

LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS COMMITTEE
McHenry County Government Center – Administration Building
667 Ware Road
Woodstock IL 60098

MINUTES OF THURSDAY AUGUST 11, 2011

Chairman Heisler called the meeting to order at 8:30 a.m. The following Committee members were present: James Heisler, Chairman; Ersel Schuster; Kathleen Bergan Schmidt; John Jung, Jr.; Pete Merkel; Marc Munaretto and Nick Provenzano. Also in attendance: Peter Austin, County Administrator; Adam Lehmann, Assistant to the County Administrator; Cassandra McKinney, Water Resources Manager; Robert Miller, Algonquin Township Road District; Leon Van Every, McHenry Township Road District; Don Kopsell, Nunda Township Road District; Representatives from private homeowners associations, Interested Public and the press.

James Heisler, Chairman	
John Jung, Jr.	Pete Merkel
Marc Munaretto	Nick Provenzano
Kathleen Bergan Schmidt	Ersel Schuster

MINUTES

Committee members reviewed the committee minutes from July 14, 2011. A typographical error was noted. Mr. Jung made a motion, seconded by Ms. Schuster to recommend approval of the above minutes, as corrected. The motion carried with all members present voting aye on voice vote.

PUBLIC COMMENT

Chairman Heisler informed the public that the committee will follow the rules for Public Comment just like it is done at the County Board meeting and therefore the public would be allowed 3 minutes to speak on an issue.

Mr. Bob Miller, Algonquin Township Highway Commissioner joined committee members to discuss the Non-Dedicated Road issue. He stated that the Highway Commissioners have lobbied the State to get legislation changed to help these individuals that live on a private road. Because of the change in legislation, the private subdivisions are provided with funds for these roads. The issue the Highway Commissioners run against is that the Homeowners Associations do not want to give rights of the public road to the Townships. If that is done, they would fall under the Road Vehicle Code. The Homeowners Associations would like to "collect" the road and bridge tax that is charged to the residents that live in a private homeowner's association in order to maintain their roads. The problem is that a homeowner's association is not a government entity so they cannot collect taxes. Mr. Ned Neumann from McHenry Country Club Subdivision Association requested permission to speak later on in the agenda when the committee is scheduled to discuss the non-dedicated road issue. He stated that they only want their fair share of the road and bridge tax that collected. Mr. Robert Beltran from E. Pistakee Bay Road Association, stated that their subdivision does not object to the Township taking over duties in their association, though he stated he cannot speak for everyone in their association. He stated that his objective is to get brought into the township system. He stated he wants reasonableness to meet the requirements. He stated they are unable to meet the criteria set by the County. Some of the roads will never have the ability to meet these standards and he stated new standards should be set for these areas. He stated that grants are provided to non-profit entities, why not them as they are a "non-profit" entity.

PRESENTATION: None.

OLD BUSINESS

State Legislative Update: Mr. Lehmann joined committee members to provide an update on the State Legislative issues. Committee members were informed that the Bills were sent to the Governor's office in June for signature. The Governor has 60 days in order to act on the Bills. If these Bills are not vetoed, they become law. At the last meeting an update was provided that stated that legislation has passed both houses to fund probation at the previous levels, which would place less burden on Illinois Counties. House Bill 123 restored \$55 million to Illinois Probation. This has been vetoed but has been placed on the Calendar Item Veto for October 25th. Senate Bill 1631 adds a \$10 filing fee to those on probation. This is still awaiting action by the Governor. Senate Bill 1586, which addresses the publication fee for assessments, was signed into law as Public Act 97-0146. The bill was aimed at revising publication fees for assessments. These were decreased from \$1.20 per parcel to \$.080 per parcel. This bill was supported by a broad coalition of local government groups as well as the Illinois Press Association. Valley Hi Director Mr. Annarella had previously informed the committee that the State was proposing cuts to Medicaid. This did not occur. The State instead has delayed Medicaid payments. The delay is expected to be approximately 30 to 60 days. As of last week, Valley Hi has not been paid for the month of July

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and they do not expect to receive a notice for payment in the near future. At the previous committee meeting they had discussed the possibility of an agreement being made for the Regional Office of Education. The deal worked on by the President of the ROE and the Budget Director in the Governor's office fell through. Currently the Governor wants to pay for ROE's by using funds from the Personal Property Replacement Tax. He has stated that is the way to fund this office because many of the tax proceeds already go to local schools. These funds also go to local governments and would affect the amount the County would get from the State. It was suggested that a letter should be written to direct our legislators of the County's lobbying efforts. Committee members agreed. Committee members were informed that there were three individuals that were interviewed for the Regional Superintendent of Schools position. They have all been informed this would be a voluntary position until we hear otherwise. This is a State funded position, which the State has not funded. It was questioned if the position can be filled without payment for services and would this decision stand up in court. It was noted that they believe the liability would be on the State as this is a State funded position. It was stated that this is based on an agreement that is signed between the superintendent and the State. This would be an appointed position until another County wide election is held.

Federal Legislative Updates: Committee members were reminded that there was a lengthy discussion at the previous meeting with Trent Lehman, the County's lobbyist representative in Washington DC. With the uncertainty in the Federal Government, the committee needs to decide if the County should continue to maintain representation with the lobbyist group, if we can afford to do so. Mr. Austin questioned if the committee desires to maintain the contract with the lobbyist group. He noted that the contract could be modified to meet the needs of the county if that is the direction the committee would like to go. It was stated that the County has received a good return on this investment. Committee members questioned what the role of the lobbyist would be with the question of earmarks being dead. They asked what role and or effectiveness they would be able to provide and if it would be for information purposes only. Mr. Austin noted that it is because of these reasons that they have been challenged in creating a formal RFP for the lobbyists. It is difficult when you don't know what services would look like for the next few years. It was noted that Mr. Lehman has provided expertise on the evolution of this changing process but it may be important to include specific deliverables in order to develop new strategies for the County. One item they may be able to include in this next step is a request for funding a fiber network study. The County is working with the EDC and MCCOG to try to develop a package in order to get Federal Funding for this program. It was noted that the lobbyist firm may be helpful in capturing funding for this program. A new relationship will need to be formed with the lobbyist as they try to reshuffle how they will work as well. Committee members agreed to request a one year extension, with specific deliverables in the contract for the coming year.

NEW BUSINESS

Statement of Illinois State Geological Survey/Illinois State Water Survey Funding: Ms. Cassandra McKinney joined committee members to inform them that the State has cut funding for the Illinois State Water Survey, The Illinois State Geological Survey and the Illinois Natural History Survey all of which the County has relied on for years to develop plans to maintain a sustainable supply of groundwater. She requested permission to send a letter to the Governor, signed by Chairman Koehler, requesting the funding be restored for these programs. The Surveys are part of the Prairie Research Institute under the University of Illinois at Urbana-Champaign. The letter states that Surveys advice and technical assistance are invaluable to the county's water planning initiatives. Without a thorough understanding of the geology of the County and State, sound water supply planning is difficult. Committee members suggested the County's State Legislators be copied on the letters so they know of the County's needs. They questioned if we submit these types of requests to McCog in order to solicit their support on this issue as well. Mr. Austin stated that there is a McCog meeting next week to discuss their legislative agenda. He stated that he is a member of this group and will bring this issue to their attention.

House Bill 3372: Committee members were reminded that the County's Stormwater efforts are funded through the County's General Fund. House Bill 3372 passed which is a bill that provides Illinois counties with more flexibility to address basement and street flooding and water pollution from stormwater runoff, and encourage the use of green infrastructure to save money. HB 3372 would allow, but not require, counties to establish a system to encourage the use of green infrastructure on private and public property to reduce runoff before it reaches the county stormwater system. It would also allow for counties to adopt a schedule of fees as a dedicated source of revenue to cover the cost of ongoing stormwater management services and activities, including the mandated NPDES permit and program. Committee members stated that those that apply for NPEDS permits should pay for the costs. It was stated that this could become a big issue for the County as flooding within the County is already an issue. This bill requires that counties provide at least two years notice before adopting any fees, during which time the Counties must provide education on green infrastructure practices and an opportunity to implement them in order to reduce or eliminate their fees. Ms. McKinney

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stated that the fee would result in approximately \$2.50 - \$5.50 per month for homeowners, which is not a huge amount, but would generate a large amount of funding for this program. It was stated that they are unsure whether they would have to utilize a referendum to implement these fees and are checking on this issue. Ms. McKinney stated she has more information on this issue for those interested.

Coal Tar: Committee members entered into discussion on whether the County can pass an Ordinance regulating the application and sale of coal tar. The answer is no, the Illinois Constitution restricts counties and municipalities to having only those powers that have been granted to them by law. A governing body does not have broad general authority to adopt whatever ordinance it deems appropriate or desirable. A home rule unit of government may impose regulations for the protection of public health, safety, morals, and welfare even if they are not expressly enabled by law. While it may be desirable for the County, as an environmental issue, to ban the application, sale, and use of coal tar, there is no legal authority which would allow for an ordinance. Coal Tar PAH's, which are dangerous organic compounds that are found in most parking lot and driveway sealants. These are very toxic. When you seal blacktop, it wears away in a few short years and washes into our surface waters where it is a potential danger to aquatic life. This substance is carried into our homes on the bottom of our shoes or in the form of black layer of grime on hands or feet after a basketball game in the driveway. A large amount of PAH's are showing up in the water supply. There is a risk to humans, aquatic life and animals. This results in high costs for our economy. The brochure summarizes the issues of using PAH's. Since this cannot be banned in the county they are reviewing options for use of this product. All government facilities will no longer use this application. Algonquin, Lake in the Hills and Crystal Lake have banned the use of PAH's as they are home rule entities. They are examining whether a township can place a ban on the use of PAH's. They are working with area villages and municipalities to try to get them to ban the use of these products. They cannot regulate tar owners. Unless there is a county wide ban, it is difficult to enforce. The State has been slow to act on this issue. Some States have banned the use of these products. The USEPA is currently looking into what they can do next to regulate its use. There has been a lot of movement on this issue since PAH's are very toxic. They will continue to work with McCOG to work collectively on this issue. Lowes and Home Deport have banned the use of these products throughout the United States and no longer sell sealants that include PAH's. There is a need for public education as there are other products available for use.

Cell Tower Regulation: Committee members were informed that the City of Crystal Lake passed a resolution requesting the County Board to issue a moratorium on all telecommunication facility building permits until such time as the County's Telecommunication Carriers Ordinance is amended to "provide further guidelines, standards, criteria or other such regulation." The City's request stems from a permit granted for a cell tower in unincorporated Crystal Lake near Hillside Road which some of the Crystal Lake citizens opposed. The resolution states that "recent case law" supports the position that a county can deny cell towers on agriculturally zoned property because cell towers are not compatible with the appearance, character, and harmony of the area. A legal option was requested on two of the issues from this resolution. Can the County make substantial modifications to the Telecommunications Carriers Ordinance, in light of federal and state laws regarding telecommunications carriers and if so, can the County legally impose a moratorium on the approval of telecommunication towers for a specified period of time while the County reviews and revises its ordinance. Unfortunately the County's options are very limited regarding cell tower regulations. For more control state law regulating the Counties Code would need to be changed. It was suggested that a support letter, to the State representatives to attempt to change this. It was stated that Mr. Sandquist is very voiced in cell tower law. This involves telecommunications and it is very important to voice to the public that the County does not have any power to regulate these towers. The unfortunate result is the county getting dragged into "NIMBY's" (not in my back yard).

Electrical Aggregation: Committee members were informed that the County has an opportunity to look at bidding of electrical service. Fox River Grove and Harvard are already providing this service. Municipal aggregation is the easiest and safest method for a municipality to reduce residents Commonwealth Edison bills. Municipal aggregation allows local governments to bundle, or aggregate, residential and small commercial retail electric accounts and seek bids for a lower cost source of power, similar to how municipalities negotiate contracts for waste disposal or cable television. The role of the County Board member is to allow a referendum to let the residents to speak on this issue. It was suggested that representatives from NIMEC (Northern Illinois Municipal Electric Collaborative) be invited to the September meeting in order to speak about this issue and process. Committee members questioned if there is any information on the downside of this issue from those that have already adopted this process. They stated they would like to be able to review both sides of the issue.

Property Tax Extension Limitation Law (PTELL): It was stated that based on comments from the County Board members this issue needs further research. Many of the board members don't know how PTELL works and they feel an additional training session is needed. It was suggested that questions on this process be forwarded so any additional questions by the County Board members could be answered. It was stated that many of the board members felt the discussion ended up being an update on Grafton Township instead of the Assessment process. Committee members stated that there

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needs to be some additional information available for the general public as well. PTELL allows the Board of Review the powers to average three years of value on properties, which sets up a two tiered system, which allows for some to be treated more fairly than others. It was noted that the County needs to take a leadership role in the education of the public on this issue.

Mr. Munaretto left committee at 10:30a.m.

Non-Dedicated Roads: Committee members were joined by the Algonquin, Nunda and McHenry Township Highway Commissioners to provide information to the committee on the non-dedicated roads in the County. Committee members also allowed representatives from some of the private subdivisions that have non-dedicated roads to be included in their discussion. Mr. Austin noted that when you review the issue there seems to be two ends that are desired. One would be for the private subdivisions to receive funding for private roads. The other would allow for lessening standards to make these private roads public. He stated he believes there is a means to accomplish this. It was stated that the County and Townships work under specific criteria, which they can't necessarily abandon. The private subdivisions don't want to pay for the costs to bring these roads up to the current standards and want to pass these costs along to someone else. Most of the roads do not fit any of the standards and part of the front yards for some of the homeowners is part of the road. The Road Commissioners collectively stated that they wanted to correct a miss statement; they noted that they have made these restrictions easier and have agreed to go to a 40' minimum instead of the usual standards of 60' to 120'. They stated they cannot allow patchwork easements. They must allow for a shoulder and drainage. IDOT (Illinois Division of Transportation) requires a 10' clear zone which could require the removal of buildings or trees along these private roads. Ms. Schuster, County Board Member from District 6, questioned if there was any tax money that could be provided to these subdivisions in order to help them with this issue. It was stated that this would result in a small amount of funds available for these areas. The Road Commissioner's stated that they (townships) do not get credit for private roads as they are not included in the road system. Each township gets credit for the public road miles only. If they could get credit for these roads, it would make a difference. The public roads have a lot of restrictions that must be followed which these private roads would be required to follow if they were brought up to current standards. The Road Commissioners are not supportive in changing legislation to change the standards on these roads. They do support having the County contribute a portion of the motor fuel taxes for these subdivisions and stated they are in support of changing legislation for this. Subdivision representatives stated they are looking for alternatives to create a funding stream to address their needs. Some of these roads will never be brought up to standards and the Townships do what the law allows. They stated that the general tax payers should not be required to pay for the expensive process to bring these roads up to required standards. Another issue not addressed is the fact that the private subdivision's homeowners are divided on this issue. It was noted that there needs to be a program created that addresses these roads that will never be brought into the system. The Road Commissioners noted that another issue they have that has not been discussed is that their insurance carrier will not allow them to provide service on these roads. There are also safety concerns as some of these large trucks cannot drive on these roads safely. It was stated that the road commissions do make sure these roads are serviceable after a storm or in cases of emergency. The residents stated that the County needs to take a strong position to support or improve programs that address this issue. It was stated that funds that are derived under the Klemm legislation only allows for these funds to be used on roads that will eventually be brought up to standards. Committee members voiced concern that different standards would be created for different subdivisions. They stated that a special service area (SSA) should be created to address their needs. This was why, SSA's were created. It was stated that even with part of the tax funding going to these subdivisions, there would not be enough money to fix these roads. The subdivision representatives stated they are only trying to get some funding and expertise on how to maintain their subdivisions. They stated they are not getting their fair share of the road and bridge tax and feels there should be a way to work together to solve these problems. They noted that if the County Board is shown that a private subdivision is willing to participate and meet them halfway in order to figure out what the true impact would be to an association it would be helpful. They stated that every private subdivision has separate issues and they all boil down to money. The Township representatives stated that the State says the County has the power to create different standards for some of these roads and they will need to figure out if these roads would become a part of their road system because if this happens they need to know what they would be inheriting and the costs to maintain the roads that were allowed these alternate standards now and in the future. If drainage is insignificant, the cost to maintain the road will be higher. The subdivision reps stated they primarily want, with township expertise, for the County Board Members to set less stringent standards to allow townships to do the best they can do to work on their projects over time in order to address their issues. They noted that they may still have problems getting buy in of all the homeowners as some people don't want to be part of the new rules these changes would create. It was again suggested that a special service area be created to address these needs. It was stated that any funding obtained in an SSA could only be used to bring these road up to standards and not all of these roads will be able to meet these standards. Ms. Schuster stated that she feels a committee or task force should be created to address this issue and it should include transportation committee involvement. It was suggested that anyone interested in being involved with this type of committee to please sign up in order to help to address these unique issues. The residents thanked the committee members for their help.

Approved 09 08 11

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EXECUTIVE SESSION: None.

REPORTS TO COMMITTEE: None

ADJOURNMENT:

Noting no further business, Mr. Jung made a motion, seconded by Mr. Merkel to adjourn the meeting at 11L23 a.m. The motion carried with all members present voting aye on a voice vote.

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RECOMMENDED FOR BOARD/COMMITTEE ACTION:

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