

MCHENRY COUNTY BOARD
MINUTES OF THE REGULAR SESSION MEETING
JANUARY 18, 2011

Chairman of the Board – Kenneth D. Koehler (District 2)

District 1
Robert Bless
Anna May Miller
Marc Munaretto
Robert Nowak

District 2
J.S. "Scott" Breeden
James Heisler
Kenneth Koehler
Donna Kurtz

District 3
Mary L Donner
Nick Provenzano
Kathleen Bergan Schmidt
Barbara Wheeler

District 4
Sue Draffkorn
John Hammerand
Pete Merkel
Sandra Fay Salgado

District 5
Tina Hill
John P Jung Jr.
Virginia Peschke
Paula Yensen

District 6
Randall Donley
Diane Evertsen
Mary McCann
Ersel C Schuster

The Honorable County Board of McHenry County, Illinois met in Regular Session on Tuesday, January 18th, 2011.

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. Wheeler gave the invocation/personal remarks.

ROLL CALL

The roll was called by County Clerk Katherine Schultz. The following members responded: Donner, Draffkorn, Evertsen, Heisler, Hill, Jung, Kurtz, Miller, Munaretto, Nowak, Peschke, Provenzano, Salgado, Schmidt, Schuster, Wheeler, Yensen, Bless, Breeden, Donley and Koehler. Absent: Hammerand, McCann and Merkel. Parliamentarian Jamie Rein was present. Chairman Koehler declared a quorum present with twenty-one (21) members responding.

MINUTES

Minutes of County Board Regular Session meeting of January 6, 2011.

Mr. Heisler made a motion seconded by Ms. Yensen to approve County Board minutes of January 6, 2011

Chairman Koehler asked if there were any changes/corrections to the minutes, there were none. Chairman Koehler asked for a voice vote, the ayes having it, he declared the motion to approve County Board minutes of January 6, 2011 has passed.

CHAIRMAN'S REMARKS

Chairman Koehler asked for a moment of silence for the victims of the Tucson, AZ shootings. The Chairman said board members have a memorandum from Don Leist with an update/FYI on the Seipler vs. Nygren case that was brought forth last week. Also, Chairman Koehler said you will notice several items under New & Unfinished Business; those are there because there was not a quorum at the Finance Committee meeting last week. Next, at the February 1st meeting the Chairman said he will be delivering the State of the County address and hopes that everyone will be in attendance. At this same meeting we will have a report from Jason Osborn on the pilot transportation program and in addition TJ Ross from PACE will also be here to answer any questions about what PACE's participation is in what the future will bring with that project. Chairman Koehler said last week he was in Springfield for a few days and it was an interesting trip. He met and had an opportunity to talk with several other County Board Chairmen. They had some issues with the RTA that were settled within the favor of the collar counties which was good. He also had the opportunity to meet with Mark Kirk and his Chief of Staff.

Chairman Koehler said tomorrow he will be going to a NACO Conference for an Energy Efficiency and Renewable Energy Forum which is going to highlight McHenry County, doing a three minute piece that we will be featured in telling of the things that McHenry County has done with our energy program. Mr. Hadley will be attending as well as Becky Werra from Siemens. The Chairman said hopefully we will be able to use that piece when we have our kiosk down stairs talking about all the energy programs that can be done at home as well as in the county.

SPECIAL RECOGNITION/REPORTS

None

SPECIAL PRESENTATIONS

None

ZBA CONSENT AGENDA

Chairman Koehler asked if anyone wished to remove a petition. Ms. Hill asked to remove Exb #10-45.

Ms. Hill made a motion seconded by Ms. Donner to approve the following Petition:
Exb #10-16; McHenry Twp; Kearns Trust; reclass B2-B1CV

Chairman Koehler asked for any discussion.

Ms. Schuster made a motion seconded by Ms. Wheeler to separate Exb #10-16 into two votes, the reclassification from B2 to B1 with variance and the other for the conditional use permit.

Ms. Schuster said in this report staff is telling the ZBA that there are several issues and inconsistencies and she is concerned that the lot size of just over a quarter of an acre is not big enough to have a building where there will be three apartments and a business.

Chairman Koehler asked for a voice vote, the ayes having it he declared the motion to separate Exb #10-16 into two votes has passed.

Chairman Koehler asked for any other discussion. Ms. Schuster said she supports the reclassification. Mr. Kelly of the ZBA noted that the building needs the variances to be conforming under B1. The CUP could be voted on separately.

Chairman Koehler asked for a roll call vote on the motion to approve reclassification from B2 to B1V. The following members responded aye: Donner, Draffkorn, Heisler, Hill, Jung, Kurtz, Miller, Munaretto, Nowak, Peschke, Provenzano, Salgado, Schmidt, Schuster, Wheeler, Yensen, Bless, Breeden, Donley and Koehler. Nay: Evertsen. Absent: Hammerand, McCann and Merkel. The vote being twenty (20) ayes and one (1) nay noting three (3) absent, Chairman Koehler declared the motion to approve reclassification from B2 to B1V has passed.

Ms. Hill made a motion seconded by Ms. Schuster to approve the conditional use permit request on Exb #10-16.

Chairman Koehler asked for any discussion. Ms. Schuster expressed concern about the size of the property and the septic system on the property being acceptable as there are going to be three apartments and a business. Staff repeatedly made comments in the report that it was not complying and was not consistent. The ZBA found no reasons to deny this. Ms. Peschke pointed out that in 2003 the septic system was upgraded and approved for a four bedroom house. She said this is kind of a traditional way of doing affordable housing and she feels this gives people an opportunity to live in an area they like and still pay affordable rent.

NEW AND UNFINISHED BUSINESS

12.1 *Resolution authorizing the Designation of the Office of the State's Attorney's Appellate Prosecutor*
Mr. Provenzano made a motion seconded by Mr. Breeden to approve the above-named resolution.

Noting no discussion, Chairman Koehler asked for a roll call vote. The following members responded aye: Donner, Draffkorn, Evertsen, Heisler, Hill, Jung, Kurtz, Miller, Munaretto, Nowak, Peschke, Provenzano, Salgado, Schmidt, Schuster, Wheeler, Yensen, Bless, Breeden, Donley and Koehler. Absent: Hammerand, McCann and Merkel. The vote being twenty-one (21) ayes noting three (3) absent, Chairman Koehler declared the motion to approve 12.1 *Resolution authorizing the Designation of the Office of the State's Attorney's Appellate Prosecutor* has passed.

12.2 *Resolution authorizing budget line item transfers in the fiscal year 2010 budget between General Fund Departments – Non-Departmental and County Coroner*

Mr. Provenzano made a motion seconded by Mr. Heisler to approve the above-named resolution.

Noting no discussion, Chairman Koehler asked for a roll call vote. The following members responded aye: Donner, Draffkorn, Evertsen, Heisler, Hill, Jung, Kurtz, Miller, Munaretto, Nowak, Peschke, Provenzano, Salgado, Schmidt, Schuster, Yensen, Bless, Breeden, Donley and Koehler. Absent: Hammerand, McCann, Merkel and Wheeler. The vote being twenty (20) ayes noting four (4) absent, Chairman Koehler declared the motion to approve 12.2 *Resolution authorizing budget line item transfers in the fiscal year 2010 budget between General Fund Departments – Non-Departmental and County Coroner* has passed.

12.3 *Resolution authorizing payment of special prosecutor fees and consultant fees from the General Fund fiscal year 2010 Contingency*

Mr. Provenzano made a motion seconded by Ms. Yensen to approve the above-named resolution.

Chairman Koehler asked for any discussion. Ms. Yensen asked about getting a full accounting of the hours being billed for this. Mr. Austin agreed that this is a fair question but at this time we cannot get an accounting; this is a Court Order and we have to pay. He added that he has to have a level of confidence in our judiciary that they are watching these bills and taking this very seriously. Ms. Salgado asked if it is true that if this was handled by an Appellate Prosecutor that it would be \$30,000 regardless of what went on with the investigation. Mr. Austin said we pay \$30,000 - \$35,000 annually to the State's Appellate Prosecutor program but he does not know if it is applicable in this situation. Ms. Salgado said she will be voting no on this because she can't get an answer to her question. She questioned why this comes before the County Board when the board has no control over this. Mr. Austin said this comes before the board because of the size of the expenditure and it's coming from contingency dollars. Ms. Kurtz asked what the perimeters are on this. Mr. Austin said at this point there are many unanswered questions and this will end when the case is resolved. We know there is a court case set for the week of March 21st but the status as to where and what kind of trial this will be is unclear.

Ms. Miller asked if the Special Prosecutor was appointed just for the investigation or for the entire process and at what point do they stop investigating. Mr. Austin responded that the State's Attorney's office is our prosecutor, most of the time, and they have an investigative branch that does investigations. There were many months of investigation that preceded the indictment that came down in September and more thereafter. In this instance we have separate investigators and prosecutor working together on this. Ms. Miller stated that we will be responsible for whatever the charges are until this whole process has been fully vetted, then. Mr. Austin said that is a fair statement.

Chairman Koehler said it's known that the Grand Jury met again on Friday and the board will be kept informed of any new information. Mr. Provenzano asked who provides the County Board our legal counsel at this time as it relates to the issues we are discussing. Mr. Austin said we have secured outside counsel to assist the Administration office chiefly with communication issues, wanting to make

sure that we are releasing information properly and in accordance with the law. Mr. Provenzano asked if this outside counsel could answer some of the questions being asked. Also, he asked if a no vote could lead to a contempt of court charge to any of the board members or Administrator. Chairman Koehler said chances are board members would not be held in contempt. The Chairman said we could ask outside counsel to come in for the February 1st meeting noting this would create additional expense which they've been very cautious about doing. Ms. Salgado asked that outside counsel come prepared to answer her question if this could have been handled by an Appellate Prosecutor and what the ceiling of cost would have been. Several board members were against approving this Resolution agreeing that McHenry County does not have a bottomless pocket however given this is a court ordered expense the bill must be paid. It was asked if there would be any insurance coverage. Mr. Labaj said no. Chairman Koehler said very good questions are being asked and they have been addressed to the Chief Judge and we were told that we should wait and be patient.

Noting no other discussion, Chairman Koehler asked for a roll call vote. The following members responded aye: Donner, Draffkorn, Evertsen, Heisler, Hill, Jung, Kurtz, Miller, Munaretto, Nowak, Peschke, Provenzano, Schmidt, Schuster, Yensen, Bless, Breeden and Koehler. Nay: Salgado. Absent: Hammerand, McCann, Merkel, Wheeler and Donley. The vote being eighteen (18) ayes and one (1) nay noting five (5) absent, Chairman Koehler declared the motion to approve 12.3 *Resolution authorizing payment of special prosecutor fees and consultant fees from the General Fund fiscal year 2010 Contingency* has passed (very reluctantly).

12.4 *Resolution authorizing Acceptance of the State of IL Emergency Management Hazardous Materials Emergency Preparedness (HMEP) Planning Grant and an emergency appropriation to the Emergency Management Agency's fiscal year 2010-2011 budget*

Mr. Provenzano made a motion seconded by Mr. Breeden to approve the above-named resolution.

Noting no discussion, Chairman Koehler asked for a roll call vote. The following members responded aye: Donner, Draffkorn, Evertsen, Heisler, Hill, Jung, Kurtz, Miller, Munaretto, Nowak, Peschke, Provenzano, Salgado, Schmidt, Schuster, Yensen, Bless, Breeden and Koehler. Absent: Hammerand, McCann, Merkel, Wheeler and Donley. The vote being nineteen (19) ayes noting five (5) absent, Chairman Koehler declared the motion to approve 12.4 *Resolution authorizing Acceptance of the State of IL Emergency Management Hazardous Materials Emergency Preparedness (HMEP) Planning Grant and an emergency appropriation to the Emergency Management Agency's fiscal year 2010-2011 budget* has passed.

12.5 *Resolution authorizing the Acceptance of the IEPA Solid Waste Enforcement Grant*

Mr. Jung made a motion seconded by Ms. Donner to approve the above-named resolution.

Noting no discussion, Chairman Koehler asked for a roll call vote. The following members responded aye: Donner, Draffkorn, Evertsen, Heisler, Hill, Jung, Kurtz, Miller, Munaretto, Nowak, Peschke, Provenzano, Salgado, Schmidt, Schuster, Wheeler, Yensen, Bless, Breeden, Donley and Koehler. Absent: Hammerand, McCann and Merkel. The vote being twenty-one (21) ayes noting three (3) absent, Chairman Koehler declared the motion to approve 12.5 *Resolution authorizing the Acceptance of the IEPA Solid Waste Enforcement Grant* has passed.

APPOINTMENTS

Ms. Hill made a motion seconded by Ms. Miller to approve the following Appointments:

McHenry County Historic Preservation Commission

Nick Chirikow term to 11/26/2015

Steven J Greeley term to 11/26/2015

Marengo Rescue Squad District

Scott R Higgins

term to 12/31/2014

Sally C Hansen

term to 12/31/2014

Chairman Koehler asked for any discussion. Mr. Provenzano said in regard to the Marengo Rescue Squad, the Law & Justice Committee interviewed four good candidates. The Village of Union had expressed significant concern about having representation so they did provide them with that by recommending Sally Hansen for appointment.

Chairman Koehler asked for a roll call vote. The following members responded aye: Donner, Draffkorn, Evertsen, Heisler, Hill, Jung, Kurtz, Miller, Nowak, Peschke, Provenzano, Salgado, Schmidt, Schuster, Wheeler, Yensen, Bless, Breeden, Donley and Koehler. Absent: Hammerand, McCann, Merkel and Munaretto. The vote being twenty (20) ayes noting four (4) absent, Chairman Koehler declared the motion to approve Appointments has passed.

STANDING COMMITTEE CHAIRMAN UPDATES

None

ROUTINE CONSENT AGENDA

Chairman Koehler noted there were no items on the Routine Consent Agenda

ORDINANCES

For Action:

- A. Ordinance amending Ordinance O-200811-10-069 (National Electrical Code 2008)
- B. Ordinance amending Ordinance O-200811-10-070 (International Building Code 2006)
- C. Ordinance amending Ordinance O-200811-10-073 (International Residential Code 2006)

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

Chairman Koehler asked if there was any discussion. Ms. Hill said to keep in mind the intent is always for people to comply to the County's ordinances, however these amendments are setting minimum fines for those people who have specific violations that end up in court and are found guilty of their violations. Chairman Koehler asked for a voice vote, the ayes having it, he declared the motion to approve the above-named Ordinances has passed.

ADMINISTRATOR'S REPORT

Mr. Austin said the Strategic Planning meeting is on February 4th starting at 8:30 am and should be done by Noon. The meeting will be preceded by the sausage and biscuit throw down at 7:30 am.

Mr. Austin told the board our budget is now on line however if anyone would like a paper copy of the budget please let him or Mr. Sarbaugh know. Also, he said the Budget in Brief document should be ready for distribution in early February. Finally, Mr. Austin said the County Board Rules are being discussed. He has spoken with Ms. Rein in the State's Attorney's office as well as Chair of the Management Services Committee; they are trying to get the next version of the County Board Rules ready at Management Services for the January 24th meeting. After that hopefully they will be far enough along to distribute a document to the full board showing the suggested changes. Their target for the new County Board Rules to come before the full board for a vote is February 15th.

MEMBERS' COMMENTS

Ms. Peschke thanked the Planning & Development staff for their fine analysis of the two complicated zoning issues that came before the board tonight. Also, she noted that she missed the Housing Commission meeting this morning because she wasn't e-mailed and it wasn't on the calendar.

She said she wished some of those meetings that are not strictly County Board meetings would be appearing on the calendar. She noticed that the Strategic Plan meeting is not on the calendar either. Chairman Koehler said this has been difficult; he also has missed a few meetings because of this as well.

Mr. Austin said trying to have every meeting on the calendar didn't work because in some instances there was not enough space in the square. He has talked with Ms. Draffkorn about CDBG, he believes this one will be moved because of how many board members are on this as well as maybe the Housing Commission meetings. Mr. Austin said they are trying to find the right balance. Chairman Koehler noted that notification of meetings is becoming a problem as well as the meetings not being on the calendar. Mr. Austin said he will have to look into who is responsible for notification.

Ms. Draffkorn agreed saying she had interviews with the sub-recipients for CDBG and out of the seven board members that are on this committee, there were three not there. She believes having a calendar that we can easily look at will help remedy this as well as notification.

EXECUTIVE SESSION

None

ADJOURNMENT

Ms. Yensen made a motion seconded by Mr. Heisler to adjourn at 8:06 p.m. Chairman Koehler declared the motion passed on a unanimous voice vote.

Dated and approved at Woodstock, Illinois this 1st day of February, A.D., 2011.

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

ATTEST:

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