

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

Tina Hill, Chairman

Randy Donley  
Sue Draffkorn  
Lyn Orphal

Mary L. Donner  
Marc Munaretto  
Ersel Schuster

MINUTES OF THURSDAY, OCTOBER 7, 2010

Chairman Donner called the Planning and Development Committee meeting to order at 8:30 a.m. The following members were present: Mary Donner, Vice-Chairman; Randy Donley; Sue Draffkorn; Marc Munaretto; Lyn Orphal, and Ersel Schuster. Tina Hill was absent. Also in attendance: Peter Austin, County Administrator; Kenneth Koehler, County Board Chairman; Pam Palmer, Auditor; Dennis Sandquist, Darrell Moore, Maryanne Wanaski, Sarah Ciampi and Matt Hansel, Planning and Development; Pat McNulty, Health Department; Jim Heisler and Mary McCann, County Board; interested public and press.

MINUTES OF PREVIOUS MEETING: Mr. Munaretto made a motion, seconded by Ms. Schuster, to recommend approval of the September 16, 2010 minutes of the Planning and Development Committee. Vice-Chairman Donner asked if there were any changes or corrections to the minutes. Hearing none from the committee, the minutes were approved with a unanimous voice vote of all ayes.

PUBLIC COMMENT: None.

PRESENTATIONS: None.

SUBDIVISIONS: None.

Vice-Chairman Donner requested that the meeting proceed to the New Business items.

NEW BUSINESS:

*Resolution Authorizing the Approval of the McHenry County 2011 Annual Action Plan for HUD Programming:* Ms. Draffkorn made a motion, seconded by Ms. Orphal, to recommend the County Board approve the above resolution. Ms. Schuster stated she would be voting against this because she is opposed to the process. The motion carried with all members present voting on a roll call vote of four ayes (Munaretto, Draffkorn, Orphal and Donner) and two nays (Schuster and Donley).

*Resolution Authorizing the Approval of Amendments to Resolution R-200708-10-208 and R-200910-10-313 and Allocation of Home Funds:* Ms. Draffkorn made a motion, seconded by Ms. Orphal, to recommend the County Board approve the above resolution. This is a reallocation of approximately \$432,000 from programs that were not able to expend the funds into new programs. If the money is not spent by March, it will be lost. The money is allocated for a senior retirement community in Lake in the Hills for affordable housing. A project off of Virginia in Crystal Lake did not receive state tax credits so the project did not proceed. There are 92 units in the entire project, 82 of which are affordable for senior citizens. The project is from the lowest level of affordability up to 60% affordability and there are ten at market rates. This project may have been able to be built without the assistance of this program. They do not have another shovel-ready project in McHenry County. The motion carried on a roll call vote of all ayes (Donley, Draffkorn, Orphal, Schuster, Munaretto and Donner).

*Resolution Authorizing the Approval of Funding Protocol for Community Development Block Grant Administrative and Service Cap Expenditures:* Mr. Donley made a motion, seconded by Ms. Orphal, to recommend the County Board approve the above resolution. Ms. Wanaski stated that the resolution has the options on how the County wants to choose service agencies for 2011. This Resolution purports to use general fund monies as one of the options, and subsequently be reimbursed at a future date, probably May or June, when they receive a grant from HUD after Congress passes its budget. This is a request to change the methodology with which they receive administration monies from external programs. Other counties have done this. Option A is for the grant dollars received. The reliability of these funds historically has been high so the incidence of risk on the County's behalf is low. Option B is to wait and allow them to incur costs from the date that we receive our Contract and go forward. They would be receiving the same amount of

money, but they would have less time to spend it. Ms. Wanaski was asked to explain the use of the words "incurable and reimbursable" in Option B. She explained that it should read "incurred and reimbursed". The Resolution will be changed to reflect which option the Committee chooses and the corrected version will be brought forward to the County Board. The committee is being asked to choose between Options A, B and C. Ms. Wanaski, speaking on behalf of the CDBG, suggested they choose Option A. If the County chose to capital advance these service agencies on the service contracts, they could not reimburse the County for the interest they lost. HUD does not incur interest on their accounts, nor can they pay interest lost on the accounts. The committee can revisit this in the future. This will start in 2012 because there are still contracts they will need to honor and they have very little money to put aside for service contracts for the coming year. It was mentioned that nothing is being changed if the committee selects Option A as it is consistent with what they have generally done in the past. This came from HUD headquarters and it is a cash flow issue for both parties. Mr. Donley amended his motion, seconded by Ms. Orphal, to accept Option A for consideration of the Resolution. The motion carried on a roll call vote of all ayes (Donley, Draffkorn, Orphal, Schuster, Munaretto and Donner).

Vice-Chairman Donner requested that agenda item #6.4, #6.5 and #6.6 be reviewed at the same time.

*Ordinance Amending Ordinance 0-2008-11-10-069 and Attachment A, Ordinance Amending Ordinance 0-2008-11-10-070 and Attachment A, and Ordinance Amending Ordinance 0-2008-11-10-073 and Attachment A:* Ms. Orphal made a motion, seconded by Mr. Donley, to recommend the County Board approve the above ordinances. It was mentioned that there were strong feelings several weeks ago about having a resolution brought to the committee that stipulated fines and fees. Members did not feel that they, as a group, were ready to vote on these ordinances and felt that further discussion would be appropriate. They requested a survey of neighboring jurisdictions as to what they are doing with respect to these issues. Several members would like to discuss these matters before making changes to the ordinances. One option would be to table this matter to a date certain. The sections printed in red are the proposed changes. Mr. Sandquist will contact surrounding jurisdictions and request a copy of the tables they use. Committee members stated that they would like to see that information in order to have a comparison. Mr. Sandquist mentioned that the typical fine is \$50. Mr. Hansel will provide committee members with periodic information as he receives it from surrounding counties. Committee members voiced their concern about all three ordinances being reviewed at the same time and asked that they be reviewed during the second meeting in November. Mr. Munaretto made a motion, seconded by Ms. Draffkorn, to table this matter until the 2<sup>nd</sup> meeting in November, that being November 18, 2010. The motion carried on a voice vote of all ayes.

#### OLD BUSINESS:

Mr. Sandquist, Mr. Hansel and Mr. McNulty joined committee members to discuss the recent horse racing event recently held in Union, IL. Mr. McNulty reported that as far as any unusual Health Department issues, there was nothing that required additional attention from this department. The owner of the property does not have a liquor license and attendees bring their own alcohol to the event. Mr. Hansel stated that this event was larger than the previous event they had on the 4<sup>th</sup> of July. They ran a race approximately every 35 to 40 minutes. He noted trash on the property during the event, but at the end of the event it was cleaned up. The Health Department inspected the adjoining road the next morning and there was no evidence of trash along the roadway. Concerning noise generated from the event, during the afternoon Mr. Hansel drove to Dunham Road and listened to the level of noise. There was noise coming from the property for approximately 25 seconds when the crowd cheered during a horse race. The Sheriff's Department provided security for this event and some of the deputies on site commented to him that it was an uneventful event. The event was scheduled to run from noon until 8:00 p.m., but it ended at approximately 7:00 p.m. because of darkness. Admission was \$25 per man with women and children free. They sold 1,000 tickets and they estimated approximately 1,500 attendees. They had a temporary use permit for this event. The owner is allowed six temporary use permits per year and not more than two events every three months. The owner indicated that they are planning a November 14 event, depending upon the weather. The Planning and Development Department placed an additional condition upon this permit that required the property be clean by noon the following day. The Health Department inspected the area the next day and there was no evidence of trash.

*Administrative Adjudication Report:* Mr. Hansel stated that at the previous P&D meeting, they directed staff to revise the 14-day violation letter and should consider eliminating the 10-day violation letter. A new proposed 14-day letter was presented to the committee. Mr. Sandquist mentioned that the intent was to make the 14-day more direct. Minimum P&D fines are \$50 fine and minimum court fees are \$150. This was brought before the committee for discussion purposes only. Members suggested that this matter be reviewed during the November 18, 2010 meeting. They agreed to leave the 10-day and 14-day violation letters the way they currently are until further discussion. They want to think about the intended and unintended consequences concerning this process. One of the unintended consequences may be that

Approved 11.4.10

offenders end up in court more often which will require more staff time to deal with situations when their original expectation was to try and resolve compliance without going to court. Mr. Hansel mentioned that one of his concerns while dealing with violators on a daily basis is that approximately 15% of their overall RFS cases go to court. Shortening the process by eliminating the 10-day letter will take away some of the flexibility the department has to try to work with people in order to bring them into compliance. This is an administrative process and there is already a lot of flexibility with the P&D Department. Mr. Sandquist stated that his department was comfortable with the process the way it is currently working using the 10-day and 14-day letters. Some people may be upset if they receive only a 14-day letter and may feel they were not allowed sufficient time to come into compliance. Most violations are complaint driven. Mr. McNulty mentioned that he will be placed on the October 13<sup>th</sup> Public Health and Human Services Committee agenda to discuss what their thoughts are with regard to moving forward with the administrative adjudication process. Committee members agreed to tie today's discussion with the November 18<sup>th</sup> discussion relating to minimum fees. It was reiterated that the current system using the 10-day and 14-day letters seem to work good. They need to be thoughtful as to whether or not they want to change that process. They want to strengthen their tools that allow them to isolate the 15% of violators who do not come into compliance.

Vice-Chairman Donner requested that agenda item #5.3 be reviewed next.

*Conditional Use List:* Committee members thanked Mr. Moore for the tremendous work in preparing the map and catalog of all active conditional uses. He was asked how this information would be used. It was mentioned that committee members will be able to refer to the materials provided in the event a constituent asks them if someone has a conditional use permit. They are also able to tell when a permit expires. Committee members stated that they would refer those questions to the P&D Department. Members were surprised to see how many permits were issued. They are able to view the map provided and have a visual of where all the condition use permits are. Many felt it was a great working tool that will fit into their next discussion concerning Ag Tourism. Some felt that it is something that should have been done long ago. Members asked if one of the maps could be posted in a County Board office so all Board members may view it. It was mentioned that many businesses should be zoned B-3 and they have received conditional use permits. With this map, they are able to see where certain types of zonings have been allowed, and where conditional use permits have been allowed. The map is one of the tools that will assist them. Algonquin, Nunda, McHenry, and Richmond/Burton Township areas have 368 of the County's 500+ conditional use permits. Some of the conditional use permits are perpetual and were established before the 1970s. There is an ordinance which requires a hearing in order to remove conditional uses. The map identifies the particular conditional use permits that do not have expiration dates. County Board members have previously discussed whether or not to have conditional uses at all. The underlying zoning of conditional use permits that have a time limit need to be monitored. Mr. Moore mentioned that the map and catalog have been a value to their department because it has brought separate tracking systems in line with one another. It has been helpful in identifying the permits for conditional uses that are still active. The number of conditional uses that are identified for flood hazards, especially along the Fox River, is significant. They are basically stormwater permits. It allows them to closely watch the areas in the flood zones.

*Ag Tourism:* Mr. Donley mentioned that the County should have a clear description of what they consider Ag Tourism. In order for farmers to conduct Ag Tourism, he feels that they should be zoned. When the word "tourism" is included in a description they would no longer be a farm, but would be in the tourist business. A corn maze is a tourist operation which is not farming. He believes Ag Tourism businesses should be required to have conditional use zoning. Many farms have buildings and structures that were built for farm purposes. Farms have not had to have their buildings comply with commercial building and safety codes because they are family businesses run as farms. If they have to have a conditional use permit to operate an Ag Tourism business, it would allow the County to inspect the property to make sure they comply with building and safety codes, food preparation standards, ventilation and interior building structure regulations. He mentioned that there should be no reason not to want farms to operate Ag Tourism businesses, which would allow them extra income for their farms. He also mentioned that the recent discussion concerning the horse racing activities on a local horse farm is required to obtain temporary use permits. The County does not have conditional use permits to operate horse races. Committee members mentioned that the original owner of the farm being used a horse farm conducting horse racing did apply for a conditional use permit as a fairground and they were denied the permit by the County Board. The County has approved a definition of Ag Tourism and it is defined in the 2030 Plan. There is not an

ordinance providing language that defines what Ag Tourism is. The first step is for the County Board to define Ag Tourism and the next step would be to regulate it. There is a State's Attorney's opinion that states Ag Tourism cannot be treated differently from other categories of retail operations that it might mirror. It was suggested that the committee review the conditional use permits issued to County farms that are currently operating Ag Tourism businesses. The 2030 Plan is a document that the courts use to decide what counties and municipalities can and cannot do. It was suggested that they be forthright to the community and farms in McHenry County and inform them what their definition of Ag Tourism is and allow them to conform to it. They learned a lot from the Ag Tourism Task Force. Farmers are at a disadvantage because the County does not have a clear definition of Ag Tourism stating rules and regulations and there are currently no guidelines for Ag Tourism. Committee members mentioned their support for farmers which have vegetable stands to sell items grown and raised on their farms. Several members would like to stay with the current agricultural use of farm properties and if they have a farm stand, that could also be considered Ag Tourism. If fruits, vegetables and other food items are purchased wholesale by farms to be sold on their property, there may be health inspection issues that may need to be addressed. Vice-Chairman Donner asked that a copy of the Ag Tourism Task Force report, along with a copy of the State's Attorney's opinion, be provided to all P&D Committee members. It was mentioned that the committee should be mindful of calling the quarter horse training events as horse racing events because the owner is calling them horse exhibition events. Also mentioned was the fact that farmers should have the right to sell fruits and vegetables without calling it Ag Tourism. When they start to provide rides on their property, it should be considered tourism. They need to define what Ag Tourism is, but also define what it is not. Door County has many activities and events involving Ag Tourism and the committee likes Michigan's definition of Ag Tourism.

*Chicago Metropolitan Agency for Planning: None.*  
*Community Development Block Grant Commission: None.*  
*Historic Preservation Commission: None.*  
*Housing Commission: None.*

Ms. Orphal mentioned that she had an opportunity to sit with Ms. Bola Delano, Executive Director of CMAP, during the recent EDC dinner. Ms. Delano was impressed with McHenry County and how they took the time to review the CMAP 2040 Plan.

MISCELLANEOUS: None.

EXECUTIVE SESSION: None.

ADJOURNMENT:

Noting no further business, Ms. Orphal made a motion, seconded by Ms. Draffkorn, to adjourn the meeting at 10:08 a.m. The motion carried with a unanimous voice vote.

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**RECOMMENDED FOR BOARD/COMMITTEE ACTION:**

- Resolution Authorizing the Approval of the McHenry County 2011 Annual Action Plan for HUD Programming
- Resolution Authorizing the Approval of Amendments to Resolution R-200708-10-208 and R-200910-10-313 and Allocation of Home Funds
- Resolution Authorizing the Approval of Funding Protocol for Community Development Block Grant Administrative and Service Cap Expenditures