

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

MINUTES OF THURSDAY SEPTEMBER 8, 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.; and Nick Provenzano. Pete Merkel and Marc Munaretto were absent. Also in attendance: Peter Austin, County Administrator; Adam Lehmann, Assistant to the County Administrator; John Labaj, Deputy County Administrator; Cassandra McKinney, Water Resources Manager; Cathy Link, Purchasing; Mary McCann and Donna Kurtz, County Board Members; Cory Horton, Chief Stormwater Engineer; David Hoover, Northern Illinois Municipal Electric Collaborative (NIMEC) Hal Sprague, Center for Neighborhood Technology; 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 August 11, 2011. Mr. Jung made a motion, seconded by Mr. Provenzano to recommend approval of the above minutes, as presented. The motion carried with all members present voting aye on voice vote.

PUBLIC COMMENT

None.

NEW BUSINESS

*Stormwater Utility:* Ms. Mary McCann, Ms. Cassandra McKinney, Mr. Cory Horton and Hal Sprague, joined committee members to discuss Stormwater Utility Legislation. They questioned if the committee wanted to take action and support this legislation or discuss consideration of the next steps to take.

Hal Sprague, from the Center for Neighborhood Technology, who works exclusively on stormwater issues, stated that he works to draft practices that will be sustainable for the County. The County is seeing a lot of building going on, with impervious surfaces. This legislation pushes people to use green infrastructure when building. Green infrastructure is the name given to try to keep water on the properties. One way to target green infrastructure is to address how property owners will pay for the cost of this. There has been no funding received to address stormwater issues.

The Municipalities are allowed to use a different system for collection of fees for this issue. The Legislature would like to give the Counties the same legal authority as the municipalities have on this issue. They are allowed to charge a fee, based on the lot size and buildings on a lot. If a big box store, school or church should be built they should be required to pay more as they would include more impervious surfaces. These fees can be reduced by implementing green technology on the property. The bill restricts the amount that can be collected for this fee.

The County implemented its stormwater management plan in 1996. There are four components to the plan. The County is lacking in maintenance funding that would help with regulation. There is not enough staff to address needed inspections. Committee members questioned if this fee would be for the whole County or just the unincorporated areas. They were informed that they believe this should cover all property that would benefit from a stormwater system.

Committee members were informed that this fee could be as small as \$.50 cents to \$12 per month for each property owner. The normal fee runs about \$2.50 per month. Committee members stated they still need to know who this would affect.

It was stated that there is currently only one Municipality that has a stormwater ordinance that is stronger than the County's. It was stated that if we don't have clear legislation that taxes every parcel in the County, they cannot support this fee. Ms. McKinney stated that we do have a Stormwater Commission that does coordinate their efforts with the Municipalities, so they can work out a fee schedule for this program. The County also has a great GIS system that would allow for the County to "count" the rooftops to base the fee on a square footage rate.

Approved 10 13 11

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It was stated that the County needs desperately to have the ability to have some sort of fee system in place to address stormwater issues. This is already a huge issue in some of the sensitive areas of the county. Lake County has implemented a fee for Stormwater. They collect a fee from every household.

Stormwater Management is going to be the number one challenge for the future. The County currently has a \$250,000 budget for this program, which is insufficient to address the stormwater needs in the County. Funds are needed to rewrite the Stormwater Ordinance. This requirement puts pressure on the General Fund. This legislation would create a separate stream of revenue to be used to address this issue.

Committee members stated that the Municipalities and County needs to clarify what the fees will be and what they are basing this amount on. These funds need to be based on a budget that addresses what will be accomplished.

Committee members were reminded that this only enables legislation to provide the tools in order to collect fees for this process. It was stated that there are 12 municipalities in the State that charge this fee. At this time none of the municipalities in McHenry County charge this fee. The Municipalities and the County needs to clarify what the fees will be, how much will be received, what the budget is and for what, and what will be accomplished if this fee is collected.

Committee members were reminded that approval of this only enables the legislation to provide the tools in order to collect fees to address the stormwater issues. It was stated that they would like to work as a group with the municipalities to help both the County and the municipalities in our County.

Committee members questioned how they can say there is a burden on the General Fund when they don't know what you are planning to do with the fees collected. Committee members stated they need to understand where this is headed. Committee members were informed that one of the greatest costs is for enforcement issues. They stated that they need to look ahead to address maintenance costs associated with stormwater maintenance and enforcement issues.

Committee members questioned how Administrative Adjudication would work with this program. They stated they need to address this issue first. They stated that the County needs to change the ability to collect fees first, before consideration of an additional tax. They need to eliminate the issues that are compounding the problem first. It was stated that this would take care of the enforcement issue, but not the management issue, which will increase.

Committee members stated that the Stormwater Commission needs to address the concerns of the committee prior to moving forward with this request. They stated that the legislative recommendation request should come from the Stormwater Commission and Regional Water Alliance.

Committee members were informed that this fee is not really a tax, but something you assess to generate additional funding, based on how much water you are putting into the system. The fee can be reduced or eliminated based on implementing additional "green" processes on the property. Again, committee members were reminded that this bill only allows the County to implement this fee if they want in the future. The property owners would need two years advance notice to implementation of this fee.

This passed the House and was sent to the Senate to be raised during the fall session. They stated that they are here today to provide education on this bill. Committee members were informed that the Stormwater Commission meets on a bi-monthly basis. They stated that this commission should meet more often to address these concerns.

Committee members stated they need to see the true costs of what the implementation would be for this program. They stated that in the past they were informed that the stormwater program was to be self sustaining, now they find out this is not true. This is how government continues to grow. They stated that this is still a tax.

They questioned how these fees would be collected? Would the fee show up on utility bills, tax bills? Committee members were informed there is a bill out there that allows for the creation of a stormwater taxing authority. The County could create this or charge a fee for stormwater, they cannot implement both programs. Committee members were reminded as the stormwater issues grow, the burden to the general fund will grow. Again the committee members questioned what the County would be investing in or solving. Committee members were

informed that they do not intend to grow government but to decrease costs. The average cost to clean out a flooded basement is \$2,500 each this program will help to alleviate some of these costs being seen. Committee members were informed the county already has some significant stormwater issues they are dealing with within the County.

Another issue that the County needs to alleviate is the fact that the flood plains in the County are not mapped out, which forces the county to be very conservative in its permitting process. The County barely meets current NPDES requirements. They will be increasing these requirements, which will increase the costs to the County. Water quality testing is to become a component to these requirements. This is a way for the EPA to put in place testing requirements to make sure these tests are being done.

Committee members stated this again is another unfunded mandate, which is becoming a very serious component to some of these issues. They stated that some of this legislation creates more problems than it solves. Committee members were reminded that without a stormwater ordinance, there would be more flooding within the County. It was noted that some of these issues would depend on whether the County wants to be strict with the requests being brought forward. They stated that the departments need to say no to more of those requests that are near sensitive areas. Committee members requested a list of the sensitive properties that are currently creating issues within the County. They stated that will give them an idea of how important this issue is. Committee members thanked Mr. Sprague and Ms. McKinney for their information. They stated they have provided direction to the Stormwater Commission on this issue.

#### PRESENTATION

*Residential Aggregation of Electricity – David Hoover, Northern Illinois Municipal Electric Collaborative (NIMEC):* Mr. David Hoover, from Northern Illinois Municipal Electric Collaborative (NIMEC), joined committee members to provide a presentation on the Residential Aggregation of Electricity.

NIMEC was formed in 1996 in order to take advantage of deregulation. This is a private organization. With the changes in regulations there is a county wide effort to lower individual electric bills. 80% of commercial entities have already changed their service and now they are trying to get the word out to the residential properties. There are advertisements being placed to try to get these residential customers to join various companies, one at a time. Unfortunately residents have to be cautious, as there are some bad apples out there in this industry. The reputable companies are saving residents approximately 10% in energy savings.

There has recently been a big change to municipal aggregation. They now allow local governments to aggregate their residents to see if they can entice better pricing. In order to do this the local government is required to go to a referendum to see what the constituents want. The next time a referendum can run is in March of 2012. During the last election cycle, 23 entities went out for referendum, 19 passed. Harvard and Fox River Grove had a referendum pass in their municipalities.

There are a number of municipalities keeping an eye on this issue because of the savings being realized by some of these entities. Some of the municipalities have seen a savings of up to 23%. The Aggregation of Electricity allows a city or County to negotiate prices on behalf of their residents. Mr. Hoover noted that he believes that competition will increase because of the number of people joining the program. If a resident does not like the program, they can elect to go back to ComEd or negotiate their own cost with their own company. If they go back to ComEd, they would have to remain with them for at least one year. They would also have to coordinate the termination and initiation of service with the two companies involved.

This program would cover all residents and small businesses in the county. Committee members were informed they could "aggregate" with other villages and would then be allowed to collect a "civic contribution" for the County. This could provide an extra revenue stream for the County. Most of the suppliers involved in this program are willing to negotiate this fee into the contracts. When they aggregate with other villages it provides leverage for collective buying.

The timeline would require that the referendum be on the March ballot. This would require that a resolution be approved by the County Board by their November 15<sup>th</sup> meeting. Bids would then go out in June with the power changes being made by late summer. The County Clerk would need to be notified by January 3<sup>rd</sup> in order to get this issue on the ballot. Information meetings could then be held during the primary season.

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Committee members questioned if a resident from a Municipality, that does not offer this program, could join in on the County's plan. Mr. Hoover stated he did not believe this could be done, unless they could create some type of two tiered system. He noted they may be able to "opt" in individually. He stated that he would look into this as it would be better if they could create some type of hybrid program.

Everyone is on the same timeframe. Most residents would see a savings of about \$175 per year. The down side of this program is that it would require staff time to work on the referendum process. Committee members stated that the County should join with some municipalities in order to put bids out for everyone that passes a referendum in the County.

Committee members questioned what the challenges were in the areas where a referendum failed. Mr. Hoover stated that most failed because of the lack of education on this issue. Committee member stated that they think this is a worthy program to pursue, especially since it means a savings for the residents.

Committee members were questioned on how they would like to have this presented to the County Board. It was suggested that a presentation, along with a Resolution be brought forward to the morning meeting in October for consideration. They suggested that the municipalities be invited so they can see the presentation along with the County Board. Mr. Hoover informed committee members that he is meeting with MCCOG representatives regarding this issue. Mr. Austin stated that this is a big topic at the Illinois Managers Association meeting as well. It was suggested that a Resolution be drafted for this committee to review at one of their next two meetings.

### OLD BUSINESS

*State Legislative Updates:* Mr. Lehmann joined committee members to provide an update on the State Legislative issues. He stated that he does not know the details of what is going on regarding probation and HB123 and SB1631. The governor has amended his veto on the probation fees to include a \$10 fee on all traffic and criminal cases. He stated he does not know the details of this fee or how much of the fee the State would keep. He believes the State is looking at this fee to help fund probation costs. At this time the County will not include anything in the budget for this area until additional information has been received. The County is in a unique position as McHenry County is financially sound. Another issue is the fact that it is hard to collect fees from criminals. The County currently collects approximately 70% of these fees.

State reimbursement for Medicaid is behind. No payment is expected for six months. It is thankful that Valley Hi has a reserve to fall back on.

The Regional Office of Education issue is currently in a holding pattern. Mr. Austin reported that he and Chairman Koehler are meeting with the Lake County Regional Superintendent of Schools to discuss continued service to McHenry County.

*Federal Legislative Update:* Committee members were informed that there is not a lot to update on this issue. Mr. Austin has discussed the idea of a one year extension of the agreement with The Ferguson Group with a reduced rate/plan. Mr. Austin will draft a request letter, which has a 30 day out clause, to provide an opportunity to justify the use of consultant lobbyist with no earmarks.

### NEW BUSINESS

*Future State Legislative Program:* Mr. Provenzano questioned if our local legislators have taken a stance on the Stormwater bill as this has already been through the House. Representative Tryon supported this bill. It was stated that they would be surprised if this is moved to the veto session, but, will be back in the Spring if this County or MCCOG wants to take a position on this issue.

Committee members stated that it may be difficult to support this if the County does not intend to implement this fee. They stated it is important to make a decision with input on this issue. Mr. Austin stated that the County has a policy statement that says we generally support permissive legislation. If this program costs money, it may not be supported. It was noted that MCCOG may support this issue.

Committee members questioned why the County Board Members have not received updates on this issue, especially those issues that our County Representatives are involved in. They stated that individuals are assigned to committees/commissions and they should be providing information up front, as an issue moves forward so they can

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understand what is going on. It was stated that the County Board has addressed legislative issues over the years and they need information earlier than is currently being provided. Committee members were informed that MCCOG is changing their executive director with additional changes taking place within the organization. The County generally receives updates from this group on the legislative issues.

Committee members questioned what the guiding principles are for Metro County as there are times they represent the County on certain issues as well. A copy of the Legislative Review Process for Metro Counties was provided to the committee members for review.

Ms. Schuster voiced concern that information regarding FOIA legislation was brought to her attention by a newspaper reporter rather than through the County. She stated that there have been some drastic changes made on this issue and the County Board Members should be made aware of these changes. Mr. Austin replied that McHenry County has met the standards of the FOIA legislation in order to be transparent. He stated that he cannot remember the last time a FOIA request was denied for any news agency. Committee members were informed that when requests start costing local entities money, they try to rein in these costs. The Media is exempted from these types of requests/denials. Individuals try to use FOIA requests in order to harass governments, which creates a waste of taxpayer money. The article that Ms. Schuster was referring to did not address what FOIA issues they were trying to address. Committee members agreed that they need to be informed when a legislative issue is brought forward.

Mr. Lehmann reported that he will be providing a legislative program this fall that follows a format similar to Lake County's. This is a great model to follow as it contains more explicit information than is currently being provided.

Committee members were reminded that they need to think about the items or issues they would like to see included for the next legislative session on what is important to McHenry County. Mr. Austin stated that this issue would be brought up at the Department Head meeting on what they would like to see reviewed or discussed. They generally like to have 3 to 5 items to work on or support.

EXECUTIVE SESSION: None.

REPORTS TO COMMITTEE: None

ADJOURNMENT:

Noting no further business, Ms. Schuster made a motion, seconded by Ms. Schmidt to adjourn the meeting at 10:55 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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