

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

MINUTES OF WEDNESDAY, JULY 27, 2011:

Chairman McCann called the committee meeting to order at 8:34 a.m. The following members were present: Mary McCann, Chairman; Donna Kurtz; Pete Merkel; Bob Nowak; Virginia Peschke and Kathleen Bergan Schmidt. Marc Munaretto was absent. Also in attendance: Peter Austin, County Administrator; Patti Nomm, Department of Health; Dennis Sandquist, Cory Horton, Alicia Law and Cassandra McKinney, Planning & Development; Dave Christensen, EMA; Paula Yensen, County Board; and interested public.

	Mary McCann, Chairman	
Donna Kurtz		Pete Merkel
Marc Munaretto		Bob Nowak
Virginia Peschke		Kathleen Bergan Schmidt

MINUTES: Committee members reviewed the Natural and Environmental Resources Committee minutes of May 11, 2011; Joint Meeting with the Finance and Audit Committee of June 7, 2011; and June 8, 2011. Ms. Peschke made a motion, seconded by Mr. Nowak, to approve the three sets of minutes. The three sets of minutes were approved with a unanimous voice vote of all ayes.

PUBLIC COMMENT: None.

PRESENTATION: None.

Chairman McCann requested that agenda Item No. 6.2 be discussed next.

NEW BUSINESS:

Water Resources Action Plan (WRAP), Sub-Section B9: Planning for the Future: Ms. McKinney and Mr. Dave Christensen, County EMA Director, joined committee members to review this subsection of the WRAP. Ms. McKinney provided members with a copy of the outline of the presentation concerning drought that she presented to the Groundwater Task Force regarding the implementation of this sub-section. The McHenry County Natural Hazards Mitigation Plan defines drought as "A period of unusually persistent dry weather that continues long enough to cause serious problems such as crop damage and/or water supply shortages." Item No. 1 mentioned that the County, local municipalities and other water suppliers should have identified, evaluated, and agreed upon potential provisions for alternative means of supply and distribution that may be necessary during severe or long-term water supply emergencies. A contingency plan should contain a priority for the distribution of a water supply in the event of an emergency. The plan should include an up-to-date list of engineering companies that can provide scientific consultation in case a new well needs to be installed, or devise a plan where water can be delivered from one area to another. The contingency plan should also include short-term water supply replacement alternatives such as bottled water and the use of alternative wells. Ms. McKinney mentioned that the water supply contingency planning also relates to spills, contamination incidences, or other types of disasters that would cause a well to be unusable.

Chairman McCann mentioned that farmers near Union, Illinois irrigate their corn and vegetable crops which impact the shallow wells for that area. Ms. McKinney stated that the State of Illinois Water Act is based on the Reasonable Use Law which states the ability to use as much water as a person deems reasonable until it is proven to be otherwise by a court of law. Ms. Kurtz requested Chairman McCann help ensure that a drought plan be integrated into the Unified Development Ordinance (UDO) that the Planning and Development Department is currently having updated. Many sod farms located in the County also pull large amounts of water from shallow aquifers for irrigation purposes. Ms. Nomm explained the amendments concerning high capacity wells which are wells that are primarily seen in the rural areas of the County for irrigation purposes with some of them producing as much as 1200 gallons per minute. The Health Department has been working with the Soil and Water Conservation District (SWCD) and the update to the Water Use Act requires that the SWCD notify municipalities and townships of proposed high-capacity water wells. They are working together to make sure the notifications are taking place. The Act also requires the State Water Survey to do an evaluation of the impact of the high-capacity wells. The Health Department tries to obtain the information prior to issuing permits for high-capacity wells, but the Illinois State Water Survey has limited resources which makes it difficult for them to perform the evaluations. There are currently three new high-capacity wells being installed in the Marengo/Union area and two high-capacity wells are pending. These high-capacity wells will be used for agricultural purposes. Mr. Merkel questioned if the County has

the ability or legal authority to regulate the agricultural use of water. Ms. Nomm mentioned that the Illinois State Water Well Code states that before anyone may obtain a permit, they have to show that the aquifer can supply the amount of water they are going to draw from the aquifer. The Health Department cannot tell anyone how much water they can draw per day. Ms. McKinney stated that after an impact evaluation is performed, the Illinois State Water Survey (ISWS) may recommend to the Illinois Department of Agriculture that a restriction be placed on a high-capacity well. The ISWS's future funding has not been approved and they are currently operating on limited funds because they currently do not have a budget. It was mentioned that all three of the State of Illinois' surveys are currently tied up in budget issues with the State of Illinois, those being the ISWS, Natural History Survey and the Geological Survey. McHenry County uses data from these three surveys and it is important that they remain funded because they provide community services, as well as providing information for the County. It was the consensus of the committee members to request that Mr. Austin draft a memorandum to the Legislative and Intergovernmental Affairs (LIA) Committee requesting the LIA Committee send a letter to the Governor of Illinois endorsing funding for the three surveys mentioned above.

Ms. McKinney reviewed Item Nos. 2, 3, 4, 5, 6 and 7 of sub-section B9 of the WRAP with committee members. There were no suggested changes made by the members to any of these sections. Ms. McKinney mentioned that the County needs to be proactive concerning water resources because there is only one water supply for the County which is groundwater. Mr. Christensen stated that EMA's role will be educating children and the community to be proactive concerning the use of groundwater. Ms. Kurtz made a motion, seconded by Ms. Peschke, to approve the WRAP Sub-Section B9: Planning for the Future and adopt this section of the WRAP. The motion carried on a unanimous voice vote of all members present voting aye (Kurtz, Merkel, Nowak, Peschke, Schmidt and McCann).

OLD BUSINESS:

Water Resources Action Plan (WRAP), Section II: Sub-Section B4) Open Space: Ms. McKinney reviewed with committee members the edits made to the matrix based upon committee discussion during the last committee meeting concerning Sub-Section B4) Open Space. The points of clarification/corrections are in red print on the matrix. Pursuant to the prior request of the committee, a large map was prepared and presented at the meeting showing the designated Class III Special Resource Groundwater Protection Areas as overlay districts. She also provided members with a smaller map depicting the same information. A resolution pertaining to this matter is on today's agenda. It was mentioned that Class III groundwater is a designation by the Illinois Pollution Control Board and it is groundwater that contributes to a dedicated nature preserve. This groundwater is determined by the Board to be demonstrably unique or irreplaceable, suitable for a water quality standard more stringent than specified in Sub-Part D, and is vital to a particularly sensitive ecological system. She has contacted the EPA and asked "What are the consequences of pollution in a Class III groundwater that occur after designation." Their answer was: "That is a rather broad question. However, we have recently filed a Section 43 lawsuit relative to a company that had a large uncovered pile of deicing agent in a Class III aquifer area recharging the Bluff Springs Fen Nature Preserve due to the threat of degradation." She mentioned that just due to the threat of degradation, the EPA filed a Section 43 lawsuit. Also, Section 43 of the Illinois Environmental Protection Act allows State's Attorneys or the State's Attorney General, upon request of an agency or on its own motion, to institute a civil action for an immediate injunction to halt any activity causing or contributing to the danger, or to require other action as may be necessary. Ms. McKinney is recommending that the Class III special resource groundwater protection areas be designated as overlay districts because they need to know, when areas are sited and zoned, that there could be a lawsuit filed if the areas are impacted and to make informed decisions. Mr. Merkel stated that the Lake in the Hills Fen is within several municipal boundaries and with the proposed designations, he questioned if municipalities will be provided notice that areas will be reclassified if they are going to do an overlay. Mr. Sandquist mentioned that this would be added to the sensitive aquifer recharge areas in the UDO, but the UDO has no impact on municipalities. Ms. McKinney mentioned that this designation already exists and municipalities need to be aware of it. She suggested that if the proposed resolution is approved, a copy of the resolution should be sent to municipalities so they are aware of it and perhaps take similar action. Concerning water located at gravel pits, a question was raised as to whether or not this water impacts groundwater. Ms. McKinney stated that anytime an aquifer is opened up to the environment, it is opened up to impacts. Ms. Nomm mentioned that the Health Department requires extensive monitoring of gravel pits. Last year the requirements were revised and overall the quality of the groundwater at the County's gravel pits is good. Mr. Merkel mentioned that three of the fens are in rural areas. He would like to see an overlay of all of the residential areas in the Lake in the Hills Fen. Ms. McKinney stated that the areas designated on the overlay are defined and designated by the Illinois Pollution Control Board.

(Continued review of this sub-section of the WRAP was conducted later in the meeting).

NEW BUSINESS (continued):

Resolution Recognizing McHenry County's Class III Groundwater Designated Areas for Protection from Contamination to be Incorporated into the Sensitive Aquifer Recharge Area Overlay Map: Mr. Sandquist mentioned that the proposed resolution concerns making a regulatory device for the County to enforce in unincorporated areas that are Class III aquifers. The overlay map will be similar to floodplain or wetland maps which have regulatory status. Concerning the designated fen areas, through the UDO, the County will put in additional regulations in place in the areas so that when future development projects come in for the areas, they need to comply with the new regulations. Regulations will be put into place to protect the groundwater recharge areas. The UDO process will identify the restrictions. Staff has received direction within the UDO to take the SARA map and create an overlay. This resolution would direct staff to do the same with Class III groundwater areas and impose the same set of restrictions. Also, this resolution will show that the County will take additional steps to protect the Class III groundwater areas within its jurisdiction. Ms. McKinney mentioned that there are currently four Class III groundwater designated areas, and three more areas are proposed. In the future, other areas may be designated as Class III groundwater designated areas, but only after the areas have been reviewed by the Illinois Pollution Control Board and they determine that the areas meet specific criteria. Mr. Merkel suggested that all of the fens located within the County be designated on one map. It was mentioned that not all fens are Class III groundwater designated areas. Ms. Peschke made a motion, seconded by Ms. Kurtz, to recommend the County Board approve the above resolution as presented. The motion carried on a roll call vote of five ayes (Kurtz, Nowak, Peschke, Schmidt and McCann) and one nay (Merkel).

County Stormwater Operations:

A. *Background:* Committee members reviewed the summary provided in the meeting packet.

B. *House Bill 3372:* Ms. Barnes, Ms. McKinney and Mr. Horton joined committee members to discuss HB 3372. Chairman McCann mentioned that stormwater in many Illinois counties is considered a utility. HB 3372 was passed by the House of Representatives which allow for counties to petition, through referendum, the adoption of a schedule of fees as a dedicated source of income to cover the cost of a Stormwater Management Commission (SMC). Lake County has a SMC and a SMC assessment is placed on all Lake County property with the collected revenue supporting their SMC. Ms. McKinney mentioned that HB 3372 is currently being considered by the Senate. McHenry County stormwater is funded out of the general fund. There are many water functions that are unfunded mandates, including the NPDES permit and program, and the passing of HB 3372 would provide an accounting line item where funding would be collected to assist paying for the adequate implementation of mandated water services, permits and programs. Mr. Horton stated that HB 3372 is a funding mechanism, but it also has other benefits. There are associated costs with managing stormwater and many people do not recognize this. Chairman McCann mentioned that the first reaction by municipalities at a recent Northwest Water Alliance meeting was not to support HB 3372. This attitude changed after more information was received.. Ms. Yensen requested that HB 3372 be brought to the attention of the Legislative Committee of the McHenry County Council of Governments to further investigate support of this House Bill. It was the consensus of the committee members to notify the Legislative and Intergovernmental Affairs Committee that HB 3372 needs to be supported.

C. *Stormwater Ordinance Update:* None.

OLD BUSINESS (continued):

MCCD Budget Schedule: Chairman McCann mentioned that during the July 26th meeting of Finance and Audit Committee, MCCD budget process was discussed. For 2012, MCCD will bring their draft proposed budget to the Finance and Audit and Natural and Environmental Resources Committees in March, prior to the Budget's public hearing.. A discussion on whether or not the County should be involved in the approval of MCCD's budget is for a later date.

Water Resources Action Plan (WRAP), Section II: Sub-Section B4) Open Space (continued): Ms. McKinney reviewed the remaining amended sections of this sub-section. Concerning item No. 15, the three organizations have been added to the notes section. The Public Act name has been corrected for item No. 16b and changed the designations to show that it is completed. Article 10 has been added to the notes section for item No. 22. For item No. 23b, notes have been added to the notes section. Subsection B6 has been added to item No. 23h, along with the correct name of the Plan. "Advocate for region-wide study of this concern" has been added to the notes section of item No. 23i. "Compile a short list of BMP's for this" has been added to the notes section of item No. 23j. Ms. Schmidt made a motion, seconded by Ms. Kurtz, to approve the amendments to the WRAPs Sub-Section B4) Open Space and accept this section of the WRAP. The motion carried on a unanimous voice vote of all members present voting aye (Kurtz, Merkel, Nowak, Peschke, Schmidt and McCann). Chairman McCann requested that the date the committee adopts the sub-sections be added to the matrix.

REPORTS TO COMMITTEE:

Cassandra McKinney – Association of American State Geologists (AASG): Chairman McCann and members of the committee congratulated Ms. McKinney on the letter of commendation she received from the AASG. Ms. McKinney was recently a keynote presenter at the annual meeting of the AASG and did an excellent job of explaining the value of scientific input into County water policy.

McHenry County Conservation District: Mr. Merkel reported that Kent Krautstrunk was recently seated on the MCCD Board and Kevin Ivers is the MCCD's new President. The MCCD is currently in negotiations with the bargaining units for the law enforcement and maintenance employees. Chairman McCann thanked Mr. Merkel for continuing to be the County's liaison with the MCCD. MCCD has mentioned that he has been a value resource as Liaison.

Natural Hazard Mitigation Plan: None.

Agricultural Conservation Easement Farmland Protection Commission: None.

Regional Water Planning Group: None.

NPDES: National Pollution Discharge Elimination Systems: None.

Watershed Updates: None.

Stormwater Updates: None.

Solid Waste: None.

Green Team: None.

Unified Development Ordinance (UDO): Chairman McCann mentioned that she has been attending the Planning and Development Committee meetings and has been following the UDO process. She mentioned that everyone is extremely pleased with Camiros who will be making a presentation at the County Board meeting on August 16, 2011.

Water Alliance: Chairman McCann mentioned that County Board Chairman Koehler and she attended the recent Water Alliance meeting. This is the planning group for communities and counties without Lake Michigan water access. Their technical advisory committee is terrific and NERC committee members will begin to receive email communications and updates from the Water Alliance.

Groundwater Task Force: Ms. McKinney mentioned that the next meeting will be on August 9, 2011 at 1:00 p.m. at the Village Hall in Spring Grove, Illinois. A sub-committee meeting will be at 1:00 p.m. to discuss regulated recharge areas and the regular meeting will begin at 2:00 p.m. She will send committee members a meeting notice.

EXECUTIVE SESSION: None.

FUTURE TOPICS: None.

ADJOURNMENT: Ms. Peschke made a motion, seconded by Ms. Schmidt, to adjourn the meeting at 10:37 a.m. The motion carried with all members present voting aye on a voice vote.

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RECOMMENDED FOR BOARD ACTION/APPROVAL:

- Resolution Recognizing McHenry County's Class III Groundwater Designated Areas for Protection from Contamination to be Incorporated into the Sensitive Aquifer Recharge Area Overlay Map

RECOMMENDED FOR REFERRAL TO OTHER COMMITTEES:

- Mr. Austin draft a memorandum to the Legislative and Intergovernmental Affairs (LIA) Committee requesting the LIA Committee send a letter to the Governor of Illinois endorsing continued funding for the three surveys: Illinois State Water Survey, Illinois Geological Survey.
- The consensus of the committee members was to notify the Legislative and Intergovernmental Affairs Committee that HB 3372 needs to be supported.

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