

PLANNING AND DEVELOPMENT COMMITTEE
McHenry County Government Center – Administration Building
667 Ware Road – Conference Room A
Woodstock, IL 60098

Minutes of Thursday, September 16, 2010

Chairman Hill called the Planning and Development Committee meeting to order at 8:31 a.m. The following members were present: Tina Hill, Chairman; Randy Donley; Mary Donner; Marc Munaretto; Ersel Schuster and Sue Draffkorn. Lyn Orphal was absent. Also in attendance: Peter Austin, County Administrator; Kenneth Koehler, County Board Chairman; Ralph Scarbaugh, Associate County Administrator-Finance; Dennis Sandquist, Matt Hansel and Darrell Moore, Planning and Development; Pat McNulty, Health Department; Cynthia Schaupp, Assistant State's Attorney; Mary McCann, County Board; interested public; and press.

Tina Hill, Chairman

Randy Donley
Sue Draffkorn
Lyn Orphal

Mary L. Donner
Marc Munaretto
Ersel Schuster

MINUTES OF PREVIOUS MEETING:

Ms. Schuster made a motion, seconded by Ms. Donner, to recommend approval of the September 2, 2010 Minutes of the Planning and Development Committee. Chairman Hill asked if there were any questions or corrections to the Minutes. Ms. Schuster asked that the Minutes be amended on page 2, under "Reports to Committee, as Applicable". She requested that the word "made" in the second line be changed to "make". Mr. Donley noted concern about the words "After a lengthy discussion" on page 2 under the "Administrative Adjudication Report" paragraph. He questioned members as to how detailed the Minutes should be and feels that committee discussions should be a part of the Minutes. Ms. Schuster stated that anyone reading the Minutes needs to know what was discussed at the meeting and suggested that it be brought up for discussion at a Management Services Committee meeting. It was stated that the Minutes should reflect the substance of their conversations. Ms. Schaupp stated that they could ask for the Minutes to be more detailed, if they wanted that. They would not be in violation of any rules if Minutes are brief because no actions were taken during discussions. Mr. Donley was asked if there was anything specific he would like added to the Minutes and he replied no. Noting no further questions or comments from the Committee, the Minutes were approved as amended with a unanimous voice vote of all ayes.

PUBLIC COMMENT: Ms. McCann joined Committee members and read a letter from David Diamond, the General Manager of the Illinois Railway Museum concerning the consideration of waiver of fees for the planned McHenry County Islamic Center. In summary, the letter stated that if the Committee is considering a waiver of fees for the Islamic Center's building permit, then a uniform exemption for non-profit 501(c)(3) organizations obtaining permits in the County should be established. The Illinois Railway Museum has spent tens of thousands of dollars on permits through the years. The last major building they built, a pole barn, had a \$15,000 permit fee. The Illinois Railway Museum has been a part of McHenry County since the 1960s and they receive no state, federal or local funding and rely on donations for support. If exceptions are being proposed, they would certainly request consideration as well.

Noting no further public comment, Chairman Hill closed the public comment session.

PRESENTATIONS: None.

SUBDIVISIONS:

Extension for the Preserve at Twin Creeks: Mr. Moore informed the Committee that this is the second request received from the developer for an extension. This request follows the new policies recently adopted by the Planning and Development Department concerning extensions. The developer has provided letters from MCDOT, the Health Department and the Chief Stormwater Engineer which make sure that all ordinances are being followed and there have been no changes in the interim. They are current on their payments. Mr. Munaretto made a motion, seconded by Ms. Draffkorn, to grant a one-year extension for the Preserve at Twin Creeks. The motion carried with all members present voting aye on a voice vote.

Chairman Hill brought forward Agenda Item 6.2 for consideration.

Waiver of Fees for McHenry County Islamic Center: Mr. Sandquist informed Committee members that there is an Ordinance previously adopted by the County Board which requires all fee waivers need to be approved by the County Board. The Islamic Center of McHenry County has made a request for a fee waiver for their building permit in the amount of \$2,938.00. They have already paid the building permit fee and they are requesting a fee refund in this amount. He stated he is worried about the precedent this fee waiver would set for the Board. Other non-profit organizations may feel that they would be allowed fee waivers for future projects, and also be approved for refunds for past projects. Based on a media request, Planning and Development has reviewed their files and they have not found any prior fee refunds for religious institutions. Mr. Donley stated that this would be a dangerous precedence. Hard times are hitting everyone and the County cannot do business for free, and he will be voting against this request. Ms. Draffkorn agreed with Mr. Donley's statements and said there are other churches and non-profit organizations who will be asking for this fee waiver. She believes the fees are justified and will be voting against this request. Mr. Sandquist confirmed that the fees charged cover the costs for providing the services. Chairman Hill stated that this request is for discussion purposes only and if the waiver of fees is approved, it would be forwarded to Planning and Development and they would prepare a Resolution. It was the consensus of the Committee that the waiver of fees for the Islamic Center of McHenry County not be sent forward.

OLD BUSINESS:

Administrative Adjudication Report: Mr. Hansel, Mr. Sandquist, Mr. Austin, Mr. McNulty, Ms. Schaupp and Ms. McCann joined Committee members for a discussion concerning pursuing an Administrative Adjudication process for ordinance violations. Chairman Hill reported that she recently heard about additional recourses that may be taken to collect a judgment namely a citation to discover assets, wage garnishment, and body attachment. Ms. Schaupp clarified the question previously posed concerning fines assessed by this Department and why they have not been collected. She explained that when there is a fine and a plea, it then goes to the Circuit Clerk's office where the party either pays the fine in full or is placed on a payment plan. Some fines are not collected because people have moved, they may be in jail, or filed bankruptcy. There is a system in place that starts recovering unpaid fines. It was suggested to start with adjusting the fees and agreeing on a minimum fine. Mr. Sandquist mentioned that at a maximum, all of the ordinances would have to be changed. He believes the Building Code Ordinance is the most important one right now. They currently have approximately 95 cases with 65% of those cases being building code violations. It was stated that the Ordinances could be changed, with a recommendation from this Committee. This recommendation would be forwarded to the County Board and, if approved, would go on a 30-day review. The new Ordinances could be in effect within a month or so if this is the recommendation of this Committee. Once a minimum fine is established, the State's Attorney's Office will be informed that there is a minimum fine, the same as the Health Department Ordinance violations. These violations/fines would not be back-dated, but the State's Attorney's office will verify this issue. Mr. Sandquist asked the Committee what is an appropriate minimum fine as there is a difference between a residential permit and a commercial permit. It was suggested that these may be divided based on whether the fine is a residential permit versus a commercial permit. If an Ordinance is changed, a Judge's discretion is taken away and the fine would be set at least at the minimums placed in the Ordinance. Committee members requested Mr. McNulty join the Committee for discussion on the Health Department's perspective since he has been trying to get an administrative adjudication process started for some time. He stated that the Health Department is very interested in this process as they deal with approximately 24 cases per month that end up in court. Most of these cases are animal control and environmental issues. He feels this process would be a quicker process as the court process takes a long time. The health Ordinances have minimums established but, if the case is tossed out, they receive nothing. On the animal control issues, in many cases they can issue tickets and they can pay up front. These tickets range from \$25 up to several hundred dollars. They can appeal a ticket and it could still end up in court. The Department tries to get these problems solved as quickly as possible. Most fines are repeated violations. Committee members were informed that the high profile cases, if they are serious, will find their way into the court system. There will always be cases that will take longer with complaints coming forward because of the time involved. It should save money when these smaller cases are kept out of the court system. We are wasting taxpayer dollars to go to court over a barking dog or a deck without a permit. It was noted that we may not save money with this process as we would need to spend money to establish this process to handle these cases, and depending on the estimates used, we would need to set the fines around \$300 in order to recoup the fees. If you do not hold these hearings weekly, it takes away from

the expediency that is attractive for Administrative Adjudication. It was noted that we would need to review security costs, recording secretary's costs, and clarify what the costs for the software would be in order to make an informed decision. There has been a budget request for the purchase of the software for next year. It was noted that the recording secretary cannot be a part of the enforcement group. Mr. Austin noted that this software is a high priority for next year and the software will cost approximately \$275,000 which includes a tracking component. Some Committee members suggested reviewing the June 22, 2010 memorandum from Mr. Sandquist identifying the Will County process necessary to establish the adjudication process. Kane County hired an attorney for this process. Mr. Sandquist stated that it would probably be necessary to hire someone that has already done this. Committee members stated it is important that the fee situation be settled first and once settled, they could start discussions on how to begin this process. Committee members instructed Mr. Sandquist to return to this Committee in two weeks with suggestions for minimum fines. He suggested to work with the building code first and then the sign ordinance as these address approximately 65% of the cases being seen. It was then suggested that they go ahead with the building code and try to get the minimum fines in place. They also suggested changing the time of the letters and not use the 10-day letter. The consensus of the Committee was to let the Department continue with the work on the code change and come back to the Committee with recommendations for minimum fines. Committee members voiced concern that this is creating another layer of government. It was stated that this process is smaller as it is more intimidating to go before a judge than seeing someone face-to-face.

Committee members questioned if the permit software would permit the integration with the Health Department. They were informed that invitations would be sent to all agencies to coordinate with them for permitting. If they all wanted to be on the same system, it would be agreeable with them. Committee members stated they would like to have Planning and Development check into the cost of a software program that will meet all of the needs, as well as make sure it could do Administrative Adjudication in the future. It was stated that this is a lengthy process to get up and running. Mr. Austin stated that they would present this by following the same model as the UDO. They could take some of the revenue and put this towards permit software and get it going over the next year. The same timetable could be used for the permit software as well.

It was suggested that the Health Department may want to start the adjudication process as well. Mr. McNulty stated they would like to see the process started so they can be on the same system. Mr. Sandquist stated he could put this in Ordinance format right away. Committee members questioned what part of the cost would be borne by the Health Department as this now seems to be a new revenue source. It was stated that this program should pay for itself in the long run. Mr. Hansel stated he would re-work the 14-day letter to include penalties and bring it back for review. It was also suggested that staff check with Kane County as they started this process with a tracking system and added an additional program at a later date.

NEW BUSINESS:

Greenwood Drainage District Appointment – Leonard A. Schultz: Committee members reviewed an application for the reappointment of Leonard A. Schultz to the Greenwood Drainage District. Mr. Munaretto made a motion, seconded by Ms. Schuster, to recommend the reappointment of Leonard A. Schultz to the Greenwood Drainage District. The motion carried with all members present voting aye on a voice vote.

Committee members discussed the process by which Applications for Appointment are distributed to Committee and County Board members. It was mentioned that "CONFIDENTIAL" may need to be stamped on all future Applications because they contain personal information. Staff informed Committee members that a copy of all Applications are sent to Committee and County Board members via email with a hard copy placed in their mailboxes. A copy of an Application is not attached to the meeting packets. It was mentioned that this is a matter that should be discussed by the Management Services Committee and for them to make recommendations to the staff on how to handle the future distribution of Applications.

REPORTS TO COMMITTEE, AS APPLICABLE:

Chicago Metropolitan Agency for Planning: Committee members stated that CMAP is regional planning and most of their money comes from Federal transportation dollars. MPO talks mostly about transportation. We do not have a say if we are members of CMAP or not. We give \$25,000 per year to CMAP which is optional. It was stated that there is concern that they are making plans and they say it does not mean anything when it does. CMAP used to be pure research function and about a year ago legislation changed and allowed them to have execution. It is the

execution part of their role that may make our plan in conflict with theirs. It was mentioned that they have ambitions for their plans to be implemented. They do not have zoning control, subdivision control, or control of the placement of local streets that are not federally funded. Kane County has used CMAP to assist them with sewer and water development and to keep development out of certain areas.

Community Development Block Grant Commission: Every year the CDBG Block Grant allocation requires 15% of the entire Grant be set aside for services. Because they had to change their calendar year, they are now in a position of possibly going over the 15% spending cap which would be against Federal law. They have had to freeze spending from their service agencies because they are presently at 12% of spending the Grant until the end of the year. They will be unfreezing some older contracts to allow them to finish 2009 and re-evaluate 2010 contracts in the beginning of December, 2010. If they can spend down more to get to the 15% without going over, they will.

Historic Preservation Commission: No update concerning the Victory Garden was available.

Housing Commission: It was reported that the next meeting is scheduled for September 21, 2010.

MISCELLANEOUS: Mr. Donley stated that he would like the Committee to come up with a clear definition as to what agritourism is in the County. More properties are doing corn mazes and constituents are not being required to come in for a Conditional Use Permit for agritourism. No guidelines are being provided for corn mazes. This matter was previously discussed by this Committee and a task force reviewed Michigan's definition of agritourism. The Committee and task force previously discussed this issue, an agreement could not be reached, and the matter died. It was suggested that people running a corn maze apply for a Conditional Use Permit and be required to have proper building and health permits. A farm is to grow and sell crops on the market. If a corn maze is located on a farm, Committee members voiced concern as to who inspects the farm property for safety issues with regard to a corn maze. Chairman Hill mentioned that this matter may be placed on a future agenda for further review and to start with Michigan's definition of agritourism.

EXECUTIVE SESSION: None.

ADJOURNMENT: Ms. Donner made a motion, seconded by Ms. Draffkorn, to adjourn the meeting at 9:50 a.m. The motion carried with a unanimous voice vote.

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RECOMMENDED FOR BOARD/COMMITTEE ACTION:
Reappointment of Leonard A. Schultz to the Greenwood Drainage District

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