ICC towing issue

Noting no other people wishing to speak, Chairman Koehler closed the Public Comment part of the meeting. Mr. Jung left the meeting after public comment. Ms. Barnes left the meeting during Public Comment.

NEW AND UNFINISHED BUSINESS

*Resolution rescinding Resolution R-200802-12-059 authorizing Illinois Commerce Commission to supervise and regulate commercial removal of trespassing vehicles from private property within the County of McHenry*

Chairman Koehler asked Mr. Provenzano to give a little background on how we got to where we are today. Mr. Provenzano said that back in January 2008 the board debated this issue and postponed opting into this for 30 days to give everyone an opportunity to learn more about it. In February 2008 a presentation was given on relocation towing to the board and it was voted on and passed. He made it very clear at that time it was his understanding that

we were opting into 18(A) of the State Statute which is clearly relocation towing. What he didn't know at the time was that there was legislation well underway to create safety towing regulation. When we voted on this he gave everyone a copy of a brochure that was received during that time from the ICC and it notes that "this law does not affect the towing of vehicles parked on public streets; the activities that towing company's who tow damaged or disabled vehicles; companies engaged in the repossession of motor vehicles; or vehicles that are towed at the discretion of the police." Unfortunately, Mr. Provenzano said there was quite a bit of activity going on in the House and the Senate as it relates to the Truth and Towing Law and safety towing specifically and one of the last lines that they added in this bill was a line that covered jurisdiction, which said that if you opted into 18(A) you automatically opted into 18(D). It is not written anywhere in 18(A) the rules that we signed into, so if you weren't to look into the other 800+ pages of the IL Vehicle Code they probably wouldn't have seen it. He said here we are today being opted into 18(A) and 18(D) which is not what the board approved. The ICC is the oversight body, a self funded program and the fees involved go directly towards the program to pay for the state police and the enforcement and administrative costs. No cost is incurred by McHenry County. He noted that the safety towing regulations go into effect tomorrow and we have to make a decision if we are going to opt out today or if safety towing is something that we might consider being in. There will be a period of time before it would go into effect, the ICC would listen to our request; they would hold a commission hearing; and then they would notify the state police after approving it. That will not happen until probably sometime in November. Mr. Provenzano said we should take a look at safety towing at its face value, he believes that it is not an overly burdened consumer protection law that protects the consumer's rights. He said it can be summed up in one sentence, ask the towers to provide a written invoice with all of the charges in advance before someone makes the decision to have their vehicle towed by that company.

Ms. Sosnowski, Asst State's Attorney spoke in regard to her conversation with the ICC legal counsel, Steven Mottrich. She was asked to speak to him about the process and what would happen if we decided to opt out and what the process is at this point. His position is that if McHenry County did intend to opt out of 18(A) and 18(D) the next meeting that the ICC could consider that action would be on November 13<sup>th</sup> and even then it is possible that the matter could be laid over until a December meeting. The position of the ICC is that despite the fact that McHenry County has the ability to opt in, there is nothing in the statute that provides for what a County or the ICC is supposed to do in the event that a County wants to opt out. Because there is no procedure they will treat it like the same procedure that takes place when a County opts in, which is that the board considers that at their next available meeting date and then gives a date to the County in which the regulations will be begin to take place. They have never had a County opt out before.

Senator Althoff came forward to speak on this issue. As an update she said legislation has been filed which will permit the opting into both of the programs, the safety program and the relocation program, or will allow you to opt into one or the other or creates language that will deal with the opting out and how you would do that as well as asking the ICC to expedite this. In regard to reimbursement money to those towers who have paid for their licenses, they will include that and the ICC has no problem with it as long as the legislation includes this. Senator Althoff gave a little history. She said there were over 10 pieces of legislation in the Senate alone that dealt with towing when they entered the session. Senate Bill 435 was the legislation which she was a part of that was submitted at the beginning of the session. The first reading was February 8<sup>th</sup>, all of the action that occurred in the Senate was done by March 29<sup>th</sup> when it went to the House. In the House the first reading was April 9<sup>th</sup> and then assigned to committee and then 4 amendments were filed on this piece of legislation. The House took action on the last day of session, May 31<sup>st</sup>. Senator Althoff apologized to Mr. Provenzano and Mr. Donley who both came to her to make sure of the facts of this legislation, she felt everything was fine and that it would only apply to the one area, but she didn't verify the information she received and an one of the amendments tagged on at the end was that if you opt into one you opt into both. It might have been over zealous simplification, but it will be addressed and she's hoping that they will get some momentum on this in veto session, but she can't promise that. She is working closely with the original sponsor, which is Ed Maloney from the City of Chicago. If it can't be done, the legislation will go into January. She said this legislation was for consumer protection. Senator Althoff said the question before the board this morning is this an action that the County Board wants to take up and continue to leave in place or is it something you can revisit individually at a later date. Board members asked questions and reaffirmed the information that has been given. Chairman Koehler thanked Senator Althoff for coming today and providing information.

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

Chairman Koehler asked for a roll call vote. The following members responded aye: Ryan, Salgado, Shea, Wheeler, Zierer, Chmiel, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Jung, Kennedy, McCann, Munaretto, Orphal, Peschke, Provenzano and Koehler. Absent: Barnes, Merkel and Miller. The vote being twenty one (21) ayes noting three (3) absent, Chairman Koehler declared the motion passed.

EXECUTIVE SESSION

Chairman Koehler said there was a need to go into executive session to discuss Personnel.  
Ms. Donner made a motion seconded by Mr. Heisler to go into executive session.

Chairman Koehler said because Executive Session was not listed on the agenda they would not be going into Executive Session.

COMMENTS

None

ADJOURNMENT

Mr. Hammerand made a motion seconded by Mr. Heisler to adjourn at 12:10 p.m. Chairman Koehler declared the motion passed on a unanimous voice vote.

Dated and approved at Woodstock, Illinois this 6<sup>th</sup> day of November, A.D., 2008.

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

ATTEST:

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