

**AGENDA**  
**LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS COMMITTEE**  
**THURSDAY, JANUARY 12, 2012 – 8:30 A.M.**  
**McHenry County Government Center – Administration Building**  
**667 Ware Road – County Board Conference Room**  
**Woodstock, IL 60098**

- 1.0 Call to Order
- 2.0 Minute Approval
- 3.0 Public Comment
- 4.0 Presentation
- 5.0 Old Business
  - 5.05 State Legislative Update
  - 5.10 Discussion on Federal Legislation Program
- 6.0 New Business
  - 6.05 Resolution Authorizing Adoption of the 2012 State Legislation Program
  - 6.10 Resolution Authorizing an Agreement for an Electric Utility Aggregation Consultant
- 7.0 Executive Session (as necessary)
- 8.0 Reports to Committee, as applicable
- 9.0 Adjournment

**LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS COMMITTEE**  
**McHenry County Government Center – Administration Building**  
**667 Ware Road**  
**Woodstock IL 60098**

MINUTES OF THURSDAY DECEMBER 8, 2011

Chairman Heisler called the meeting to order at 8:35 a.m. The following Committee members were present: James Heisler, Chairman; Ersel Schuster; Marc Munaretto; Pete Merkel; Nick Provenzano; John Jung, Jr. and Kathleen Bergan Schmidt. Also in attendance: Peter Austin, County Administrator; Adam Lehmann, Assistant to the County Administrator; Cassandra McKinney, Water Resource Manager; Dennis Sandquist and Kim Kolner, Planning and Development; Dean Whitfield, Energy Professional; Leadership Greater McHenry County Class of 2012; Mary McCann, County Board Member and Charles Eldredge.

James Heisler, Chairman	
John Jung, Jr.	Pete Merkel
Marc Munaretto	Nick Provenzano
Kathleen Bergan Schmidt	Ersel Schuster

MINUTES

Committee members reviewed the committee minutes of November 10, 2011. Ms. Schuster informed committee members that she had a couple of typographical errors she had corrected. She stated the corrections did not change the content of the minutes. Mr. Jung made a motion, seconded by Mr. Provenzano to approve the minutes as corrected. The motion carried with all members present voting aye on a voice vote.

PUBLIC COMMENT

None.

OLD BUSINESS

*Ordinance Providing for the Submission to the Electors of the County of McHenry, Illinois, the Question Whether the County Should Have the Authority Under Public Act #096-0176 to Arrange for the Supply of Electricity for its Residential and Small Commercial Retail Customers Who Have Not Opted Out of Such Program:* Mr. Austin stated that this is the Ordinance that is being brought forward to move ahead with the aggregation question. This will need to go to the County Board on the 20<sup>th</sup> so that the Ordinance is in place ahead of the July 3<sup>rd</sup> deadline. The City of Crystal Lake as well as some other cities in the County has already done this.

Yesterday a good meeting was held for the interviews with five aggregation firms. Representatives from the Municipalities from Woodstock, McHenry, Crystal Lake and Lake in the Hills as well as MCCOG joined the group for the interview process. This group will get together again on the 14<sup>th</sup> at 2:00p.m. to review the options that were presented. Mr. Austin reported that they had a good mix of presenters with each of them “presenting” in a different manner. The representatives from the municipalities as well as the county would like to move collectively as a group on this issue. The bottom line is that they are trying to save money for their residents in an efficient way without the process being burdensome for staff.

Committee members were informed that money will be saved in the initial years of the program. They questioned what happens after the third year of the program. They were informed that the savings will decrease over time.

Committee members were reminded that the question to them today is do we want to create a referendum question to the voters and put this on the ballot.

Mr. Whitfield, an energy professional, stated that these aggregators tout a savings of 20-25% though the savings never match these projections. There will be a savings closer to 5 – 8%. There are a number of third party companies that can sell to individuals at a lower rate.

Committee members questioned who would benefit with aggregation. They were informed that if you pay on time, you won't benefit. Those individuals that use excess electricity will save as all the customers are averaged together.

They questioned how the County will benefit and if that will be clear on the ballot. Will the County receive a reduction of electrical rates at their facilities? Committee members were reminded that the county is already on a savings plan for its gas and electrical service.

Committee members stated that during the committee's last discussion they had asked that the State's Attorney include information regarding the percentage the county might "take" from this program. They stated that this information has not been included in the resolution. Committee members were reminded that they are in negotiations with these companies so it will depend on the aggregator that is chosen so the percentage cannot be included at this point in the process.

Committee members questioned if the County would be accepting a fee from this process and asked if this a policy question. Committee members were informed that the State's Attorney's office prepared the Ordinance. They had a good dialog about this question. There is no hard fast rule on whether these funds should be taken. These funds come from the supplier and that is a decision that will need to be made down the line. When a decision has been made on who the vendor may be, they can include this item at a later date. Mr. Austin noted that this issue did not drive this discussion.

Committee members questioned if these funds are accepted, what they would do for the citizens of the County? If the County does not take these funds, will they revert back to the executives of these companies? They stated that these aggregators need to be transparent up front. They stated that the intent needs to be a part of the ballot question. Committee members were informed that if the County does not ask for these funds, they will go elsewhere. These funds are part of their marketing expenses. It was stated that the funds could be used to administer the program.

Committee members questioned what the role of the County will be on this. Mr. Austin reported that there will be some core responsibilities that will fall to the County. There will be some public hearings and some communications will need to be mailed to the residents. Calls will then come into the County asking about this issue. He stated that he does not see these costs being huge.

Once the County decides to engage an aggregator, what will the county's role be? Who will address power outages? This won't be a County responsibility though there will be some that will think this is now a County issue. They will call here for power outages or if they feel their bills are too large. They questioned how the County will deal with the extra staff costs? It was stated that the extra staff costs would justify taking some of the grant funds from this program.

It was questioned if the Municipalities were here to find out information or if there would be a higher discount because of the pooling of the residents. They questioned if they would obtain one aggregator for all. They also questioned if this will affect any current franchise agreements or if the County could negotiate additional savings for each of the County facilities. They were informed that the County is too large to be a part of this aggregation, though they can look at ways to benefit the County. This service would affect those units that use 100kW of power or less. This program looks at the small commercial and residential customers.

Committee members were informed these individuals can already "opt" into a program if they want. Most companies will give a lower rate than what you will get from aggregation. It was asked what happens after they add in the aggregators and third party fees? Will these costs be included as they will already be hedging their cost savings? It was stated that it would take some effort for each individual to get the best price. With this effort they can beat the aggregator's costs.

It was stated that the County may want to provide a "clearing house" list of all the providers. This would be a good service to market.

Committee members were reminded that there is a percentage of each contract that is taken by the aggregators. They receive this percentage throughout the life of the contract. They also get paid by the supplier though they do not receive any upfront fees. They will provide an 800 number for information purposes as well.

Ms. Schuster stated that there are too many outstanding questions on this issue and she would therefore be opting out of the program. Ms. Schmidt stated that even if the residents only get a break for two years she feels this program is a good idea. People who know more about this issue can get more savings but even if they can save a little bit for two years that is a savings they are not getting at this time. It will be up to each resident if they want to opt out of the program. This will allow an opportunity for people to save now. She stated that no one knows where electric costs are going. This will allow for some savings for at least two years and she feels that is a good thing.

Committee members were informed that the County would not enter into a program without any guarantees that there would be a savings for the residents. Those residents that want to shop around can opt out of the program. By providing this program to the residents it would provide at least two years of savings for the consumers.

Mr. Provenzano reminded committee members that the County does already receive a franchise fee from Comcast. He questioned why a fee should not be taken from this company as well. It was stated that these fees could be used to make this government more transparent.

Chairman Heisler stated that they had a great day interviewing these companies. They defined what a small business is and provided needed information.

Mr. Munaretto stated that he would like to have a list of the companies being interviewed for consideration.

Mr. Provenzano made a motion, seconded by Ms. Schuster recommending approval of an Ordinance Providing for the Submission to the Electors of the County of McHenry, Illinois, the Question Whether the County Should Have the Authority Under Public Act #096-0176 to Arrange for the Supply of Electricity for its Residential and Small Commercial Retail Customers Who Have Not Opted Out of Such Program. Mr. Austin stated they would need a waiver of the thirty day review in order to move this ordinance through the process.

Committee members had previously requested copies of the questions that were going to be asked during these interviews and again questioned if they could receive the list of the questions. They also asked if these questions could be included with the questions that were asked today so they would have a tracking tool to review what was asked and answered. This information should be provided in a packet that will go to the County Board Members. They stated that they should get as many questions as possible answered before this goes before the County Board for consideration. It was suggested that the discussion points be documented for the County Board Members. It was noted that this could be included as a FAQ sheet.

Ms. Schmidt called the question. The motion carried with all members present voting aye on a voice vote.

*Draft State Legislative Program for 2012:* Mr. Lehmann provided committee members with the latest version of the State Legislative Program for 2012. They continue to work to tighten up this program, it is hopeful that this program will be ready to approve at their January committee meeting. Ms. McKinney continues to work on compiling additional information to be included in the program. Mr. Austin stated there have also been discussions with Senator Althoff on an issue she wants to bring forward as well. She would like to join the committee at their January meeting to review an item she is considering endorsing. Committee members were informed that she may bring transportation staff and additional State Legislators in for this discussion.

Mr. Munaretto stated that he would like to see the Property Tax Extension Limitation Law added to this list. He stated that there is still a two tiered system where those individuals that appeal their taxes are treated differently than those not appealing their assessments. He stated there needs to be a fairer way to calculate the tax burden to make it fairer for all. He stated that we need to support a modification to this system.

Committee members were reminded it is not our job to find a solution to an issue. Our job is to identify problems that we encounter that we can't fix at this level. This is a "living" document with changes that are ongoing.

Ms. Schuster stated that this should include something about unfunded mandates and the probation issue.

Committee members questioned if the public safety fee for the Fox Waterway should be included as well. Mr. Merkel stated that it may be a good idea to bring this group in to have a discussion with them to find out what projects they are considering for the next three to five years. Mr. Provenzano stated that this is being discussed at the Law and Justice Committee. Ms. Draffkorn is the liaison for this group and provides updates to the Law and Justice Committee. Mr. Merkel stated he is looking at what they may be planning for in the future as he feels they may look to the County for some funding since their budget has been cut by the State.

Mr. Austin reported that he has discussed this issue with Lake County personnel and they have decided to have additional dialogue with this group before including this suggested fee as part of the legislative program. The counties have decided to work together on this issue as part of next year's legislative program.

LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

December 8, 2011

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Committee members suggested that the ordinance that addresses noise issues on the water be added to this list. It was recommended that the committee speak to Senator Althoff on this issue as well. It was stated that they need more than just regional support for this issue.

Ms. McKinney joined committee members to discuss the Coal Tar Issue. She stated that she is setting meetings with Federal Legislators to speak about a bill being introduced by a Texas Legislator on this issue. There are now a couple of studies that have come out that states that coal tar sealants cause cancer. Studies from the USEPA and the USGS now back this up. Committee members asked what the industry perspective is on this issue.

Ms. McKinney stated that she is also reviewing the State Statute that is listed for the Road De-icing Salt program to make sure the correct Statute is listed to address this issue. The State agrees that this is an important issue as there are not any safe levels of salt in water. She stated that they would like the State to allow the permitting of storage for all deicing materials less than 50,000 lbs, the development of storage and handling policy and they would like to require certification for all public and private operators.

Ms. McKinney stated there have been some issues in the County with residential wells becoming unusable because of salt getting into their wells.

Ms. Kohlner joined committee members with a request from ACE (AGRICULTURAL CONSERVATION EASEMENT AND FARMLAND PROTECTION COMMISSION) to support legislation to allow the County to open a referendum for farm land preservation. This will allow development rights for ACE. Mr. Munaretto stated that they keep having discussions to support the County buying more land. He stated that he does not support this. He asked, do you think we should preserve farmland, yes, but questioned if county residents should pay for this. He stated this is already being done by the Conservation District. Ms. Kohlner stated that this would not purchase land. This only gives them the development rights. Committee members voiced concern that it uses taxpayer funds to do this.

Committee members asked if there would be any value to put this question to a referendum. This would only allow the ability to put this on the ballot. It was stated that the only reason we have Valley Hi Nursing Home is because a referendum passed to have a County Nursing Home. This was the will of the people.

Concern was again voiced that there is already an agency in the County working for land preservation. This group is out of funding and even though they have had support in the past committee members questioned if now is the time to ask the taxpayers for more funding to preserve open space in the County. They also asked if the groups would be competing against each other for these needed funds. Committee members were again reminded that this would only allow the County to run a referendum. Committee members questioned how many County's in the State fund Farmland Preservation. They were informed that none support this effort. Kane County does provide some funding for Farmland Preservation through its casino.

Committee members were informed there was previous proposed legislation to allow Counties to have the power to do this, but it was already defeated. Committee members questioned why they would want to support this when it was already defeated.

Committee members asked what the agriculture community is doing to address preservation. They stated that the higher populated areas are the areas that need protected, not necessarily the rural areas. Ms. Schuster stated she does not agree with another tax and when the County is dealing with zoning we have to be smarter, especially with permits that may have an impact to the farming community and groundwater recharge.

It was stated that the Natural and Environmental Resources Committee will be reviewing this at a future committee meeting.

*Federal Legislative Update:* Mr. Austin provided committee members an update to information provided by the Ferguson Group. Information is included on changes within the organization as well. This includes a roadmap for grant requests and a description on how the Ferguson Group will change their way of obtaining Federal Funds.

The committee meeting scheduled for the 22<sup>nd</sup> of this month has been cancelled. The next meeting for the committee will be on January 12, 2012.

U.S. Rep. Randy Hultgren will be in the County on December 20<sup>th</sup> to speak about transportation issues in Algonquin. He will also speak with County Administration about the ICE detention program and groundwater issues with Ms. McKinney.

Mr. Austin thanked Mr. Dean Whitfield for his help with the aggregation issue and thanked Leadership Greater McHenry County Class of 2012 for joining the committee this morning. Committee members were informed they were welcome to join the class next door for their panel discussion if interested.

NEW BUSINESS

None.

EXECUTIVE SESSION

None.

REPORTS TO COMMITTEE

None

ADJOURNMENT

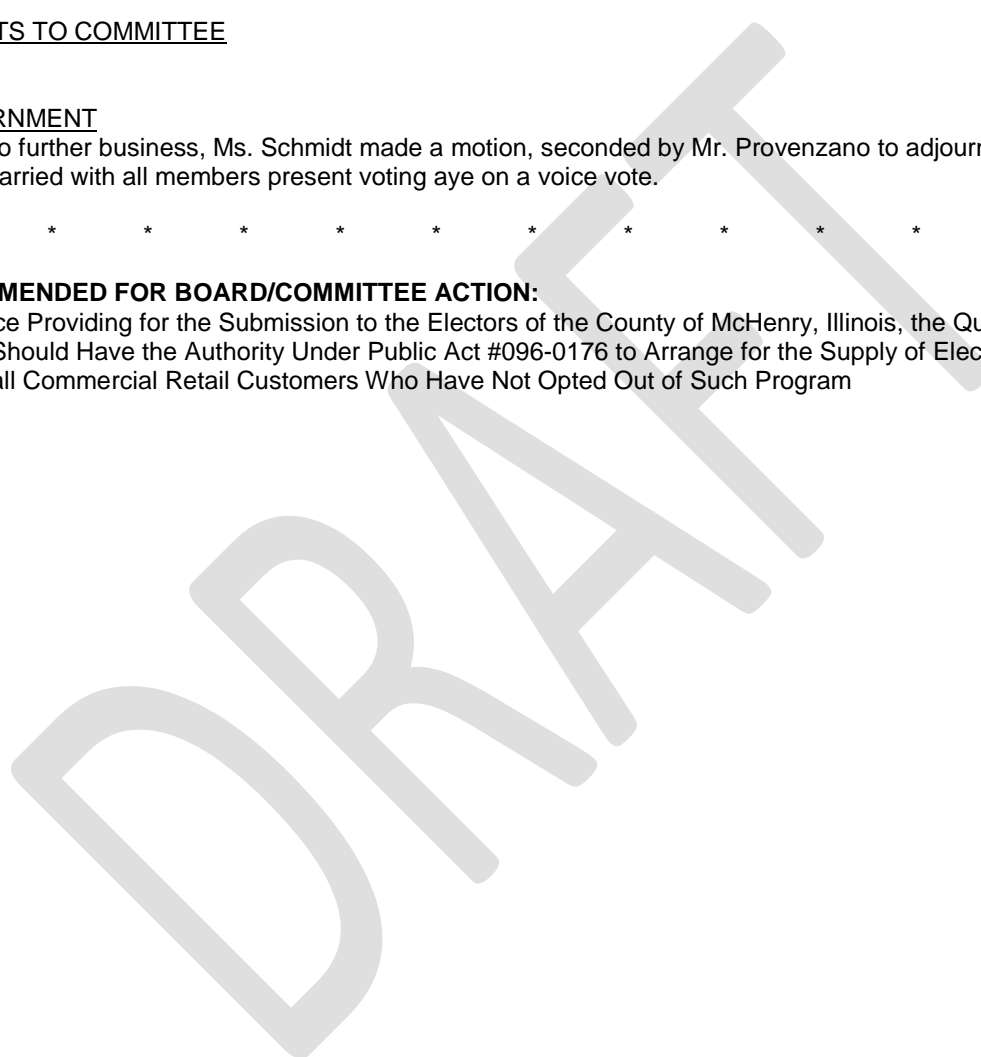
Noting no further business, Ms. Schmidt made a motion, seconded by Mr. Provenzano to adjourn at 10:10a.m. The motion carried with all members present voting aye on a voice vote.

\* \* \* \* \*

**RECOMMENDED FOR BOARD/COMMITTEE ACTION:**

Ordinance Providing for the Submission to the Electors of the County of McHenry, Illinois, the Question Whether the County Should Have the Authority Under Public Act #096-0176 to Arrange for the Supply of Electricity for its Residential and Small Commercial Retail Customers Who Have Not Opted Out of Such Program

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**R E S O L U T I O N****AUTHORIZING ADOPTION OF THE 2012 STATE LEGISLATIVE PROGRAM**

**WHEREAS**, County Administration has gathered suggestions and recommendations for the McHenry County 2012 State Legislation Program from County Offices and Departments for inclusion in the 2012 State Legislative Program; and

**WHEREAS**, the Legislative and Intergovernmental Affairs Committee has reviewed and considered the 2012 State Legislative Program.

**NOW, THEREFORE BE IT RESOLVED**, by this County Board of McHenry County, Illinois that the 2012 State Legislative Program (attached hereto and made a part hereof) is hereby accepted and approved; and

**BE IT FURTHER RESOLVED**, that the Chairman of the McHenry County Board, in coordination with the County Administrator, is hereby authorized to pursue said program during the current State Legislative session; and

**BE IT FURTHER RESOLVED**, that the County Clerk is hereby authorized to distribute a certified copy of this Resolution to the McHenry County Legislators; members of the McHenry County Board; the County Administrator; and Department Heads/Elected Officials.

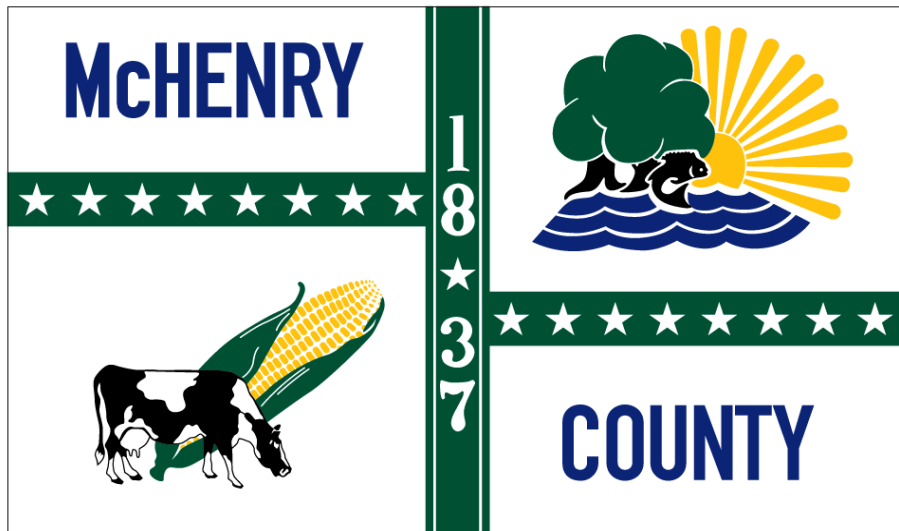
**DATED** at Woodstock, Illinois, this 17th day of January, A.D., 2012.

\_\_\_\_\_  
KENNETH D. KOEHLER, Chairman  
McHenry County Board

ATTEST:

\_\_\_\_\_  
KATHERINE C. SCHULTZ, County Clerk

# McHenry County 2012 State Legislative Program



Strategic Initiatives and Programs  
Adopted – January 2012

[www.co.mchenry.il.us](http://www.co.mchenry.il.us)

McHenry County, IL

**McHenry County, IL  
2012 State Legislative Program**

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**McHenry County, IL**  
**2012 State Legislative Program**

As a local government, McHenry County depends on the State of Illinois for authority and financial assistance to carry out its responsibilities and to effectively meet the needs of approximately 310,000 County residents. In light of the continued unstable economic climate, it is more important than ever that McHenry County maintains its already strong partnership with its state legislators. The strong working relationship between the County Board and the County's Representatives and Senators is highly valued and County Board Members look forward to working closely with the delegation during the coming year.

The McHenry County *2012 State Legislative Program* includes recommendations on a variety of issues that are of significance to McHenry County. McHenry County appreciates the opportunity to share with its state legislators the challenges the County will face in the coming year. During these challenging economic times, it is essential that McHenry County be able to govern without the restrictions of various Illinois State laws, statutes, and public acts slowing down changes necessary for the protection and enhancement of McHenry County residents.

While McHenry County is well aware of the state's ongoing financial condition, McHenry County continues its commitment to conservative fiscal management while providing superior services for our residents. McHenry County wishes to emphasize the importance of the ability to create more effective governance and sound financing.

The McHenry County Legislative Policy states:

1. Support legislation granting additional permissive authorities for counties.
2. Support legislation allowing counties to expand non-property tax revenue sources.
3. Oppose unfunded mandates imposed by the state or federal government.
4. Oppose legislation that would reduce the existing authority of county government.
5. Oppose State or Federal legislative proposals that erode the existing County revenue base.
6. Support legislation that benefits the health, safety and welfare of the citizens of McHenry County.

Sponsorship of specific initiatives and support of the other proposals listed in the McHenry County *2012 State Legislative Program* will be greatly appreciated.

**McHenry County, IL**  
**2012 State Legislative Program**

Categories

1. Sponsor: McHenry County Sponsored Initiatives

*McHenry County will ask members of its delegation to sponsor these initiatives.*

2. Support: Seek to support partner organizations in their sponsorship of the initiative.

*These proposals are broad based with impacts that extend beyond McHenry County. It is most appropriate for a coalition or a state-wide organization to lead these initiatives. McHenry County will support these proposals and the efforts of a coalition or state-wide organization.*

3. Monitor Initiatives are on this list to express the County's continued interest and staff will monitor legislation for opportunities. No direct sponsorship.

*Important initiatives to the county that will remain on the agenda. These initiatives will continue to be monitored. McHenry County will then have the item on the agenda and can explore the possibility of participating in this or related legislation.*

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**Topic:**                   **Road De-Icing Salt**

**Issue:**                   The McHenry County Water Resources Action Plan (WRAP) identifies chlorides in de-icing salt as a major threat to water resources. The WRAP acknowledges removal of snow and ice from McHenry County pavement is essential to both public safety and to the local economy. During winter storm events, the use of pavement deicing chemicals is a widely accepted and an essential means of keeping pavements safe and passable.

Contamination by chlorides in groundwater and surface water is a growing concern in McHenry County, as well as across the region. Salt used for pavement deicing is one of the primary sources of this increase. Effective salt management practices, including: proper application, storage, handling, and a training program, can reduce the amount of salt entering the environment.

Currently there is no requirement for permitting of deicing agent storage facilities or for certification for applicators.

**Recommendation:**    **Sponsor** – McHenry County is sponsoring changes to Illinois State Statue 415 ILCS 5/14.4 that would require:

1.                            Permitting of storage for all deicing materials under  
50,000 lbs.;
2.                            The development of a storage and handling policy;  
and
3.                            Certification for all public and private operators.

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**Topic:**                   **Regional Superintendent of Schools**

**Issue:**                   McHenry County has been without a Regional Superintendent of Schools since June 2011. The Governor has vetoed the funding for Regional/Assistant Superintendents.

**Recommendation:**    **Support** - McHenry County supports the restoration of State funding for the Regional Superintendent or the elimination of the need for the Regional Superintendents Office.

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**Topic:**                   **Property Tax Fairness**

**Issue:**                   McHenry County remains concerned about the fairness of the current Illinois Property Tax System. Currently, during this period of declining values, many property tax payers have significant motivation to appeal their property tax assessment. As a consequence, due to the increased number of successful

appeals, the property taxation burden is necessarily and inequitably shifted to those taxpayers who do not appeal their assessments.

**Recommendation:** *Support* - McHenry County supports any legislation efforts that would take steps to provide more equity to all property tax payers.

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**Topic:** **Coal Tar Regulation**

**Issue:** The use of driveway and parking lot sealants including coal tar is an environmental and human health concern in McHenry County. Through McHenry County's water resources initiatives, it has recognized coal tar as a leading pollutant to the County's surface waters and is a suspected human carcinogen. While McHenry County seeks a county-wide ban on the application, sale, and use of coal tar, there is no legal authority under Illinois state law, which would allow for such an ordinance.

**Recommendation:** *Support* - McHenry County supports a change in State Statute that would ban the application, sale, and use of coal tar in the State of Illinois due to its potential adverse effect on surface water and human health.

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**Topic:** **Flexibility on Prioritizing Local Purchasing**

**Issue:** The McHenry County State's Attorney's Office has provided written legal opinions not allowing preference to be given to local vendors in solicitation of services and commodities.

**Recommendation:** *Support* - McHenry County supports State legislation that would enable local governments to allow local preference be taken into consideration when selecting vendors to provide services and commodities.

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**Topic:** **McHenry County Transportation Projects**

**Issue:** The County realizes the quality of life for residents of the County and economic growth of the business community within McHenry County is directly dependent upon maintaining and enhancing the existing transportation network servicing residents and businesses of the County.

The County has identified a number of transportation needs both within and adjacent to the County and has been actively been promoting these projects as the top priorities of the County for the residents and businesses.

**Recommendation:** McHenry County recognizes that the following are "Priority Projects" for McHenry County in supporting regional transit and transportation planning:

*Support* – Projects Requested for Funding in 2012-2013

1. Illinois Rt. 31 from Illinois Rt. 176 to Illinois Rt. 120
2. Illinois Rt. 47: Reed Road in Huntley to Illinois Rt. 14
3. Illinois Rt. 47 from Illinois Route 14 to Charles Road
4. Randall Road Corridor Improvements

5. The Richmond Bypass
6. Union Pacific Northwest New Start Project

**Monitor** – Funded Projects

1. Western Algonquin Bypass
2. Illinois Rt. 47: from I-90 to Reed Road
3. Illinois Rt. 31 and Illinois Rt. 176 Intersection Improvements
4. Completion of a full interchange at I-90 and Illinois Rt. 47
5. Illinois Rt. 14 widening from Crystal Lake Avenue in Crystal Lake to Lake Shore Drive in Woodstock
6. The Eastern McHenry Bypass and Miller Road/Chapel Hill Road from Illinois Rt. 31 to Illinois Rt. 120

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**Topic:** **Fraudulent Mortgage Documents**

**Issue:** McHenry County is growing more concerned with fraudulent mortgage documents. Third party clearing houses break the chain of title in the Recorder's Office. This break in the chain makes mortgage documents more susceptible to fraud.

**Recommendation:** *Monitor* – McHenry County will monitor and support legislation that prevents mortgage fraud from taking place.

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**Topic:** **High Capacity Water Wells** (Recommendations to Clarify the Illinois Water use Act PA 096-0222 as amended)

**Issue:** The Illinois Water Use Act (Public Act 096-0222) was amended, effective January 1, 2010, to require additional activities related to high capacity water wells as follows:

- The owner of a new high capacity water well must notify the Soil and Water Conservation District (District) before construction of the well begins. The District must notify other units of local government, with water systems, who may be impacted by the proposed withdrawal. The District is also required to review the effect of the proposed withdrawal on other users of the water, with the assistance of the Illinois State Water Survey and State Geological Survey. The review is to be completed within 30 days of receipt and is to be made public.
- The Act also requires any person responsible for a high capacity water well to participate in the Illinois Water Inventory Program through the Illinois State Water Survey, which requires reporting of water use. Agricultural irrigation wells are exempt from this requirement until 2015.

While the Act makes provision for notification of local units of government with water systems, the Act does not provide for a process by which a unit of local government could object to installation of a high capacity water well. There is no process for a local unit of government to provide additional information regarding potential impacts before a permit is issued to install the

high capacity water well. The Act does not provide for notification of others who could be impacted by a high capacity water well including private water well users, non-community public water supply users or individuals who own or are responsible for water fed sensitive receiving environments.

McHenry County is excluded from the areas of the state which may request the Department of Agriculture impose restrictions on the water withdrawal from large capacity water wells.

**Recommendation:**

*Monitor* – McHenry County supports the following bullet points to clarify the Illinois Water Use Act (Public Act 096-0222):

- Notification to all individuals or entities that may be impacted by the installation of a high capacity water well.
  - A specific process be established to allow for submission of comments and consideration of additional information prior to issuance of a well permit for a high capacity water well.
  - Prior to installation of any high capacity water well, a full hydrological evaluation should be completed by a licensed geologist or licensed professional engineer, to confirm that the installation and use of the high capacity water well will not negatively impact existing water users or water fed sensitive receiving environments.
  - A funding mechanism to allow the Illinois State Water Survey to complete the required evaluations in a timely manner.
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## *Policy Concerns*

### **Restore and Protect Medicaid funding for Nursing Homes**

McHenry County urges prompt Medicaid payments to Illinois nursing homes and the restoration of the past cuts the State of Illinois has made to Medicaid reimbursement for Nursing Homes. In addition, the County supports efforts to begin the process of revamping the Medicaid system in Illinois.

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### **Unfunded Probation Services**

McHenry County urges probation funding to be restored to the funding levels noted by Statute. Illinois State Statute mandates the State to fully fund the salaries for all chief managing officers and for all probation officers in supervisory positions. For many years the State has failed to meet its responsibility in funding.

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### **Stormwater Regulations**

McHenry County recognizes that stormwater runoff from the built environment is a principle contributor to local basement and street flooding as well as pollution of Illinois' water bodies, costly problems for property owners and stormwater managers, and getting worse with increased development and frequency of storms. Under existing Illinois law, however, urban counties must pay the state a stormwater permit fee, do not receive financial assistance, and have limited resources to effectively reduce stormwater volume and pollution.

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### **Proposals to Divert Local Government Revenues for Non-Related Users**

Last year the McHenry County Council of Governments, along with the other regional COGs, IML and Metropolitan Mayors Caucus worked successfully with the General Assembly in preserving the 1/10<sup>th</sup> share of the income tax in the Local Government Distributive Fund. This Fall, a proposal to divert a portion of the local share of the Corporate Personal Property Replacement Tax was introduced to fund Regional Superintendents' salaries. These proposals threaten the financial viability of local governments during this time of economic hardship.

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### **Proposals that Further Limit Local Control Over Budget Revenue Decisions**

Local governments are accountable to the residents and communities and best understand the needs of their organizations in meeting current and future expenses. They must be given the ability to provide services and address the needs of the community. We must preserve the ability of the local government to address their financial needs in a fiscally responsible way. Proposals that limit local government ability to raise revenue to capture inflationary cost increases within their organization may be forced to resort to less financially sound practices, such as dipping into reserves and borrowing- thus threatening the financial solvency of our local governments and making it more expensive to (through lower credit ratings) to meet fundamental infrastructure and resource needs.

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### **Exempt Projects under \$50,000 from Prevailing Wage Act Requirements**

The Illinois Prevailing Wage Act requires that all fixed works performed by a public body using public funds must pay the prevailing wage and most projects undertaken by a public body qualify. Projects that do not use public funds are exempt from the requirements of the Prevailing Wage Act. Currently, there is no cost threshold under which a public works project is exempt from the Act. The MCCG supports changes to exempt all fixed works projects valued at less than \$50,000 from requirements of the Illinois Prevailing Wage Act.

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### **Legislation that Equals the Playing Field for Local Governments in Arbitration**

Arbitrators are rendering decisions in police and fire labor disputes that compel local government to offer wage and benefit awards that exceed available revenues. This results in budgetary difficulties and layoffs to other employees. The County supports proposals that would require arbitrators, when making decisions concerning wages and other conditions of employment for public safety officers, to base affordability on existing revenues and not on what a local government might be able to generate with new or increased levels of taxation.

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### **Opposition to Unfunded Mandates/Preemptions:**

A mainstay of restoring our partnership is to be constantly vigilant against legislative or regulatory initiatives that undermine local government decision making. The partnership with state policy makers should recognize local government roles and not preempt county authority in issues such as land use, rights of way and other local functions. In addition, administering and bearing the costs of accurate and secure elections for local, state and federal office has always been primarily the responsibility of county officials. McHenry County opposes federal efforts to dictate specific practices for administering elections. Adequate State financial assistance should be provided for this key responsibility.

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**RESOLUTION**  
**AUTHORIZING AN AGREEMENT FOR AN ELECTRIC UTILITY**  
**AGGREGATION CONSULTANT**

**WHEREAS**, Section 1-92 of the Illinois Power Agency Act (“Act”), 20 ILCS 3855/1-92, permits the McHenry County Board (“Board”), if authorized by referendum, to create a program to allow the Board to solicit bids and enter into service agreements for the sale and purchase of electricity and related services and equipment to residential and small commercial customers in unincorporated McHenry County who do not choose to opt-out (“Electric Aggregation Program”); and

**WHEREAS**, due to the complexities of the Act and the power industry in general, the Board has determined it is in the best interest of McHenry County to employ an Electric Utility Consultant to assist with the implementation and management of its Electrical Aggregation Program on behalf of, and for the purpose of reducing electric bills for, residents and businesses located in unincorporated McHenry County; and

**WHEREAS**, McHenry County Purchasing Department has solicited and received proposals for an Electric Utility Consultant to provide the necessary assistance to the County in implementing and managing an Electrical Aggregation Program; and

**WHEREAS**, Independent Energy Consultants was the most responsible consultant based on criteria included in the Request for Proposals issued by the McHenry County Purchasing Department; and

**WHEREAS**, under this contract, consultants’ services are to be paid for by an agreement brokered with an electric supply company, with no expense to be paid for by McHenry County, including in the event McHenry County voters do not approve a referendum to proceed with electric aggregation, or McHenry County decides not to pursue an electric aggregation program.

**NOW, THEREFORE BE IT RESOLVED**, by the McHenry County Board that Chairman thereof is authorized to execute an agreement with Independent Energy Consultants to assist McHenry County with the development and implementation of its Electric Aggregation Program.

**DATED** at Woodstock, Illinois, this 17th day of January, A.D., 2012.

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KENNETH D. KOEHLER, Chairman  
McHenry County Board

ATTEST:

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KATHERINE C. SCHULTZ, County Clerk

## **AGREEMENT FOR ENERGY CONSULTING SERVICES**

This Agreement (is made and entered into as of this \_\_\_\_ day of January, 2012 by and between **Independent Energy Consultants, Inc. (“Consultant”)** and **McHenry County, Illinois (“Client”)**.

**WHEREAS**, Client is interested in reducing the overall electric cost (hereafter referred to as “Energy”) and managing electric cost risk for its residents and small businesses through its Governmental Aggregation Program; and

**WHEREAS**, Client has authority and the responsibility to make decisions on behalf of the unincorporated communities within McHenry County; and

**WHEREAS**, Consultant offers Energy Consulting, Brokerage and Aggregation services that may reduce the amount and/or cost per Energy unit consumed; and

**WHEREAS**, Consultant is licensed by the Illinois Commerce Commission (ICC) as a Retail Electric Agent/Broker/Consultant.

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual covenants herein contained, the parties hereto agree as follows:

### **1.0 Particulars of Consulting Services.**

- 1.1 Electric Supply Sourcing Services
  - 1.1.1 Assist in obtaining historical Energy usage data for Client’s accounts
  - 1.1.2 Review any active Energy contracts between Client and deregulated suppliers
  - 1.1.3 Prepare account load profiles and analysis using historical consumption data
  - 1.1.4 Assist Client in the development of Energy procurement strategies to meet their needs and risk tolerance
  - 1.1.5 Assist Client in writing Customized Request for Proposals (RFPs) to solicit Energy offers for Client’s government–owned accounts. This may be separate from an aggregation program and include the use of an Internet Reverse Auction.
  - 1.1.6 All contact with potential Energy suppliers including pre-qualification of any that may wish to submit offers
  - 1.1.7 Prepare Energy cost estimates for Client’s accounts vs. the alternative utility rate in effect at the time
  - 1.1.8 Assist with contract negotiation and closing with selected suppliers
  - 1.1.9 Release all necessary Client information to assist in switching Energy suppliers
  - 1.1.10 Client is retaining Consultant to assist in the design, implementation

and administration of an Opt-Out Governmental Aggregation Program, thus Consultant additionally agrees to assist Client with the following:

- 1.1.10.1 Drafting the needed resolutions and/or ordinances for legal review
- 1.1.10.2 Drafting and maintaining Client's Plan of Operations and Governance and filing same with Illinois regulatory authorities as needed
- 1.1.10.3 Conducting 2 Public Hearings on the Plan of Operations
- 1.1.10.4 Drafting Opt-Out Notices for the selected supplier
- 1.1.10.5 Assisting the selected supplier with scrubbing of eligible customer list using a variety of resources including GPS technology.
- 1.1.10.6 Ongoing maintenance during the term of this Agreement. This would include reporting to community officials and the ICC, and assisting in the creation of press releases, FAQs, website materials, monthly newsletters, etc.

- 1.2 Consultant will provide these Services in the following area(s):  
McHenry County, Illinois

## **2.0 Compensation.**

### **2.1 Electric Supply Sourcing:**

- 2.1.1 There is **no cost to the Client**. The selected suppliers are responsible for payment of Consultant's administrative fee of \$0.0004/kWh for all electricity consumed by participants in the Client's program. Client agrees that this fee be written in the Request for Proposal for Energy supply service. Only suppliers agreeing to the administrative fee would be eligible to bid.
- 2.1.2 Consultant's administrative fee would be reduced by 10 percent for any subsequent supply offer brokered by Consultant on behalf of the Client. The subsequent fee of \$0.00036/kWh would also be paid by the selected supplier for the subsequent program.
- 2.1.3 In the event McHenry County voters do not approve a referendum to proceed with electric aggregation, or Client decides not to pursue an electric aggregation program and no supplier is hired, there is still no cost to Client.

## **3.0 Independent Agent.**

- 3.1 Consultant shall, at all times, during the performance of the Services be an independent agent. The parties shall not have the authority to bind, represent or commit the other as a result of this Agreement.
- 3.2 Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, or employee-employer relationship between the parties for any purpose and Consultant agrees to indemnify and hold harmless Client

from and against any and all liability, costs, damages, expenses, fees, fines or penalties in connection with Consultant employee or Consultant contractor or agent claims of benefits, withholding obligations, payroll taxes, workers' compensation and occupational illness.

**4.0 Cooperation.** It is imperative that clear lines of communication and decision-making authority are established between Consultant and Client in advance of Consultant's work. Whenever possible, Client shall attempt to assign a single point of contact for gathering and disseminating information needed to facilitate Consultant's efforts and for making timely decisions within Client's organization.

**5.0 Exclusive Agent.** Client acknowledges that Energy suppliers will not respond with electric offers solicited by multiple agents for the same accounts. Client thereby agrees to utilize Consultant as an exclusive agent and grants exclusive rights to assist Client in performing such Services, as described in and subject to the terms and conditions of this Agreement. Any energy suppliers contacting Client shall be referred to the Consultant for possible inclusion in a competitive bid process administered by the Consultant.

**6.0 Term and Termination.**

6.1 This Agreement shall be effective upon execution by both parties and shall remain in effect for the longer of (i) three years or (ii) the term of the specific Energy Supply Agreements entered into between the Client and the Selected Suppliers prior to the expiration or termination of this Agreement.

6.2 Unless either party has requested to terminate this agreement at least nine months prior to expiration, it shall renew for subsequent one-year terms and a request for proposal will be sent to potential suppliers.

6.3 Client assumes all obligations to arrange for its Energy service upon termination of this Agreement.

**7.0 Severability.** If any provision or portion of this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or enforceability shall not affect any other provision, and this Agreement shall be equitably construed as if it did not contain the invalid, illegal or unenforceable provision.

**8.0 Limitation of Liability.** Neither Party shall be liable to the other for incidental, consequential, punitive, exemplary or indirect damages, lost profits or other business interruption damages, in tort, contract or otherwise.

Each Party, for itself and its successors and assigns, shall indemnify and hold harmless the other Party from and against any and all claims, actions, liabilities,

losses and damages, including reasonable attorney's fees, asserted by any person or persons, including employees and contractors of the indemnifying party, for property damage, personal injury or death related to the performance of this Agreement, except and to the extent caused by the negligence or intentional misconduct of the indemnified Party.

**9.0 Force Majeure.** Neither party shall be liable for any delays or failures in performance due to circumstances beyond their respective controls.

**10.0 Confidentiality.** Except for matters of public records, information already within the other party's possession prior to entering into this Agreement, and except to the extent required (through deposition, interrogatory, request for production, subpoena, civil investigative demand or similar process) by a court order, each party agrees to keep confidential all information, including pricing and any data collected hereunder, unless expressly agreed to in writing by Client and Consultant. In the event that either party becomes required, in the manner specified above, to disclose any confidential information, the disclosing party shall provide prompt written notice to the other party so that the impacted party may timely seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, the disclosing party agrees (i) to furnish only that portion of the confidential information that is required to be furnished and (ii) to exercise reasonable commercial efforts to obtain assurance that confidential information will be accorded such confidential treatment.

**11.0 Compliance with Laws, Permits, and License Requirements.** Consultant shall, at its sole cost and expense, comply with all federal, state, and local laws applicable to its work and shall procure all applicable licenses and permits necessary for the fulfillment of its obligations under this Agreement.

**12.0 Assignment.** Client and Consultant shall not assign or transfer, in whole or in part, this Agreement or any rights or obligations hereunder without the prior written consent of the other party, such consent not to be unreasonably withheld. All of the covenants, conditions and obligations of this Agreement shall extend to and be binding upon the permitted heirs, personal representatives, successors and assigns, respectively, of the parties hereto.

**13.0 Merger of Agreement.** This Agreement is an integrated agreement and contains the entire agreement regarding matters herein between the parties. No representations, warranties or promises have been made or relied upon by any party hereto other than as set forth herein. This Agreement supersedes and controls any and all prior communications between the parties or their representatives relative to matters contained herein. Any changes, modifications, or additions to this Agreement shall be made by mutual consent in writing in the form of a supplemental Agreement signed by both parties and attached hereto.

**14.0 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

**15.0 Notices.** All notices hereunder shall be in writing and shall be delivered by certified mail, return receipt requested, or by overnight carrier to the following addresses:

As to Consultant:

As to Client:

Independent Energy Consultants, Inc.  
215 W Garfield Road Suite 210  
Aurora, Ohio 44202  
Attention: Office Manager

**16.0 Governing Law.** This Agreement shall be governed by the laws of the State of Illinois and any disputes arising under this Agreement shall be resolved exclusively in the 22<sup>nd</sup> Judicial Circuit Court, McHenry County, Illinois or the United States District Court for the Northern District of Illinois, Western Division.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed and represent that the persons whose signatures appear below are duly authorized to execute the same.

**Independent Energy Consultants, Inc.**  
**Consultant**

**McHenry County, Illinois**  
**Client**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: Mark R. Burns

Print: \_\_\_\_\_

Its: President

Its: \_\_\_\_\_

On: January 5, 2012

On: \_\_\_\_\_