

MCHENRY COUNTY BOARD
MINUTES OF THE REGULAR SESSION MEETING
MAY 18, 2010

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 18, 2010.

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

ROLL CALL

The roll was called by County Clerk Katherine Schultz. The following members responded: Merkel, Miller, Munaretto, Orphal, Peschke, Ryan, Salgado, Schmidt, Schuster, Wheeler, Yensen, Barnes, Bless, Breeden, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann and Koehler. Parliamentarian Jamie Rein was present. Chairman Koehler declared a quorum present with twenty-four (24) members responding.

MINUTES

5. Minutes of County Board Regular Session meetings of April 20th and May 4th, 2010.

Chairman Koehler asked if there were any changes/corrections to the minutes of April 20, 2010.

Mr. Hammerand asked that language be added as agreed upon to page 12 in the voting area of his motion as Policy items #9, #10 and #12 are the same as those removed. The following language is to be added: **(including removal of Policy items #9, #10 and #12 on page 140 which match #38, #40 and #41 on page 26)**. The change was noted and will be done.

Mr. Dvorak made a motion seconded by Mr. Ryan to approve County Board minutes from April 20th as corrected. Chairman Koehler asked for a voice vote, the ayes having it, he declared the motion to approve minutes of April 20th as corrected has passed.

Ms. Yensen made a motion seconded by Ms. Donner to approve County Board minutes from May 4th.

Chairman Koehler asked if there were any changes/corrections. Noting none, Chairman Koehler asked for a voice vote, the ayes having it, he declared the motion to approve minutes of May 4th has passed.

CHAIRMAN'S REMARKS

Chairman Koehler asked Sheriff Nygren to come forward. Sheriff Nygren came forward and introduced the new Under-Sheriff who replaces Gene Lowery, Andy Zinke. He said Mr. Zinke is a 20 year veteran of the Sheriff's department having worked his way through the ranks and lives in the County with his wife, who is a Deputy Sheriff in Kane County, and their two sons. Mr. Zinke said hello and thanked the Sheriff for appointing him to this position.

SPECIAL RECOGNITION/REPORTS

7.1 *Resolution honoring Woodstock High School Team #1 for winning first place in the Northeastern IL Envirothon*
Ms. Hill made a motion seconded by Mr. Hammerand to approve the above-named resolution.

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

Ms. Peschke suggested it would be nice to see the names of the students on the resolution. Chairman Koehler said he will have a Resolution printed for each student with names on them.

Ms. Hill asked the students and their instructor, Mr. Donato to come forward. Chairman Koehler presented the Resolution to them. The students involved are: Julia Aydin, Wildlife expert; Becky Clow, Aquatic expert Tyler Donato, Groundwater expert; Katie Orndahl, Forestry expert; and Maddie Schiete, Soils expert, she was unable to attend this evening. Mr. Donato said at state Ms. Aydin and the team got first in the state in wildlife and sixth place overall. Chairman Koehler pointed out that McHenry County is known across the state and country for its environmental initiatives so it's good to have the young people becoming involved in these issues. Ms. Hill added that Mr. Donato is an award winning teacher of the environment throughout the state, so we are fortunate. District 5 board members along with Chairman Koehler congratulated the team and their instructor for their accomplishment.

7.2 Mr. Breeden made a motion seconded by Ms. Orphal to approve the following Eagle Scout Recognitions:

Randall J Ziolo of Crystal Lake	Troop #347
Jeremy G Morton of Crystal Lake	Troop #347
Andrew Rohzon of Crystal Lake	Troop #158
Luke Wajrowski of Crystal Lake	Troop #158
Blake Schippel of Crystal Lake	Troop #158
Cody Jarrett Hugo of Crystal Lake	Troop #164

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

Chairman Koehler said item #7.3, recognizing Donna Mayberry is being removed this evening as she couldn't be here.

SPECIAL PRESENTATIONS

8.1 *Proposed Drug Court presentation – Scott Block and Dan Wallis*

Mr. Wallis came forward and said there has been a great deal of activity in this program and he believes that the product that will be produced will be one that is a model for the state and across the country. One of his goals is to have a published article on the work that they have done in some of the court journals and also to present on a national level at the National Association of Drug Court Professionals about how and what we've done. He used a power point for everyone to follow along noting that board members received this electronically. Mr. Wallis talked about why drug courts are needed and statistics noting that both nationally and within the country that five percent of the population are internationals; but when you look at the numbers incarcerated globally, we have 25% of that population. This is talking about 2 million people being incarcerated; 5 million people on parole; breaking this down even further the statistics show that 1/100 people are incarcerated and 1/32 are either incarcerated in a prison, local jail or on some kind of community control probation or court supervision. Nationally, Mr. Wallis said \$68 billion dollars is spent on drug and drug related crimes, noting \$1.28 billion in Illinois alone. Last year House Bill 3795 was passed that said each Circuit shall have a drug court program. Mr. Wallis said McHenry County had started on this before the Bill was ever passed. He said looking at crime, re-offensives are at about 70% of all people who are released from jail will return to jail. Hopefully the new Drug Court will help people turn things around and stay out of this statistic as 80% of the crime in America is driven by drugs; the cost analysis on this is \$524 billion dollars per year. Mr. Wallis went on to say that the average cost of someone going to prison is \$23,394 per year to lock them up. He said you can put these people in prison but when they are released they will go back to what they were doing in the first place and will be back in the system. He said relapse of substance abuse is upwards of 95% of those individuals who are incarcerated. He said 1/100 people will be successful if we just send them for treatment; some won't go at all, some will start, stop and relapse. Mr. Wallis said drug courts have been around for about twenty years with a lot of research being done. What has been said is that drug courts done correctly will reduce crime; crime is the by-product, by reducing drug use and drug addiction the by-product is reduced. Statistics show that reduction in crime runs between 14% - 26%. Mr. Wallis said drug courts are smart and when done right there is success. He said what they want to do is when there is an incident (arrest) because of some crime related to drug use, they want to capitalize on the instance and intervene to get them some place where they can be helped with their addiction. Mr. Wallis said without a doubt the program that is being proposed will be the most intensive program with the most accountability of any program in McHenry County and is a collaborative effort by many.

Mr. Block came forward and talked about what has been accomplished thus far and about the drug court.

By using the power point he showed that this program is for individuals that are high risk, to commit another crime, high need offenders in need of treatment and services; for individuals that currently have a felony offense, individuals

that are not casual users but have a drug/alcohol dependence noting that a DUI will not qualify. Also, they are looking at priority for individuals who are addicted to heroin. The Program Mission states "The 22nd Judicial Circuit of McHenry County will operate a proven, fiscally responsible drug court program which promotes public safety and reduces recidivism." This program will take offenders through intensive judicial supervision and treatment. Mr. Block said this will be a 12-18 month program depending on the progress of each participant and it will be a post plea program. This means all individuals that will come into the drug court must plead guilty to the current charge. It is pre-sentence; at the end of the program the State's Attorney will determine whether the charge will remain on the individual's record, the charge will be reduced or the charge will be dropped. Referrals will come from municipal police departments, sheriff's deputies, pre-trial services, rights courts, State's Attorney's office, Public Defender and even treatment providers. Ideally individuals will get into this program within ten days of arrest. Mr. Block said a process will be followed and the individual will go through the phases of the program, which were talked about briefly. Also talked about were the grounds in which an individual would be terminated from the program. Over the next year they will be doing community education and meetings on this program to get the word out about the Drug Court and the statistics out there.

Chairman Koehler asked if there were any questions. Ms. Salgado asked if someone would be accepted who by the by-product of the crime there is a victim, if so, does the victim get a say whether this person can go through the program or not. Mr. Wallis said yes, the victim will be contacted and it will be taken into consideration whether the individual is allowed into drug court or not. Other board members talked about statistics out there and the promise that the program will hold. Mr. Wallis noted that the State's Attorney is currently working on a diversion program which would address first time offenders. Hopefully by doing this we can address the entire spectrum. Chairman Koehler thanked Mr. Wallis and Mr. Block for this important presentation.

8.2 Mental Health Board – Building Construction Project – Sandy Lewis

Ms. Lewis came forward to update the board on their project. She gave board members a report that outlines what has been done with the project and where they are currently. Ms. Lewis said they identified the need for additional space through the county's master facility planning process. Ms. Lewis said with this project they are going from 8,670 sq ft facility to an additional 22,000 sq ft addition. They went through an assessment of needs for this. She said all of the preliminary work that could legally be done was done prior to securing financing. They invested over \$200,000 dollars in the preliminary process. After the bond sale and closing for the financing, the Mental Health Board determined the need for an Owner's Representative, which resulted with a contract with Kluber Inc., an architectural and engineering firm. This was done to make sure they created an RFQ process to select a good architectural and construction management team to actually build the project. The RFQ was released on May 13, 2010 and today there was a bidder's conference. There were approximately 30 attendees. Ms. Lewis said the tentative date for construction to begin is August 30, 2010. She said throughout the process they have consulted with Administration, Purchasing Department and the State's Attorney office to make sure they were following the processes and procedures consistent with how the county has them.

Chairman Koehler asked if there were any questions. Ms. Yensen thanked Ms. Lewis for the timeline noting that she was with the understanding that this project was more shovel ready. She asked if the company they were contracted with from McHenry County. Ms. Lewis said Kluber Inc. is out of Batavia. Ms. Yensen said she is getting feedback from the community about why we don't use local contractors for these projects. Ms. Lewis pointed out that two companies, Gillespie and Charles River, were the contractors that assisted with the preliminary assessment. The RFQ that was released, they wanted to make sure that whoever was chosen for this next role would not have the opportunity to respond to this current RFQ to actually build the building. Ms. Yensen said she felt we should be using local contractors and vendors, keeping the stimulus money in the County.

Ms. Lewis pointed out that members received a copy of the 2009 Mental Health Board Annual Report which was released by their board last night at the public hearing. Also she said May is Mental Health month and thanked board members for wearing the green ribbons.

Chairman Koehler thanked Ms. Lewis for her presentation.

ZBA CONSENT AGENDA

Chairman Koehler asked if anyone wished to remove a petition. Ms. Salgado asked to remove #09-48.

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

Exb #09-52; Burton Twp; Anatolio/Maria Ines Herrers; reclass A1 to A1C

Exb #10-06; McHenry Twp; Michael Bergsten; reclass A1 to A1V

Chairman Koehler asked for a roll call vote. The following members responded aye: Merkel, Miller, Munaretto, Orphal, Peschke, Ryan, Salgado, Schmidt, Schuster, Wheeler, Yensen, Barnes, Bless, Breeden, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann and Koehler. The vote being twenty-four (24) ayes, Chairman Koehler declared the motion to approve Exb #09-52 and #10-06 has passed.

Ms. Hill made a motion seconded by Ms. Donner to approve the following Petition:
Exb #09-48; Richmond Twp; First Midwest Bk Tr 2854/Vernon Stade; reclass A1 to A1C

Chairman Koehler asked for any discussion.

Ms. Salgado said we must weigh the facts of this Petition and she thanked everyone for their e-mails. She said based on Case Law, Cook County vs. Monet where a petitioner came forth asking for a conditional use permit and they tied the CUP to the petitioner, which meant that when there was a sale of the property and that petitioner was no longer involved with the property, the CUP expired.

Ms. Salgado made a **motion to amend** seconded by Ms. Peschke that **the Conditional Use will be limited to the Petitioner, Vernon Stade, family and named heirs and spouse, for a maximum of 10 years from the date of approval from the County Board at which time the Conditional Use Permit will expire.**

Chairman Koehler asked for any discussion on the motion to amend.
Board members discussed pro and con about having a limitation of 10 years on a CUP and the financial aspects to the petitioner. Some board members preferred a shorter limitation other a longer time.

Mr. Munaretto made a **motion to amend the amendment** seconded by Ms. Donner to **go back to 20 years for this Conditional Use Permit and that we have an opportunity for staff to review this on a 5 year cycle and make a report to the County Board.**

Chairman Koehler asked for any discussion on the motion to amend the amendment.
Rich Kelly of the ZBA pointed out that the Stade's don't actually own the property by name, it's owned by the bank under a trust. Ms. Salgado said she is in favor of a review but going back to 20 years could be an issue if there are any problems, there will be nothing they can do if we approve 20 years. Mr. Sandquist said P & D does do an annual review of all conditional use permits and if they are out of compliance they are notified as to what standards they are not meeting and seek them to be brought back in compliance. If they were to continue to be non-compliant, a zoning enforcement action would be placed against them. Board members talked pro and con about this amendment and the ability to enforce this. Mr. Munaretto questioned if it is lawful to put zoning with the owner of the land. Ms. Rein said the State's Attorney's office was contacted by the attorney for Spring Grove; they did look into if the conditional use permit could be linked to the owner of the property, and they determined that it could be done. Language was given to staff for the ZBA that could be used. Mr. Hammerand said he did have a conversation with Mr. Stade and he assured him that this property would remain in his family.

Chairman Koehler asked for a voice vote on the **motion to amend the amendment** seconded by Ms. Donner to **go back to 20 years for this Conditional Use Permit and that we have an opportunity for staff to review this on a 5 year cycle and make a report to the County Board.** The voice vote being too close to call, the Chairman asked for a hand count, the hand count being twelve (12) yes and twelve (12) no, the **motion to amend the amendment as stated above has failed.**

Chairman Koehler asked for any further discussion on the motion to amend to limit the CUP to 10 years and tie it to ownership of the property. It was asked if the vote on this could be split, the motioner said no she wanted them together. Mr. Sandquist said he has the language that was suggested by the State's Attorney's office which reads "the conditional use shall be good for a period of ___ years from the date of approval by the McHenry County Board or upon transfer of ownership of the property from the Petitioner to another party". Mr. Sandquist asked if this could read "or the transfer of the trust to another beneficiary". This would make it clear that if the trust is no longer in Mr. Stade's name but to a non-family member, the CUP would expire.

Mr. Hammerand made a **motion to amend the amendment** seconded by Ms. Miller to **go back to a 20 year CUP with the family trust wording that was suggested.**

Chairman Koehler stated that the request is to amend the 10 years as stated to 20 years.

Chairman Koehler asked for any discussion on the motion to amend back to 20 years and tying it back to the family and trust with suggested wording. Board members talked pro and con about going back to a 20 year CUP and tying it with ownership of the property. Some felt that zoning should be with the property. Mr. Sandquist said they believe that zoning and variances do go with the land but the case law that they have learned of is that a CUP could be tied to ownership and this would be establishing a new precedent in a new direction which can pose problems with future requests. He does have suggested language for that.

Chairman Koehler asked for a roll call vote on the **motion to amend the amendment to go back to a 20 year CUP with tying the ownership to the Trust or whatever trails of ownership there might be, the Stade family or however stated as owners.** Mr. Sandquist suggested this wording **“The term of the CUP shall be for 20 years from the date of approval by the McHenry County Board or the sale of the property or the change of the Trust Beneficiary from Vernon Stade, his family or heirs.”** Mr. Hammerand agreed to this wording being used.

The following members responded aye: Merkel, Miller, Munaretto, Orphal, Schmidt, Wheeler, Yensen, Barnes, Breeden Donner, Draffkorn, Hammerand, Heisler, Hill, Kennedy and McCann. Nay: Peschke, Ryan, Salgado, Schuster, Bless, Donley, Dvorak and Koehler. The vote being sixteen (16) ayes and eight (8) nays, Chairman Koehler declared the **motion to amend the amendment as worded above has passed.**

Chairman Koehler said we're back to the amended motion that states the **term of the CUP shall be for 20 years from the date of approval by the McHenry County Board or the sale of the property or the change of the Trust Beneficiary from Vernon Stade, his family or heirs.**

Chairman Koehler asked for a roll call vote on the motion to amend as stated above. The following members responded aye: Merkel, Miller, Munaretto, Orphal, Peschke, Ryan, Salgado, Schmidt, Schuster, Wheeler, Yensen, Barnes, Bless, Breeden, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann and Koehler. The vote being twenty-four (24) ayes, the Chairman declared the motion to amend **The term of the CUP shall be for 20 years from the date of approval by the McHenry County Board or the sale of the property or the change of the Trust Beneficiary from Vernon Stade, his family or heirs** has passed.

Chairman Koehler asked for any discussion on the original motion to approve as amended.

Mr. Donley reminded everyone that there was an AG Tourism task force and it was a good task force. What came from that was no matter what was suggested it was never enough. What they tried to do was define Agritourism, and it couldn't be decided upon. The use of this term is used within this Petition but there is no definition of what Agritourism is. It needs to be defined.

Mr. Donley made a **motion to postpone voting on this to June 15th**, seconded by Mr. Bless **so that a definition to Agritourism could be determined.**

Chairman Koehler asked for any discussion on the motion to postpone. Ms. Hill said this is on the P & D agenda for Thursday morning and staff has been gathering different information to have a discussion on this to try to come up with a definition to Agritourism. Ms. Hill called a point of order asking if we have a right to table a Petition when the Petitioner is asking for a vote. Ms. Rein checked the zoning rules. Chairman Koehler said this can be postponed to a date certain, however, because it is a zoning petition it has to be voted on within the next 9 months because of the time frame it's been brought forward. Mr. Donley said in fairness to the Petitioner we should do this as soon as possible. Several members were against this motion as it seems unfair to the Petitioner.

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

Chairman Koehler asked for any other discussion on the original motion to approve as amended.

Mr. Hammerand made a **motion to amend** seconded by Mr. Ryan in Condition #11 as to the number of people allowed unless a temporary use permit is acquired. He would like to **change this from 1,500 people to 500 people** allowed unless a temporary use permit is acquired for a larger event.

Chairman Koehler asked for any discussion on the motion to amend. Mr. Hammerand said 500 people is still a lot of people and they are on country roads that are not improved roads and the traffic issues that 1,500 can create could be difficult. He also felt that officers/security could be needed.

Ms. Salgado said 1,500 is not that many cars it is the number attending. Mr. Hammerand responded 500 attendees. Ms. Salgado didn't think that 500 people was a lot at an event. It was asked if the ZBA had a crowd count on a regular basis. Mr. Kelly said in testimony at the hearing some single events could be 1,500.

Ms. Wheeler made a motion to **amend the amendment** seconded by Ms. Miller to **change from 500 tickets to 1,000 tickets.**

Chairman Koehler asked for any discussion on the motion to amend the amendment.

Ms. Donner said there is testimony from the hearings that she read that there is currently room for at least 1,000 cars. Board members talked for and against this mostly feeling that a reduction in tickets was not necessary. Ms. Schuster said this specific condition is for musical concerts.

Ms. Donner asked to call the question for a vote.

Chairman Koehler asked for a voice vote on the motion to amend the amendment to change Condition #11 to 1,000 attendees, the nays having it, the Chairman declared the **motion to amend the amendment to approve lowering the number of attendees to 1,000 has failed.**

Chairman Koehler asked for any discussion on the motion to amend Condition #11 to allow 500 attendees. Noting no discussion, Chairman Koehler asked for a voice vote, the nays having it, the Chairman declared the **motion to amend Condition #11 to allow 500 attendees has failed.** Condition #11 remains at 1,500 people unless a temporary use permit is issued to allow a larger event is first obtained.

Ms. Salgado made a **motion to amend** seconded by Mr. Dvorak to **change Condition #3, Friday and Saturday ending time from midnight to 11 p.m.**

Chairman Koehler asked for any discussion on the motion to amend. Ms. Wheeler commented that the Liquor License Ordinance says that liquor establishments have to close down outside amplification at midnight. Ms. Salgado said changing this to 11 p.m. is consistent with times around the County. She said when there is liquor involved she feels it will take longer to get individuals off the property. Ms. Salgado said she was also looking at noise factor. It says that you can't hear anything off the property, but you can. Mr. Merkel asked for clarification from the ZBA, if midnight refers to the indoor facilities for closing, that's a little different; if you are looking at liquor being involved that is a special permit they have to come in for. Mr. Kelly of the ZBA said this was the maximum time frame for everything that was going on. At this time the latest things going on were the Halloween activities taking place. This was trying to cover all the hours that were contemplated by what the testimony was. Chairman Koehler commented that if our Sheriff Department knows that they are going to have a liquor activity going on the roads will have Sheriff's out there to make sure people are driving responsibly. He also said if there is noise past the property with liquor being served, he believes the liquor commissioner can go out and shut them down, but the audio can't leave the boundaries of the property. Ms. Salgado said she was looking at 11 p.m. more for the concerts.

Chairman Koehler asked for a voice vote on the motion to amend to change the ending time from midnight to 11 p.m. on Friday and Saturday. The nays having it, Chairman Koehler declared the **motion to amend to change the ending time from midnight to 11 p.m. on Friday and Saturday has failed.** Condition #3 remains at midnight.

Ms. Schuster made a **motion to amend** seconded by Mr. Donley to strike Condition #12 and **change Condition #12 to read** "no noise beyond the boundary of the property". Chairman Koehler said this is dealing with amplified sound so this is difficult.

He verified that in the Liquor License Ordinance it states that no sound can go beyond the property lines, no EPA standards. Mr. Hammerand said if an officer comes out and stands at the property line and hears amplified music, he can write a citation, and it's enforceable. The Ordinance reads, "**At no time shall amplified music or speech be audible beyond the boundaries of the property owned by the Petitioner.**" Ms. Schuster said she would like the language to be the same as the Liquor Ordinance as noted here, so this would be consistent.

Chairman Koehler asked for any discussion on the motion to amend to strike Condition #12 and change the amplification to the same standards as we have in the Liquor Ordinance.

Mr. Kelly asked for clarification as 40 acres is one of their properties but we might want to make it to the next none property owned by the State's, which would be a significant distance away. Mr. Sandquist said he understands the intent to be to the boundary of their property ownership, not the 40 acres showing on the site plan.

Board members talked about amplified noise and the property in question. Mr. Munaretto pointed out that the ordinance as it is drafted describes the premises as 41 acres, so if this Condition is changed you will be in effect requiring them to keep their amplified sound within the borders of the premises, which is the 41 acres. Chairman Koehler said the motion was to make it to the full boundary of the property. Mr. Munaretto said the ordinance would need to be changed. Ms. Rein questioned if the Petition is strictly for the 41 acres which is not their entire property. We can't put a condition on property that is not the subject of the petition. Mr. Sandquist replied that we are putting a condition on the area included in the CUP but we are setting the standard for how that condition is measured. It was pointed out that the State's own 400 or more acres not just the 41 acres in question. Ms. Schuster agreed with Mr. Sandquist saying this is what she intended. If was questioned about how the EPA measures noise. They go to the homeowner adjacent to the property who is complaining and measure from their property line. Mr. Hammerand said basically we are asking for the Petitioner to shut their amplifiers off at midnight. Ms. Rein said the measuring point of the amplified sound should be placed on the 41 acres that are in the Petition.

Mr. Sandquist suggested this language for the condition **"At no time shall amplified music or speech be audible beyond the boundaries of contiguous parcels of property owned by the Petitioner."**

If the petitioner sells some of his property then the point where we will measure will decrease, if he acquires new property, then we would assume the boundary would increase. **Ms. Schuster, the motioner, agreed to this, the seconder, Mr. Donley, did not agree. Chairman Koehler asked for a second to this, Ms. Schmidt seconded this.**

Chairman Koehler asked for any discussion on this new language, **At no time shall amplified music or speech be audible beyond the boundaries of contiguous parcels of property owned by the Petitioner.**

Board members agreed that this shouldn't be a problem as Mr. Stade owns the adjoining land to the 41 acres.

Chairman Koehler asked for a voice vote, being too close to call, Chairman Koehler asked for a roll call vote on the motion to amend Condition #12 to read **"at no time shall amplified music or speech be audible beyond the boundaries of contiguous parcels of property owned by the Petitioner"**

The following members responded aye: Merkel, Peschke, Schmidt, Schuster, Wheeler, Yensen, Bless, Donley, Hammerand, Heisler, Hill and Kennedy. Nay: Miller, Munaretto, Orphal, Ryan, Salgado, Barnes, Breeden, Donner, Draffkorn, Dvorak, McCann and Koehler. The vote being twelve (12) ayes and twelve (12) nays, the **motion to amend Condition #12 has failed. Condition #12 remains as presented stating "at no time shall amplified music or speech exceed the State of IL EPA standards beyond the boundaries of the property.** Chairman Koehler said what makes this interesting is that it means the 41 acres.

Chairman Koehler asked for any other discussion.

Mr. Hammerand made a **motion to amend to change Condition #3 to change the operating time on Friday and Saturday from 9 a.m. to midnight to 9 a.m. to 9 p.m.** Chairman Koehler asked for a second, having none, the **motion dies for lack of a second.**

Mr. Ryan made a **motion to amend** seconded by Ms. Barnes to **change Condition #12 to eliminate the EPA standards wording.**

Chairman Koehler asked for any discussion on the motion to amend. Ms. Peschke said the sentence doesn't make sense when you take this out.

Chairman Koehler asked for a voice vote on the **motion to amend striking "State of IL EPA standards" so it will read "at no time shall amplified music or speech be audible beyond the boundaries of the property"**

The nays having it, Chairman Koehler declared the **motion to amend as stated here has failed.**

Chairman Koehler asked for any further discussion on the main motion. Board members talked about water supply to the property in case of fire as well as temporary use permit requirements and security issues that could come up with traffic and such. It was questioned whether this should be a CUP or B3, like is there anything that would not be allowed under B3 zoning. Mr. Sandquist responded that the CUP application is to allow people to come forward with ideas for uses that aren't easily classified and that should not be allowed just by right within the zoning district but to get special consideration as to whether or not it would be appropriate to have that use or combination of uses at that location and if so on what specific performance standards. He feels they have done this. All of which would be allowed in a B3 district except maybe the worship services, but they also have the right to request it as a CUP. It was noted that what is being proposed is in excess of agricultural related products.

Chairman Koehler asked for a roll call vote to approve Petition #09-48 as amended. The following members responded aye: Merkel, Miller, Munaretto, Orphal, Peschke, Ryan, Salgado, Schmidt, Wheeler, Yensen, Barnes, Bless, Breeden, Donner, Draffkorn, Dvorak, Heisler, Hill, Kennedy, McCann and Koehler. Nay: Schuster, Donley and Hammerand. The vote being twenty-one (21) ayes and three (3) nays, he declared the motion to approve Petition #09-48 as amended has passed.

ZBA REGULAR AGENDA

Ms. Hill told the board that the following Petition was recommended for denial by the Hearing Officer. 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 ZBA.** Ms. Hill said this will require a super majority vote to pass. Chairman Koehler agreed saying it will need 18 yes votes to pass.

Ms. Hill made a motion seconded by Ms. Donner to approve the following Petition:
Exb #09-54; Algonquin Twp; Glenn/Ethel Kuczek; reclass of R1V – R1V

Chairman Koehler asked for any discussion on the motion to approve. Ms. Miller said a petition for this property has been before the board before and it failed. It is back as the Petitioner has gone back and reduced the size of the home they are proposing and flipped it on their property so that they changed the distance between side properties. Ms. Miller said she spoke with the FPD and they were comfortable with the plan proposed. Some board members said this does not meet the standards and should not be approved.

Chairman Koehler asked for a roll call vote again noting the need for 18 yes votes to approve the Petition. The following members responded aye: Merkel, Miller, Munaretto, Orphal, Ryan, Salgado, Wheeler, Yensen, Barnes, Bless, Donley, Donner, Dvorak, Hill, Kennedy, McCann and Koehler. Nay: Peschke, Schmidt, Schuster, Breeden, Draffkorn, Hammerand and Heisler. The vote being seventeen (17) ayes and seven (7) nays, Chairman Koehler declared the **motion to approve Exb #09-54 has failed.** SEE RE-VOTE UNDER STANDING COMM UPDATE SECTION.

PLATS

None

PUBLIC COMMENT

None

NEW AND UNFINISHED BUSINESS

12.1 *Resolution authorizing the acquisition of right of way for highway purposes (James R Rakow Road) pursuant to eminent domain*

Ms. Miller made a motion seconded by Ms. Salgado to approve the above-named Resolution.

Chairman Koehler asked for a roll call vote. The following members responded aye: Merkel, Miller, Munaretto, Orphal, Peschke, Ryan, Salgado, Schmidt, Schuster, Wheeler, Yensen, Barnes, Bless, Breeden, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann and Koehler. The vote being twenty-four (24) ayes, Chairman Koehler declared the motion passed.

APPOINTMENTS

Mr. Heisler made a motion seconded by Mr. Ryan to approve the following Appointments noting that Richard Gorski resigned from the Board of Health. His name will be removed.

Housing Commission

Brent Burns	Banker – Voting Member	term to 04/30/2013
Corey Brackmann	Association of Realtors-Voting Member	term to 04/30/2012

Senior Services Grant Commission

Catherine Nash	Non for Profit	term to 10/01/2012
Norman Joyce	Non for Profit	term to 10/01/2012
Sue Ritzert	Council of Governments	term to 10/01/2012
Mary Reid	Housing Authority	term to 10/01/2011
Stephen Polep	Citizen at Large	term to 10/01/2012
Bruce Treadway	Citizen at Large	term to 10/01/2012

Appointments continued:

Board of Health

Z. Thaddeus Lorenc	Physician	term to 06/30/2013
Eric Zaleski		term to 06/30/2013

Chairman Koehler asked for a roll call vote. The following members responded aye: Merkel, Miller, Munaretto, Orphal, Peschke, Ryan, Salgado, Schmidt, Schuster, Wheeler, Yensen, Barnes, Bless, Breeden, Donley, Donner, Draffkorn, Dvorak, Hammerand, Heisler, Hill, Kennedy, McCann and Koehler. The vote being twenty-four (24) ayes, Chairman Koehler declared the motion passed.

STANDING COMMITTEE CHAIRMAN UPDATES

Mr. Donley said a board member told him they thought they were voting the other way on Petition #09-54. He asked if the vote could be clarified. It appears there might have been confusion on how they were voting because of the denial to approval situation.

Chairman Koehler asked if anyone wanted to make a motion that we go back and revisit this because there was confusion.

Mr. Donley made a motion seconded by Mr. Heisler to revisit the vote on Petition #09-54 because of confusion.

Chairman Koehler said because of the confusion a re-vote will be allowed. The Chairman asked for a voice vote on the motion to re-vote on Petition #09-54, the ayes having it noting a few nays, the motion to re-vote has passed.

Ms. Hill made a motion seconded by Mr. Kennedy to approve Exb. #09-54; Algonquin Twp; Glenn/Ethel Kuczek; reclass of R1V – R1V. The hearing officer recommended denial of the Petition. If you want to do as the hearing officer recommends, then you vote NO as well, if you want to approve the Petition, you vote YES.

Chairman Koehler asked for a roll call vote. The following members responded aye: Merkel, Miller, Munaretto, Orphal, Ryan, Salgado, Wheeler, Yensen, Barnes, Bless, Donley, Donner, Dvorak, Heisler, Hill, Kennedy, McCann and Koehler. Nay: Peschke, Schmidt, Schuster, Breeden, Draffkorn and Hammerand. The vote being eighteen (18) ayes and six (6) nays, Chairman Koehler declared the **revote on the motion to approve Exb #09-54 has passed**.

Ms. Schuster said if anyone had any comments about the Administrator's evaluation report to get them to her or to Mr. Austin.

Mr. Hammerand thanked Barbara Todd for her years of service working as the Secretary of the Liquor Control Commission.

ROUTINE CONSENT AGENDA

Chairman Koehler asked if anyone wished to remove an item from the Consent Agenda. Ms. McCann removed item #15.2 G1 (H4 on the old agenda); Ms. Schuster removed item #15.2 H2.

Ms. Donner made a motion seconded by Ms. Miller to approve the Routine Consent Agenda with two items removed.

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

15.2 G1 Resolution authorizing a fiscal sponsorship agreement between the Agricultural Conservation Easement and Farmland Protection Commission and the Land Conservancy

Ms. McCann made a motion seconded by Ms. Peschke to approve the above-named Resolution.

Chairman Koehler asked for any discussion. Ms. McCann noted that in the 3rd Whereas states that in its advisory capacity to the County Board, Natural and Environmental Resource Committee, it should read rather than Planning & Development. In the 4th Whereas change the word "from" to "for". The change was noted and will be corrected. Ms. McCann noted that this doesn't apply to grants, it's just so the people who contribute to the new ACE Program can receive tax deductible charitable contribution status. Ms. Peschke said asked if she should abstain because she is on the board of the land conservancy. She was told she can vote.

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

15.2 H2 Resolution adopting an amendment to the Bylaws of the McHenry County Community Development Block Grant Commission

Ms. Hill made a motion seconded by Mr. Munaretto to approve the above-named Resolution.

Chairman Koehler asked for any discussion. It was questioned what was showing on the computers as 15.2 H2. The Chairman's agenda shows the Resolution as read being listed as 15.2 H2. Ms. Schuster said she was against the fourth Whereas and its language. Ms. Hill said she understands this, this was the recommendation by staff as this language is used in Housing Commission Bylaws. Ms. Ciampi said there is a prior history of this language being used by the Housing Commission in Bylaws that were passed. She said the Commission would still hear in relation to that particular member and would discuss what would undermining the goals of the Commission be and then that would be brought before the County Board for additional discussion.

Noting no other discussion, Chairman Koehler asked for a roll call vote. The following members responded aye: Merkel, Miller, Munaretto, Orphal, Peschke, Ryan, Salgado, Schmidt, Wheeler, Yensen, Barnes, Bless, Donner, Draffkorn, Dvorak, Heisler, Hill, Kennedy, McCann and Koehler. Nay: Schuster, Breedon, Donley and Hammerand. The vote being twenty (20) ayes and four (4) nays, Chairman Koehler declared the motion passed.

ORDINANCES

For Action: *Ordinance amending the McHenry County Building, Zoning, Stormwater, Subdivision and Motel License fee schedules noting that it will take effect June 1, 2010.*

Ms. Hill made a motion seconded by Ms. Donner to approve the above-named Ordinance.

Chairman Koehler asked for a voice vote, the ayes having it, noting one nay, he declared the motion to approve passed.

ADMINISTRATOR'S REPORT

Mr. Austin said he is going to do a self-evaluation and prepare it for Management Services on Tuesday and will then get it out to the rest of the board shortly after that.

MEMBERS' COMMENTS

Ms. Salgado said on Monday the Human Resources Committee will have a special meeting discussing a resolution which would freeze County Board increases for one year and also certain elected officials. If there are any comments or questions, please let her know.

Ms. Peschke asked that when we decided to do the revote would it not have been appropriate to have Mr. Heisler, since he was on the prevailing side, made a motion to reconsider and vote that way? Ms. Rein said that typically would be the correct parliamentary procedure. The other thing Ms. Peschke said was that Ms. Rein gave a very good review this morning on the Open Meetings Act and one of the things she mentioned was that we do have the right to control people taking pictures at a meeting. Ms. Peschke said she found it extremely distracting this evening to have the gentleman that was here clicking off picture after picture and it was probably more distracting for the people in the audience. In the future perhaps we can say something. Ms. Rein responded that there is a requirement in the Open Meetings Act that the board shall prescribe bullet rules for taping and things of that nature or recording medium in the board room. This is something that has been brought more attention due to the changes of the Open Meetings Act. This might be something that can be worked on through Management Services, working on some regulations or rules governing that kind of thing. That would include photography and taping. Chairman Koehler said it bothered him as well and asked Ms. Schuster to add this to an agenda for Management Services.

McHenry County Board Regular Session
Tuesday May 18, 2010
Page: 11

Ms. Draffkorn said the first house is closing from the Neighborhood Stabilization Program. On Wednesday May 26th there will be a press conference at 11:30. The house is located in Oakwood Hills.

EXECUTIVE SESSION

None

ADJOURNMENT

Ms. Orphal made a motion seconded by Ms. Peschke to adjourn at 10:30 p.m. Chairman Koehler declared the motion passed on a unanimous voice vote.

Dated and approved at Woodstock, Illinois this 15th day of June, A.D., 2010.

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

ATTEST:

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