

MCHENRY COUNTY BOARD
MINUTES OF THE REGULAR SESSION MEETING
MAY 19, 2009

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

District 1 Yvonne M. Barnes Robert Bless Anna May Miller Marc Munaretto	District 2 J.S. "Scott" Breeden James Heisler Kenneth Koehler Lyn Orphal	District 3 Mary L Donner Ed Dvorak Kathleen Bergan Schmidt Barbara Wheeler
District 4 Sue Draffkorn John Hammerand Pete Merkel Sandra Fay Salgado	District 5 Tina Hill James P Kennedy Virginia Peschke Paula Yensen	District 6 Randall Donley Mary T McCann Daniel P Ryan Ersel C Schuster

The Honorable County Board of McHenry County, Illinois met in Regular Session on Tuesday, May 19, 2009.

Chairman Koehler called the meeting to order at 7:00 p.m. The Pledge of Allegiance to the Flag was led by Mr. Dvorak 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: McCann, Merkel, Miller, Munaretto, Orphal, Peschke, Ryan, Salgado, Schmidt, Schuster, Wheeler, Yensen, Barnes, Bless, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy and Koehler. Absent: Breeden. Chairman Koehler declared a quorum present with twenty-three (23) members responding.

MINUTES

Mr. Heisler made a motion seconded by Ms. Miller to approve County Board minutes from May 5th, 2009. Chairman Koehler asked if there were any changes or corrections, there were none. Chairman Koehler asked for a voice vote, the ayes having it, the motion to approve the minutes was passed.

CHAIRMAN'S REMARKS

Chairman Koehler said he hoped everyone will spend Memorial Day with their families and think about people who have been involved with the many different conflicts and wars that we have been involved in.

SPECIAL RECOGNITION/REPORTS

Ms. Orphal made a motion seconded by Ms. Donner to approve the following Eagle Scout recognitions:

Ryan Thomas Kluver of Crystal Lake	Troop #164
Kyle M Schneider of Crystal Lake	Troop #347
Austin Jarnebro of Fox River Grove	Troop #166

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

Mr. Orphal came forward and Chairman Koehler asked Eagle Scout Kyle Schneider to come forward and presented him with a miniature County flag in congratulations on behalf of the County Board. Kyle explained the project he completed to earn his Eagle Scout badge.

SPECIAL PRESENTATIONS

None

Chairman Koehler said he was moving one Resolution, 15.1 I(1), out of order on the Agenda to vote on now. 15.2 I(1) **Resolution to recognize the 2009 Spirit of Public Health Award Winners**

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

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

Chairman Koehler asked Mr. McNulty to come forward to talk about this award and to congratulate Judy Morrison, one of the recipients, who is in attendance this evening.

ZBA CONSENT AGENDA

Chairman Koehler asked if any petitions needed to be removed. Ms. Peschke removed Exb #08-30.

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

Exb #08-76; Algonquin Twp; Ray/Cecelia Kratz; reclass R1 to R1V
Exb #09-08; Dorr Twp; Christopher Rogman; reclass A1 to A1V

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

Ms. Hill made a motion seconded by Ms. Miller to approve the following Petition:
Exb #08-30; Seneca Twp; Steven/Susan Schmieding; reclass E5 to A2C

Chairman Koehler asked for any discussion. Ms. Peschke noted that she didn't feel this zoning change was compatible with the area. Ms. Schuster agreed stating a commercial business should not be in a residential area.

Noting no other discussion, Chairman Koehler asked for a roll call vote. The following members responded aye: McCann, Merkel, Miller, Munaretto, Orphal, Wheeler, Barnes, Bless, Donner, Draffkorn, Dvorak, Hammerand and Hill. Nay: Peschke, Ryan, Salgado, Schmidt, Schuster, Yensen, Donley, Heisler, Kennedy and Koehler. Absent: Breeden. The vote being thirteen (13) ayes and ten (10) nays noting one (1) absent, Chairman Koehler declared the motion passed.

ZBA REGULAR AGENDA

Ms. Hill told the board that the following Petition has been recommended for denial by the ZBA. Following County Board rules, this petition will be brought forth in the affirmative, so a YES vote is to approve the petition and a NO vote is to DENY the petition as recommended by the Zoning Board.

Ms. Hill made a motion seconded by Ms. Miller to approve the following Petition:
Exb #09-01; Dorr Twp; Resurrection Retreat Ctr; reclass A1/E3 to A1C/E3C

Chairman Koehler asked for any discussion.

Ms. Wheeler made a **motion to amend Condition #11b (Tree Replacement Requirements for Resurrection Village)** seconded by Ms. Peschke as follows:

**Remove the 1" tree replacement on the table that is attached to the document.
There will be no 1" tree replacements**

Noting no discussion, Chairman Koehler asked for voice vote, the ayes having it, Chairman Koehler declared the **motion to amend Condition #11b passed.**

Ms. Wheeler made a **motion to amend Condition #17** (regarding salt applied to roadways or driveways) seconded by Ms. Yensen to **replace the word "salt" with "chlorides"**.

Noting no discussion, Chairman Koehler asked for a voice vote, the ayes having it, Chairman Koehler declared the **motion to amend Condition #17 passed.**

Ms. Wheeler made a **motion to amend Condition # 26** (regarding fertilizer application) seconded by Ms. Draffkorn to **add the following line:**

They shall use only Phosphate free fertilizer

Noting no discussion, Chairman Koehler asked for a voice vote, the ayes having it, Chairman Koehler declared the motion to **amend Condition #26 passed.**

Ms. Wheeler made a **motion to amend Condition #8** (regarding Woodland Restoration) seconded by Mr. Dvorak to **add wording (as bolded) to the following sentence:**

“Said plan shall be reviewed shall be reviewed and approved by the Illinois Nature Preserve Commission **or Land Conservation Agency which would hold the easement**” (continue sentence as worded after this)

Chairman Koehler asked for any discussion. Mr. Sandquist of P & D verified the change being requested. Chairman Koehler asked for a voice vote, the ayes having it, Chairman Koehler declared the motion to **amend Condition #8 passed**

Ms. Wheeler made a **motion to amend Condition #14** (regarding drywells) seconded by Ms. Miller to read as follows:

“Drywells shall be permitted in detention basins for utilization during heavy rain events only. The determination as to the appropriate level is to be reviewed by both the Water Resource Manager and the Chief Stormwater Engineer.”

Noting no discussion, Chairman Koehler asked for a voice vote, the ayes having it, noting a few nays, Chairman Koehler declared the motion to **amend Condition #14 passed.**

Chairman Koehler asked if there were any other questions or changes.

Ms. Peschke questioned discussion on Conditions 6 & 7 about the areas were dedicated and there would have to be a plan that would be made within six months of the approval if approved and restoration completed within five years. It also says that until there is a dedication to a conservation easement to someone that no construction would be allowed outside the existing building, as she doesn't believe a conservation agency would accept an easement until that is brought up to standard, in which case it could be as long as five years until another building could be constructed and that wasn't discussed. Ms. Peschke said she felt that this part of the plan was ill-advised.

Mr. Sandquist responded that he didn't know what the practices of a conservation organization might be, whether they would accept a dedication before the plan is fully implemented, but he felt Ms. Peschke's interpretation is correct. And also the way the conditions are written, the applicant will have to come to an agreement with a conservations organization on what the endowment will be. Ms. Peschke said it troubles her that if there is not an agreement, no one has to take the easement and you are now left with something where you thought you were doing some protection of a very delicate area, and you have no protection of it because nobody is going to take it if they don't have a sufficient endowment. Chairman Koehler reiterated that they can't develop until they come to terms with whoever they find to do that.

Ms. McCann made a **motion to add a Condition #30** seconded by Ms. Donner **worded as follows:**

The onsite waste treatment system shall be of a design based on best available technology and approved by the Health Department that addresses the release of pharmaceuticals and personal care products as defined by the USEPA that releases those into the affluent.

Chairman Koehler asked for any discussion on the addition of this condition. Some board members wondered how they would measure that in the water. Ms. McCann said there have been studies done by the USGS and EPA which does track and has looked at the pharmaceuticals as they go through different kinds of waste treatment systems. She added that she wanted to reinforce the fact that we are very concerned about pharmaceuticals and personal care products escaping into the affluent. Ms. Wheeler said this suggests that they use one of the highest technological systems in waste water treatment and it might pigeon hole the petitioner to using only a certain system. Ms. Hill said she spoke with the civil engineer on this and he said that as part of their plan a recent study by the University of WI found that onsite aerobic treatment facilities such as the one that is being proposed for this project have a typical pharmaceutical treatment effectiveness about 10x greater than that achieved by the conventional septic system such as the one currently operating there. She feels that this condition will be easily met by the petitioner.

Noting no other discussion, Chairman Koehler asked for a voice vote, the ayes having it, Chairman Koehler declared the **motion to add Condition #30 has passed.**

Chairman Koehler asked if there were any more amendments or additions for this petition, there were none. He then asked for any discussion on the main motion.

Ms. Schuster asked about the information received from Attorney Greg Downs regarding the illegal non-conforming issue. She wondered if that was ever addressed by staff as to the accuracy or merit to his suggestions. Mr. Sandquist said that memo was forwarded to the State's Attorney's office. Ms. Rein of the State's Attorney's office said an official memorandum addressing the accuracy of someone's opinion on the zoning ordinance was not prepared by her office so she can't comment on anything that was presented at the hearing in favor of or against his positions. Ms. Sandquist added that P & D looked into this to the extent that they coordinated through the Chairman with the State's Attorney's office to make sure they were aware of it and their advice was that while that letter was submitted into the ZBA record, there was nothing on record refuting it and they didn't feel they were able to create new testimony or information outside of that hearing process and advised not to respond to it. Ms. Schuster said this raises a huge question because it goes back to the original petition and whether or not it should have actually been filed the way it was. She did note that the Village of Bull Valley did file an objection on this petition and feels that with all of the work we are doing on the 2030 Plan where we keep talking about working with the municipalities and the villages as a county that we should take their request seriously. Chairman Koehler said that P&D determined it was o.k. to go forward as a Conditional Use. Mr. Sandquist said they did determine that this could be applied for as a Conditional Use Permit and they stand by that decision. At the time they took in this application they had not seen this line of reasoning but determined it was a valid application. Ms. Schuster talked about additional concerns she had in reading the testimony, from knowing who the actual owners are to what kind of facility this was actually going to be among other things and therefore will be voting no on this. Several board members spoke on their feelings pro and/or con on this petition and the things the board has to do to make their decisions. Ms. Peschke and Ms. Wheeler went down the list for standards for a conditional use and their feelings on whether they have been met.

Noting no other discussion, Chairman Koehler asked for a roll call vote. It was noted following County Board rules, this petition was brought forth in the affirmative, so a YES vote is to approve the petition and a NO vote is to DENY the petition as recommended by the Zoning Board.

The following members responded aye: McCann, Merkel, Miller, Munaretto, Orphal, Ryan, Wheeler, Yensen, Barnes, Donley, Donner, Draffkorn, Dvorak, Hammerand, Hill, Kennedy and Koehler. Nay: Peschke, Salgado, Schmidt, Schuster, Bless and Heisler. Absent: Breedon. The vote being seventeen (17) ayes and six (6) nays noting one (1) absent, Chairman Koehler declared the **motion to approve Exb #09-01 has passed as amended by the Board.**

Chairman Koehler thanked everyone involved in this process as it has been a difficult issue. He also appreciated all of the comments from the Board as well as the respectful manner and comments that came forward on both sides of this issue.

PLATS

None

PUBLIC COMMENT

Chairman Koehler explained the rules of public comment. Noting no one wishing to speak, he closed this part of the meeting.

NEW AND UNFINISHED BUSINESS

None

APPOINTMENTS

None

STANDING COMMITTEE CHAIRMAN UPDATES

Mr. Kennedy stood in for Mr. Hammerand at the Liquor Commission meeting and said there were several hearings about serving of alcohol to underage people and fines were levied appropriately. Mr. Hammerand thanked him for running the meeting for him.

Ms. Hill reminded the P & D Committee members that there will be a joint meeting with the RPC Thursday night. She encouraged all to attend these joint meetings and welcomes any input along the way. Chairman Koehler said the second draft was sent via e-mail to the P & D Committee. Mr. Sandquist said if anyone is interested in seeing the plan before Thursday let him know, noting it is on the website. Ms. Wheeler asked if the Greenway section was omitted. Ms. Hill said it was removed by P&D Committee but the purpose of this meeting coming up is to give them

a chance to comment on that and why they think it's important or not and then a final decision will be made. Ms. Hill said Ms. Wheeler could talk about this on Thursday, but she would like this put back in.

ROUTINE CONSENT AGENDA

Chairman Koehler asked if anyone wished to remove an item from the Consent Agenda, there were none. Ms. Barnes made a motion seconded by Mr. Ryan to approve the Routine Consent Agenda as presented.

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

ORDINANCES

None

ADMINISTRATOR'S REPORT

Mr. Austin said this evening the board approved the 2009 Strategic Plan and he appreciates the support of that. He said we are now moving onto the next phase when we begin to work on developing action plans for the Strategic Plan and then moving ahead with staff in June and working on performance measures for those action plans that are developed. The CALF meeting will be tomorrow night at 5 p.m. Mr. Austin said Management Services has initiated their review of the County Administrator's position. He e-mailed and provided a hard copy to board members a summary of the last year of what the County Administrator's office has been working on, what challenges were faced and the accomplishments we had and looking ahead to next year in terms of some of the things he thinks need to be worked on. He would appreciate any input on this. Mr. Austin noted that in June there will be a quarterly budget presentation to the Board to show where the county is with revenue and expenditures.

He noted that this morning there was a MCEDC meeting and they are closing in on a finalist for the President position. Also there was a report on their leadership campaign that is underway to try to bring more people into the MCEDC.

Ms. Wheeler said at Strategic Planning they talked about the fat in government and she brought up the fact that the twenty-four board members are allowed the option for health insurance and IMRF. She feels this is a place we can cut back, and she does take the insurance so it would be a financial difficulty for herself. She thinks this is something that should be discussed.

Chairman Koehler said anyone that would like to attend tomorrow night all are welcome.

EXECUTIVE SESSION

None

COMMUNICATIONS

None

COMMENTS

Ms. Schuster thanked Mr. Austin for bringing up the Strategic Plan. She said if you weren't going to attend the meeting, if there are any questions or concerns to please e-mail Mr. Austin or her.

Ms. Hill said she will not be at the meeting tomorrow night. She added that Rep. Tryon passed through the Senate his Transparency Bill, House Bill 35, where everything for the state will be posted on line. There have been many positive comments. Ms. Hill said she received something from the IL Policy Institute on County's wanting County's to follow suit as well and noted that McHenry County meets 7 of 10 requirements on their checklist. We don't put our lobbyist on line and we don't put our contracts on line, and she doesn't remember the third item right now. She will work on this with Management Services.

Ms. Peschke referred to comments made about the possible non-conforming use of Exb 09-01. She understands that there was testimony entered at the ZBA hearings and we are trying to avoid a legal snarl, however, she feels that staff should have been able to advise the Board on this, is it or isn't it non-conforming. Mr. Sandquist said the question posed in the letter went beyond that. Ms. Rein responded that when they received the letter from Mr. Downs, it is their opinion on how the ordinance reads, and they can't make an opinion on someone's opinion. Ms. Hill asked if it would have changed the ability of P&D to accept the application. Mr. Sandquist said he didn't know if they considered that it could be a non-conforming use, but it would not have changed their decision that they could accept

the application. It was asked how the CUP makes it conform. Mr. Sandquist said they look for ways to bring people into conformance with the ordinance and getting this CUP is a way of bringing it into conformance with the ordinance. Ms. Salgado said she respects everyone's decision on what happened tonight with Resurrection Village. In saying that she is confused because so much emphasis has been put on the 2030 Plan to make it better and have a plan, then something like this comes along and we don't look back to our plans for zoning in the area. She hopes they will be successful.

Ms. Draffkorn said that the CDBG needs a new member from District 1. There have been public notices in the paper and no applicants. She asked District 1 board members to contact P&D and turn in their resume.

Mr. Merkel updated the board on the Regional Coordinating Committee for the Chicago 2016 Olympics, he has been attending meetings. There was one this morning and things went well with very good comments. The IOC will make their final vote on October 2nd.

Mr. Donley told that board that Mary Lou Zierer is home now and doing very well. If anyone has time, she would love to hear from you. Chairman Koehler said he did receive a thank you card from Ms. Zierer for prayers and flowers.

Ms. Schuster asked if the county could look into the cell phone use while driving issue. Mr. Austin said he can look into this.

Ms. Draffkorn commented that last week the Village of Wonder Lake passed an ordinance forbidding Phosphates in fertilizers which will be effective in August. Just an FYI, it is the middle number when you buy fertilizer, it should be zero. Chairman Koehler said that Sandra McKinney has been working on that with the Groundwater Protection staff. Mr. Merkel noted that many of the company's are getting away from putting this in the fertilizers. Ms. McKinney said the easiest thing to do before putting anything down is to test the soil first to see if what if any nutrients are needed.

Ms. Wheeler noted that IDNR is looking for two lockmasters at the locks. They will be hiring some temps or they might have them already, but there are two job openings.

ADJOURNMENT

Mr. Ryan made a motion seconded by Ms. Donner 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 2nd day of June, A.D., 2009.

s/ Kenneth D Koehler
Kenneth D Koehler, Chairman
McHenry County Board

ATTEST:

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