

NATURAL AND ENVIRONMENTAL RESOURCES COMMITTEE
McHenry County Administration Building
667 Ware Road, Woodstock, IL 60098

MINUTES OF FRIDAY, OCTOBER 8, 2010:

Chairman McCann called the committee meeting to order at 8:32 a.m. The following members were present: Mary McCann; Anna May Miller; Pete Merkel; Yvonne Barnes and Barb Wheeler. Barb Wheeler arrived at 8:36 a.m. Virginia Peschke and Scott Breeden were absent. Also in attendance: Pete Austin, County Administrator; Cassandra McKinney, Water Resource Manager; Dennis Sandquist, Matt Hansel and Mark Phipps, Planning & Development; Jamie Rein, State's Attorney's Office; Undersheriff Andrew Zinke and Deputy Ed Sanderson, Sheriff's Department; Patti Nomm, Health Department; interested public and press.

	Mary McCann, Chairman	
Yvonne Barnes		JS "Scott" Breeden
Pete Merkel		Anna May Miller
Virginia Peschke		Barbara Wheeler

MINUTES: Committee members reviewed the minutes for the Natural and Environmental Resources Committee of September 10, 2010. Ms. Miller made a motion, seconded by Mr. Merkel, to recommend approval of the minutes as presented. The minutes were approved as submitted with a unanimous voice vote of all ayes.

PUBLIC COMMENT: None.

PRESENTATION:

Discussion of Quality of Life/Nuisance Issues and Ordinances with State's Attorney and Sheriff's Department:

Undersheriff Zinke, Deputy Sanderson and Ms. Rein joined committee members. Chairman McCann mentioned that the County has noise issues and some people have been issued disorderly conduct citations for noise issues. Undersheriff Zinke mentioned that they issue very few disorderly conduct tickets for noise issues. Undersheriff Zinke and Ms. Rein had a prior discussion concerning the possibility of creating an ordinance which would make it easier to enforce noise issues. This issue was first brought up four years ago and at that time discussions were had with the Sheriff's Department as to whether or not a charge of disorderly conduct could be used for noise issues. She has discussed this matter with the County's misdemeanor attorneys and they do not feel that they would be successful in enforcing disorderly conduct tickets for noise violations. If there was an ordinance for disorderly conduct, instead of the standard being a criminal punishment, the result would be a fine. This may be a better tool to use. If it were to mirror a nuisance-type conduct for noise, and use the same criteria as what is in the ordinance violation, the language would mirror almost exactly the language in the criminal statute, it is not necessarily just noise they could use it for. They could use it for other nuisance issues that arise. It would be up to the responding officer to make the determination whether they wanted to use the ordinance or the state statute. When Ms. Rein participated in interviews with consultants for work on a Unified Development Ordinance (UDO), they spoke with the candidates about incorporating some of the nuisance issues in the UDO, noise and property maintenance being a few issues. Mr. Sandquist stated they asked the final candidates what their experience was with working with nuisance/noise ordinances. Many had prior experience with these types of ordinances, and they had knowledge of the process to prosecute violators of these types of ordinances. Ms. Rein mentioned that noise is always going to be very subjective.

Committee members mentioned that in former discussions, several of them felt uncomfortable to move forward with another ordinance. They feel that a local disorderly conduct ordinance would do exactly what they were looking for. If the police arrived on the scene, and there was a problem with someone, they would still be able to enforce a local disorderly conduct charge instead of enacting a criminal disorderly conduct charge. It allows them to address it without being overly intrusive or burdensome. Other districts have had problems with people who have neighbors battling with each other over noise issues. This may be another tool for the Sheriff's Department that would address a neighborhood disagreement concerning noise. With a disorderly conduct charge, it is sometimes hampered because there needs to be a signed complaint by the person bringing the charges. Other municipalities do have disorderly conduct as an ordinance violation and Ms. Rein will conduct research as to how other municipalities have their ordinances worded. None of our immediate neighboring counties have them, but there are some counties further away that have some nuisance and noise ordinances along the same lines as disorderly conduct. The person making the complaint has to be willing to sign a complaint, attend court hearings, and testify. Permits are issued for special events and bars are covered under the Liquor

Ordinance. Mr. Sandquist mentioned that this subject is being forwarded to the UDO consultants and he will receive feedback from them concerning these matters. The UDO is suited more toward junk and debris violations, as well as land use violations. If consultants work on a nuisance ordinance, only part of it would be in the UDO. Mr. Phipps mentioned that the times he receives complaints related to noise is during construction projects. Many permits do not say that work has to be performed between 8:00 a.m. and 5:00 p.m. on weekdays. He has received complaints about projects he has issued permits for where work is allowed to begin at 7:00 a.m. and may continue through the weekend. Construction noise would be matters to consider being incorporated into a proposed noise ordinance. Currently, if someone is issued an ordinance violation, they are issued a ticket to appear on a date certain. On the first court date, they would appear in court and either plead guilty or not guilty and the complainant would not have to appear on the first court date. If the violator pleads guilty, they would be fined according to the fine structure for the charge. If they plead not guilty, a trial date would be set and the complainant would be notified of the trial date and they would have to come to court. Ordinance violations set for a bench trial will usually be tried within 60 days from the date of the issuance of the ticket.

The next point of discussion was inoperable vehicles. Deputy Sanderson presented the committee with a copy of Kane County's inoperable vehicle ordinance, "Section 15-1 Nuisances Declared". He referred to the highlighted area, Section (9) on page 3, and mentioned that this section would be useful if it were added to the County's inoperable vehicle ordinance. This section addresses inoperable vehicles parked in yards. According to the County's current ordinance, if a vehicle runs, it is allowed to be parked in a yard. Kane County's ordinance specifically states where vehicles must be parked and excludes land zoned for agricultural and business use. This is enforced through the Sheriff's Department and not the Planning and Development Department. He also suggested making another change to the County's ordinance concerning the 25-year-old exemption which allows people to leave old cars parked on their property for many years. This addresses vehicles that are operable, but are parked on a property. Owners intend to repair and drive the cars, but they do not fix them up. Inoperable boats are handled through the Health Department. It was mentioned that a change to the inoperable vehicle ordinance would have to be presented to the Law and Justice Committee. Ms. Rein stated she would meet with the Law and Justice Committee and provide them with the suggested language to be included in the existing inoperable vehicle ordinance. She will also discuss the proposed disorderly conduct ordinance with the Law and Justice Committee. Ms. Wheeler stated that she did not know how the issues of disorderly conduct and multiple vehicles parked at a home involved natural resources. She did not give her consensus to this matter moving forward. The remaining committee members gave their consent to move this matter forward.

NEW BUSINESS:

Resolution Authorizing Adoption of Letter of Understanding Between McHenry County and the McHenry County Conservation District. Ms. Miller made a motion, seconded by Mr. Merkel, to recommend the County Board approve the above resolution. Mr. Phipps joined committee members and explained that the Stormwater Management Ordinance (SMO) provides the County to enter into a Letter of Understanding with various governmental agencies to expedite the permit process for routine and minor projects. The McHenry County Conservation District (MCCD) submits stormwater management permit applications for projects of restoration, creation, and/or enhancement of natural areas. Most of the projects regulated by the SMO are MCCD projects that are on a large scale. The proposed LOU would reduce the cost for the MCCD to complete projects that meet the conditions of this LOU. It would also expedite the permit process for these projects by the County and MCCD agreeing to exercise their respective authorities to serve the public interest in the restoration, creation, and enhancement of natural areas. The proposed LOU has been reviewed and approved by the TAC, the State's Attorney's Office, the Stormwater Committee, IDNR, FEMA and the MCCD. Mr. Merkel mentioned that this matter was before the MCCD and their staff has been working with Mr. Phipps on this matter. Looking at the number of projects that the MCCD has, or looking at the future, this will help streamline the process. A question was raised as to whether or not this would be available to non-profit organizations and the Land Conservancy was given as an example. Mr. Phipps stated that he would have to talk with the State's Attorney's Office concerning this. He has not seen many permit applications from the Land Conservancy. Concern was voiced about an end date for the LOU. Article X states that "This LOU agreement may be terminated at any time by mutual agreement of the parties." The LOU also states that it may be terminated unilaterally by one party with 30 day written notice. The motion carried with all members present voting aye on a voice vote (Barnes, Merkel, Miller, Wheeler and McCann).

Mr. Sandquist mentioned that this will go before the County Board on October 19 which is good timing because that is the same day the proposed amendments to the Stormwater Ordinance will also come off 30-day review and hopefully be adopted.

OLD BUSINESS:

Water Resources Action Plan – Section II, Local Water Quantity and Quality

Sub-Section B1 – Overarching Recommendations: Ms. McKinney reviewed a grid-like format chart for this sub-section of the Water Resources Action Plan. She extracted only the policy recommendations and broke them down into attainable goals. She reviewed the suggested timeline for implementation. Implementation to preserve the quality and replenish the quantity of existing groundwater resources and preserve the capacity of groundwater systems to supply projected potable and non-potable water needs and to provide adequate base flows to sustain healthy aquatic ecosystems will be developed after policies are adopted. Committee members mentioned that they did not feel that preserving the quality and replenish the quantity of existing groundwater resources is the same as preserving the capacity of groundwater systems. It was requested that the two above-mentioned section be listed as “D”-Developing. They questioned what would be the components of the UDO that will identify what protection there will be for a certain area because it is a good recharge area. It was mentioned that one can still develop and protect recharge, but you have to develop in a responsible way.

Ms. McKinney reviewed the “Existing Standards” section and mentioned that they relate to public water supplies and municipalities. Some of them are applicable to the County. The Emergency Management Agency addresses state and federal regulated contaminants. NPDES is not being overlooked at this time, but rather will be addressed in a future summary. County regulations for abandoned wells is ongoing and being implemented by the Health Department. One of the underlying goals of the Water Resources Action Plan was to take everything that has to do with water, identify what it is that already has protections around it, and put it in a place where it is accessible. It was mentioned that the County does not have cross-connection control rules and regulations, but municipalities do. It was recommended that we consider developing something for this. If you have public water supply, when you hook up to it, you are to unhook from your private well so there is not a chance of cross-contamination. Ms. Nomm stated that they do have some citizens who have a community water source and a private well and they find it valuable to maintain their wells for irrigation purposes. The Health Department maintains a list of every one that has this type of system. At the time of the hookup, they make sure that the two systems are not interconnected and are separate. This ongoing list has been maintained for approximately the last eight to ten years.

Regarding new high capacity wells, it was asked if the County can request the Soil and Water Conservation District (SWCD) be responsible for collecting initial information for high capacity wells. They would like to have neighbors notified if there is a proposed high-capacity well being proposed in an area. The State of Illinois abides by the Doctrine of Reasonable Use and our state law states that we cannot regulate how much water you can take. We can take into account the amendment that was made to the Water and Use Act of 1983 which states that all water users over 100,000 gallons per day have to report their water usage. Ms. McKinney recommends a notification system for additional high capacity wells. Absent actual authority, this notification system would be where the County and the SWCD work together and enter into an intergovernmental agreement for a notification system. If someone proposes a new well, then SWCD would work with Ms. McKinney to inform the neighboring communities of a proposed well. If there are proposed impacts, there will be a coordinated effort to insure sustainable water supplies. When the water survey project is completed, a tool called “You Water” will be prepared. Anyone will be able to put a point on a map and it will show you the approximate area of impact a well or development will have on groundwater, surface water and wetland features. The proposed 36-month timeline for the notification system to be complete seems a long time, according to several committee members. They would like to have the implementation of the notification system be a priority and have it completed sooner. Ms. McKinney stated she will be working with the SWCD to develop the notification system. **In the next six months, the committee would like to review a draft of an intergovernmental agreement regarding the suggested notification system.**

Concerning Sub-Section B6 – Winter Snow and Ice, Ms. McKinney announced that they received a \$10,000 grant from the U.S. Environmental Protection Agency to host the Winter Snow and Ice Workshop being held on either October 22 or November 5, 2010. Because of the grant, the cost of the workshop has been reduced to \$25 per participant compared to last year’s workshop cost of \$45. In addition, a handbook has been compiled for the private-sector concerning snow and ice. Last year’s handbook concerning the public sector will also be provided to all attendees.

REPORTS TO COMMITTEE:

Update on 2010 Gypsy Moth Aerial Spraying Program and discussion on 2011 Program: Mr. Labaj joined committee members and stated that they had a successful spray this past spring. The acreage continues to decline and they

sprayed 694 acres this past year. Two years ago they had 2600 acres. There is not the infestation there was three years ago. McHenry County is still a quarantined county. The County tries to maintain and control the gypsy moths. The 2011 program starts in December for the May spraying. The County works with townships and municipalities on the contract with Hendrickson Flying Service. By comparison, this time two years ago there were 200 complaints concerning the moths, last year they received 42 complaints, and this year there have only been 18 complaints. Staff has been in touch with several municipalities and because of budget limitations, we do not know who will be participating next year. There are several options for next year. The County can zero out and not do any spraying next year. Another option is for the County to play a coordinating role with townships and municipalities, verify infestations, do the GIS mapping for Hendrickson Flying Service, but not allocate funds into the actual spray. Another option is to fund the program, perhaps at a lower level than the previous year. It takes approximately six months to coordinate this project. Hendrickson Flying Service does not spray for any areas that are less than ten acres. Homeowners who spray also help to control the population of the moths. A very wet spring that produces mold and fungus is bad for the gypsy moths because the fungus produced is a natural enemy of the moths. Right now the program has been zeroed out of the budget, but this is not to suggest the program is being abandoned. It was suggested that the County coordinate the program with Mr. Labaj and Mr. Lehmann doing an initial evaluation of townships and municipalities. It was requested that Paul Stevens be retained as a consultant. He is also contracted with the State's Agricultural Office. Last year this project had a budget of \$25,000. Ms. Wheeler liked the idea of the County staying as the coordinator of this program, but wants to encourage the education component as to what individual landowners can do to keep the numbers down. We could focus the education aspect of the program in the spring of 2011. **There was consensus of the committee to continue with the program, have the County be the coordinating agency for the program, and stress education at the private level. Paul Stevens will be retained and his fees shall not exceed \$15,000 and will be taken out of the contingency fund. The gypsy moth program will stay on the records as a budget line item, but with a zero balance for the coming fiscal year.** Several members expressed disappointment that there will not be any money for spraying next year. The major areas of concern for the 600 acres were in Crystal Lake, the Cary Park District, and Lake in the Hills.

Mr. Austin mentioned that during the recent budget discussions, they discussed reducing our contribution to the Soil and Water and the Extension Service. It was proposed to pull our contribution to both groups back to where we were in 2008. The State pulled out their funding and the County stepped in 2009 and 2010. Funding for Soil and Water increased from \$30,000 to \$40,000 and funding to the Extension Service increased from \$55,000 to \$70,000. It was suggested to retreat back to the 2008 figures. Both of these offices will be consolidated and the impact on the County is unknown at this time. Mr. Austin recently met with the acting director of the Extension Service and the State is consolidating the extension offices in multi-district offices and we will be partnered with Lake County. This County's home office will eventually be in Grayslake and eventually there will not be an office in Woodstock. Our dollars go towards education efforts. How those education dollars are parceled out and where they will be spent is currently undetermined. There is concern that our education dollars will be going towards training classes in Lake County. Lake County put in \$95,000 last year and we put in \$70,000. They are decreasing their contribution by \$25,000 and going back to \$70,000. Lake County's administration suggested to zero out their contribution. There are more questions concerning what will be happening with the Extension Service. He would like to see a reduction in our contribution back to the 2008 level which would be a reduction of \$15,000. The State is losing overhead costs and reducing staff. The acting director of the Extension Office will be meeting with the PH&HS Committee and we will ask him more questions at that time. Committee members questioned whether the dollar amount given to them would be given with the understanding that the money is to be used in McHenry County. They would like to know what can be expected in the future as to what will be provided to McHenry County citizens. Mr. Austin will ask the acting director those questions. He mentioned that we have to first agree on what we are going to provide them.

Concerning the Soil and Water Conservation District, Ed Weskerna will be meeting with Mr. Austin next week and they will talk about what is happening at the State level for soil and water, and how the consolidation of staff, offices and overhead is going to impact them. He believes Lake County was proposing to zero this out of their budget and he will do some research concerning this. Soil and Water charges us for the work they do for us, and they charge the applicants for the work they do for them, yet we donate money to them as well. He asked what the money goes toward and Mr. Weskerna mentioned it goes to overall operations. He will be asking Mr. Weskerna what we will be receiving for our investment.

Mr. Sandquist mentioned that they don't bill the Planning and Development Department, but rather they bill the property owner or developer. Mr. Austin also mentioned that they also do some free work for DOT as it relates to ditches and

bridges. It was suggested that the County move toward a fee for service model. Committee members felt that this would be a better direction for Soil and Water matters because the County may be charged more than what it donates to them. The County is providing them money and the committee would like to know what the County will be receiving for their investment. If some of the work is being done at no cost for DOT projects because of investments made by the general fund, perhaps some of that should come from DOT funds.

Chairman McCann suspended further discussion concerning the Water Resources Action Plan until the next Natural and Environmental Resources Committee meeting.

McHenry County Conservation District: Mr. Merkel reported that the Trail of History will be this month. Also, accolades to Elizabeth Kessler, the Executive Director. She is currently the President of the National Parks and Recreation Ms. Kessler and he will be attending the annual conference during the last week in October and she will be presiding over this event. McHenry County is getting a lot of recognition and she has done a great job.

Agricultural Conservation Easement Farmland Protection Commission: Ms. Wheeler reported that Knox County EDC's Chairman attended the recent meeting. They are trying to encourage ACE to look at an economic pattern they are using with a food council in creating food sheds. They are encouraging specialty growers, especially vegetables and livestock, to increase the level of economic development by creating food sheds. Knox County is going to do a seminar concerning this on November 6. They encouraged them to bring it to this committee, and to the County Board, to create a food council. The ACE program thought they did not need a food council since they may be able to do it. If the committee wanted ACE to explore this program, ACE would need to build a business plan, re-train farmers to grow more vegetables, have more specialty growers, along with livestock, in order to supply the Chicagoland market. Knox County's EDC numbers were very impressive. This is for the commercial market and they want to encourage diversification into vegetables and livestock for local markets. The first step is to create a food council. If Ms. Wheeler has the consensus of this committee, she will go back to ACE and ask them to revisit their by-laws and mission and expand their overall goals. **It was the consensus of the committee that ACE explores Foodshed and a food council.**

Regional Water Planning Group: None.

Greenways: None.

Green Team: None.

Chairman McCann mentioned that the McHenry County Soil and Water Conservation District is having a drainage workshop on October 26, 2010 in Woodstock.

EXECUTIVE SESSION: None.

FUTURE TOPICS: None.

ADJOURNMENT: Ms. Miller made a motion, seconded by Ms. Wheeler, to adjourn the meeting at 10:25 a.m. The motion carried with all members present voting aye.

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RECOMMENDED FOR BOARD ACTION/APPROVAL:

Resolution Authorizing Adoption of Letter of Understanding between McHenry County and the McHenry County Conservation District

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