

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

MINUTES OF THURSDAY OCTOBER 27, 2011

Chairman Heisler called the meeting to order at 8:35 a.m. The following Committee members were present: James Heisler, Chairman; Ersel Schuster; Pete Merkel; Nick Provenzano and Kathleen Bergan Schmidt. John Jung, Jr. 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, Groundwater Resources; Ken Koehler, County Board Chairman; interested public and the press.

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

MINUTES

None.

PUBLIC COMMENT

Mr. Charlie Eldredge from Richmond joined committee members and stated that he wanted to call attention to the reservations for the MCEDC annual dinner. There are only 20 seats available and today is the last day reservations will be accepted. The speaker for the event will be the Chairman of Caterpillar Industries.

Ms. Collins from Woodstock joined committee members and questioned what the committee will be recommending on item #6.05 on today's agenda. She requested some background information and stated she assumed that they would be reviewing the provisions enacted within the Act. She stated that she is interested in the interpretation to this public Act.

OLD BUSINESS

State Legislative Update: Mr. Austin informed committee members that he and Chairman Koehler attended meetings with Metro Counties representatives in Springfield. This meeting had two purposes. One was to receive a veto session update and the other discussion was regarding how Metro Counties will look in the future and the hiring of an executive director. There are some that will be moving away from Metro Counties. Metro Counties may contract with an association firm or elect to hire an executive director themselves. Mark Kern, the County Board Chairman from Saint Clair County will take lead in the hiring process. The group wants this process to move quickly in order to get an executive director in place by January. There are no additional Metro Counties meetings scheduled prior to January 2012. They will speak with the candidate on how they would take Metro Counties to a more prominent level. Metro Counties will review the State Legislative issues. Chairman Koehler noted that previously the Municipal League was a strong group. This is no longer the case. Metro Counties represents 15% of the Counties in the State. This group represents 2/3rd of the people in the State. Metro Counties wants to achieve a presence in Springfield. We can remain with the association we already have with Metro Counties, we can partner with other like associations or we can carry on as before with one person being the representative for the County with Metro Counties. We do know that we want more communications between the Counties. They see an opportunity to get the full County Boards involved with this group. They would engage each of the County Board's and their members in the process. The other piece of the meeting was to hear updates on the veto session, though there was not a lot of action yet. There were only five (5) bills that were talked about. The first was HB 3828 was opposed by Metro Counties. This bill diverts local personal property replacement tax revenue to pay for regional school superintendents rather than the State fulfilling this budget obligation. The positions currently are not sustainable. It was stated that this is a move by the State to access a revenue stream that is generally used for local governments. These fees would come off the top, before the funds are distributed to the local governments. What comes next is where concern was voiced. The group questioned how this may affect the Recorder's stipend as this is the same "pot" these funds are paid from as well. Chairman Koehler voiced concern. He stated that if the State should get this HB passed, it would open the flood gates to all of the unfunded mandates. The County could end up with the burden of paying for the bad actions of the legislators. They are placing their burden on the shoulders of the Counties. It was questioned if they have reevaluated the necessity of the ROE? Chairman Koehler stated that this was not talked about during the Metro Counties meeting, though he has had a conversation with Representative Tryon on this issue and noted the

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need to fix this problem. It was stated that this issue is not expected to get resolved during the veto session. It was stated that they may look at consolidation of the offices in the future.

Chairman Koehler informed committee members that they are trying to take away funding from the parole system. The State set up the funding for the probation officers salaries. This has affected all of the Counties in the State. Some counties have been affected more than others.

HB3793 is Jack Frank's bill. This bill amends the Property Tax Extension Limitation Law in the Property Tax Code. It will not allow inflationary growth in the levy. The House has assigned this to the Revenue and Finance Committee. There is still a fair amount of skepticism that this will pass in its current form. More information is needed before someone speaks on behalf of this organization on this issue.

There are four tenets of Metro Counties that is mirrored by this County Board. The first is that they oppose anything that impacts the County's revenue stream. Second is they oppose anything that impacts local discretion, thirdly they oppose anything that would reduce the existing authority of county government, and support legislation that benefits the health, safety and welfare of the citizens of McHenry County.

There can never be too much communication. The State is looking for ways to move costs for services to local governments.

Mr. Provenzano stated that the issue seems to be communication. He stated that it is difficult for anyone to disseminate immediately information that is needed to vote on an issue. He stated that the legislators need to be incredibly involved in order to stay on top of an issue since these issues are constantly changing. He stated this is why the legislators have a responsibility to attend all of their meetings, especially those where issues are being discussed that may impact the County and/or local governments.

HB 268 is the local government's consolidation bill. The appointments are due by the end of October, though no appointments have been made yet.

HB 3372 – Stormwater Management bill. This bill allows Counties to put in place a Stormwater utility tax for those that have adopted a Stormwater Ordinance. Action is not expected on this during the veto session. There is an amendment being proposed on this issue by a homebuilders association. Some feel this would result in a weaker bill. This bill would involve a two step process. The first would give the Counties the authority to charge a fee and then would allow the authority to move on this issue.

Committee members stated they have heard there is an idea in the works that allows Counties to pass on the increase in the levy, but, could "recoup" these funds later on down the road. The idea is to shift the cash reserves and give credit for the CPI increase that could be taken down the road. This would not go against the current years CPI. It was stated that there are a lot of individuals that do not want to see a tax increase but unfortunately inflation continues to compound.

Committee members were informed that there was a meeting with the Assessors. The Assessors are limited to what they can do to the assessments. It was noted that the Assessors should be allowed to make necessary adjustments. We have some large entities that are requesting their assessments be lowered. This would affect the "little" guy. When an assessment gets lowered the difference has to be picked up by others. Some taxes are increasing as others are lowered. It was noted that this is not expected to be acted on during the veto session. Representative Tryon would like to see some fairness to this issue. No matter how small an increase, a "black box" notice should be required to be filed. If appraisals are done equitably it would show that all real estate has been devalued. The problem is the government won't take less from the taxpayers. The taxpayers need to show up and protest in order to fund the government less. Ms. Schmidt stated she does not agree. Costs to provide services have increased, causing some to ask for more. Government is not always the bad guy. The levy may need to be maintained in order to continue to provide these needed services. Some of this issue goes back to unfunded mandates. It was stated that McHenry County has been fortunate as it has seen some growth that absorbs the increases. The County "will" accept two new judges. The County has to absorb the costs for these offices and staff. This is an unfunded mandate. Whether the County or the State pays for a service, this is still an additional burden to the taxpayers. Less government programs are the answer. Committee members voiced concern that there are some public officials that do not care about the impact their request may have to the

County. We have to tell our Legislators to stop with their mandates and we as a county need to quit raising the levy. Reform needs to happen quicker rather than later.

Electric Aggregation: Committee members entered into a discussion regarding Electric Aggregation. Mr. Merkel provided the committee members with a news article regarding this same issue being discussed in Kane County. McCog is moving on this issue as well. They are moving forward to send out an RFP, which they are ready to distribute this week. The language used was pulled from a successful contract, as used by Grayslake. Residents who chose to enter into the aggregation program can save up to 30% on their electric bills. The RFP is pretty straight forward. There has been a lot of interest shown in this program by other local governments. On Monday, Ms. Anna Bicanic Moeller, the Executive Director for MCCOG, looked at McHenry County's RFP to review the language being considered. The key language in our proposal states that aggregation could be transferred to other Municipalities in the County. Each Municipality would still be required to get approval of their individual boards in order to receive this service. Once a vendor is chosen, a public information campaign will begin for presentation of this issue to the public. An RFP is scheduled to go out on Monday. The bids are expected to be back within two weeks. An interview team will be created to select the aggregator and to review how the vendor expects to get this issue on the ballot. This needs to be completed by the evening December County Board meeting. Committee members were asked if they support this issue.

Committee members stated that no one has said that if we don't take the fee that has been proposed to go to the County, would this fee amount go back to the residents for additional savings. We need to understand that if we get these funds, it will not diminish the savings being realized by the residents. The other question is whether the County should even accept this fee. They also questioned what the costs to the County will be to administer this program. They asked if the County should pay for the cost to implement this program or should we eat the costs for implementation. Committee members questioned if they wanted to accept the fee being offered. They stated that they need more information in order to provide an answer. If \$150,000 is provided, this would result in approximately \$5 savings for the residents in the unincorporated areas. It was stated that this issue should be part of the information for consideration of this project. They stated that their priority is savings for residents. If the board decides to accept this contribution, they questioned what the funds would be spent on. It was stated that they need to keep in mind, if funds are left on the table these funds go back to the individuals, not the aggregator. It was stated that all of the questions have not been answered yet. This will be part of the interview process. Committee members were reminded they need to move quickly on this issue in order to get this on the ballot in a timely manner.

Recommendations for Strengthening the Illinois Water Act's Newest Section on High Capacity Wells: Patty Nomm, the Environmental Health Director, joined committee members to respond to questions regarding High Capacity Wells. She provided a summary of the Illinois Water Use Act, which was amended effective January 1, 2010. Committee members were informed that Ms. Nomm brought this issue before the Board of Health at its August 2011 meeting. She was asked to evaluate the current requirements of the Act. This Act addresses wells that provide 100,000 gallons or more of water per day. These wells are in addition to community wells.

The only involvement the Environmental Health Department provides is issuance of permits for irrigation wells. Their requirement is an evaluation to determine if the aquifer will support the amount of water coming from that proposed well. So far six (6) well permits have been reviewed. These are forwarded to the State Water Survey since the State does not have an agency set up to review these requests. The amended Water Use Act stops short in this process. Committee members questioned if Ms. Nomm had any recommendations on this issue.

She stated that she would require notification to everyone in the surrounding areas that could be impacted by a high capacity well. Provide a process for submission and consideration of comments related to a proposed high capacity water well, require a hydrological evaluation by a licensed geologist or engineer to confirm potential impacts of a large capacity well and provide a funding mechanism, such as a review fee to the Illinois Soil and Water Survey to complete a hydrological review of the proposal. A process needs to be in place prior to having an issue come forward. In observation wells they can be influenced by other wells. This suggests that this would be time well spent.

Committee members asked about the history of this legislation and how this was allowed. Ms. McKinney stated that she doesn't know the history of this issue. Committee members stated they would like to know what channels this legislation went through in order to get passed. They questioned how much water the aquifer can safely

provide. Ms. Nomm informed committee members that a permit can be denied if we can show that too much water is coming from a specific area. Ms. McKinney's report shows where the shortages will be. They questioned how they work together to determine what the long term impacts will be ten or more years down the road.

Ms. Collins voiced concern that there is no established hearing or notification process for permitting of community wells by the IEPA. She stated that this should be a reciprocal process.

Committee members were informed that most permit requests for these wells have been located in the western portions of the County. Using current data, there is not mechanism that shows what the impact would be in the future. Now we have real time data that shows if water is in a specific location and whether this water can be used. Committee members stated that we need to make sure these wells will not impact their neighbors. Committee members were informed that we are currently using the best recommendations to make sure we will have sustainable water. There are too many variables to make a determination for the long term. The County does use long term data before a determination is made. They are not making these decisions based on today. The County has had droughts and floods. History determines the rate of water usage. Hydrologist recommendations are being used as well.

Committee members questioned if additional steps are needed to create some additional changes to the ACT. Committee members were asked how the process connects to the community wells. Ms. Nomm stated that there is no mechanism to address this as the community wells are permitted by the IEPA (Illinois Environmental Protection Agency). Committee members stated that is the issue. They stated they would hate to see water go to a golf course versus to a community well. They questioned if there were any public hearing requirements for these high capacity wells. There were informed that this was not a requirement.

Committee members stated that Algonquin has removed themselves from the jurisdiction of the Soil and Water Survey. They questioned if all home rule bodies could do this. It was stated that this issue was brought to the attention of the County Board earlier.

Committee members were informed that all communities were interviewed and questioned how their permitting and review process works. They were asked if they work with bordering communities when large capacity well permits are brought to them. They stated that they all responded that they do not work with the neighboring communities. It was stated that this would be beneficial. This has been addressed in the Water Resources Action Plan. They are trying to get a monitoring network in place in order to monitor all wells.

Mr. Merkel questioned where the Agriculture Lobbyist stand on this issue and questioned how this got passed on the Statewide level. He questioned if this was a statewide issue or just a local McHenry County issue.

Committee members were informed that the Municipalities do test the area before placement of the wells but they do not check with the surrounding areas. Committee members were reminded that only five or six wells have been permitted this year. It is believed that these are all agricultural wells. This information will be brought back to the committee.

Ms. Schuster requested staff provide information regarding what prompted the existing amendment to the Water Use Act, and the specific locations/uses of any large capacity water wells permitted by the department since January of 2010. Mr. Provenzano asked staff to consider whether any recommendations should include an evaluation of the potential impact on future water users.

Discussion of Draft State Legislative Program for 2012: Committee members entered into discussion on the 2012 draft State Legislative Program. Mr. Lehmann informed committee members that this is a revised edition of the State program. The public safety fee was added to the program. Committee member questioned if the High Capacity Water Wells are included in the program. They were informed that this information has been included on page seven (7). They are waiting for review by the department heads before finishing up the program. It is hopeful that this program will be approved at the December morning meeting. The policy statements should be firmed up by then. Committee members were reminded that if they want to see any issues included in the program to please let them know

Ms. McKinney joined committee members to request the County support a total ban on the use of Coal Tar Sealants. The Clean Water Network, the largest national coalition is working together to protect and restore our country's waters and wetlands. This group would like support of The Coal Tar Sealants Reduction Act of 2011. This is a proposed bill to ban the use of coal tar sealant nationwide. She stated that she has spoken about this issue on numerous occasions. She stated the only reason coal tar sealant is used is to "beautify" asphalt. The second paragraph in the letter states why this product is so dangerous. These particles can become airborne and can be tracked into a facility on the bottom of shoes. Within a few months after application, friction from car tires abrades the coal tar sealant into small particles, which are then washed into our rivers, bays, as estuaries during storm events. This sealant contains high amounts of polycyclic aromatic hydrocarbons (PAHs), many of which are suspected human carcinogens and are toxic to aquatic life. Committee members questioned if there had been studies done verifying that this product is a carcinogen. They were informed that there have been many studies done that states that this product is a known carcinogen. She stated that the product states that the purpose is to beautify parking lots. She informed committee members that crack sealant does help, though it is not as aesthetically pleasing. There are alternatives available as well. Home Depot and Lowes have voluntarily agreed to no longer sell this product.

Ms. McKinney stated that the group has indicated they would like a signed letter of support by tomorrow. Committee members questioned what the downside would be by disallowing the use of this product. They were informed that there are alternative products available. They have made tremendous improvements to these alternatives. Committee members noted that since McHenry County is not a "home rule" County, we cannot ban this product. This is a national issue that needs to be taken up by a national group. They asked who the Clean Water Network was. They were informed that this is a group of local governments, as well as the Sierra Club that joined together to try to ban products that hurt our air and waterways. This ban will not put anyone out of business as there are alternatives that can be sold by these same companies. Committee members questioned when this product would be banned or phased out. Ms. McKinney stated that she would have to review the Act and report back to the committee on this issue. The Committee stated they would need more information before they could recommend the letter be signed. All of the committee agreed they should support this issue but did not feel they should rush into a decision. They stated that it would not be detrimental to the process if they did not provide approval to sign the letter today. They requested additional information on this issue and to reach out to our Federal Legislators on this issue to see what their views are. They asked for input from our State representatives as well.

Discussion of FFY13 Federal Legislative Program: Committee members were joined by Mr. Austin and Mr. Trent Lehman from the Ferguson Group, the county lobbyist representatives for Federal issues.

Committee members were provided an update on what transpired this year and as we move ahead for FFY2012. The intention today is to meet with the Department Heads and to answer questions of the committee. Mr. Lehman comes to McHenry County yearly to work on the Federal Legislative Agenda for the county.

Mr. Lehman informed committee members that this was the first time since 1974 since no budget was passed at the Federal level. Because of this there were no appropriations passed. This created issues and resulted in a lame duck session. During that time a continued resolution went before congress. Congress thought it had an agreement and included in that agreement there was \$400,000 in place for McHenry County. Because of issues, all earmarks were stripped out of the agreement. Republicans then called for \$100 billion dollars in savings. Eight continuing resolutions were brought forward. These were finally approved in April and included \$48 billion dollars in cuts and they put off funding for FY2012. Arguments between the parties pushed the budget back at which time discussion on the debt ceiling issue began. When they started to push for FY2012 appropriations, during the debt ceiling debate, a "super committee" was created that was charged with the task of coming up with \$1 to \$5 trillion dollars in savings. The Democrats had proposed \$3 trillion dollars in savings with \$300 billion in new stimulus spending. This plan must be presented by November 23rd and they will have until December 23rd to act on this plan. Talks have \$1.2 trillion in savings coming from defense and Medicare. These are predetermined cuts which have been very political.

For FY2012, congress has been slow to act on any bill. The House has passed 9 of 12 bills and the Senate has passed 11 of 12 bills. They are working under continuing resolutions until November 18th. The plan has been to put two or three bills out and put them into one bill. This has not been successful. They may have to pass another continuing resolution. Generally in years prior to an election the legislators try not to fight on issues as everything

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becomes very political. Congress took a hit on the debt ceiling debate. They are now trying to work together on issues.

Mr. Lehman noted that there are many bills that need congress to act on them. The FAA bill has been out there since 2007. This bill has had 22 extensions. The Highway bill is usually approved every five to six years. This bill was supposed to be reauthorized in 2009. They passed an extension for this bill until March of 2012. Since 2009, not a lot of work has gotten done.

Committee members questioned if the protest of Wall Street or the banks have had any effect on the politicians. Committee members were told that the climate is very political. Most of the Republicans are not sympathetic to the issues though they are all taking note of the anger and frustration of the public. Though this is only being done in a political way as they have not seen any of the members joining in on any of the protests, especially since there has been a lack of any specific "agenda" for these protests. Since the protests are undefined it is hard to back these groups.

Frustration is tangible on all sides. No one seems to be willing to compromise. There is no one in particular to blame and it really shouldn't be so difficult to get some agreement on some of the issues. There seems to be too much conflict within each group in order to get any work done.

A moratorium has been passed on earmarks until 2013. Some have gotten around this with some specific items. There is a claim that there has been a lot of wasted money and Mr. Lehman stated that this is not true. Of the 302 allocations, which includes the amount of funding the congress is allowed to spend, only 1% of the allocations were for earmarks. They reduced the amounts of the allocations and did not save any earmark funds.

Mr. Lehman reported that the Ferguson Group has been working with various lobbyists and senators so they know these groups would like to compete for federal funds. These are funds that should be set aside so communities can compete for these funds. They are fighting to get some funds sent directly to local governments and not go through the States for these funds. The local governments are good at putting funding where they say they are going to.

Today Mr. Lehman will jump on any request that may be beneficial to the County. It was stated that the County Board may need to be a more fluid on these issues as the appropriations process moves forward. At this time we don't know how much funding will be available so they need to be in place to jump on an issue when the funds become available. The program is more fuzzy this year than in the past and they will provide grant information to those areas where they can apply for funding.

California Senator, Barbara Boxer is trying to find some funds in order to move some of the bills forward. The highway bill sets various categories where funding is placed for transportation needs. The programs and rules are changing so they continue to review how to access these funds. It is a tough environment as everyone seems to want to cut Federal funding.

Congress is trying to address unfunded mandates. They are trying to change some of the regulations so they have time to review how the mandates will impact local governments. Every time they cut funding, local governments will be affected. They are hoping to minimize the impact of this as much as they can.

Voices from locals need to be heard. If the legislators are not hearing from you, you will go to the back of their line. They have to know the needs of the county so it is wise to continue to press their case and needs to their congressmen. Administrators for some of the programs need to be contacted so they are aware of the local needs.

The lobbyists are going into agencies to see what they are looking at and what these agencies want to see from some of the grant programs.

Mr. Lehman stated that the Federal Government has a responsibility to be a partner with the States and local governments. With redistricting they will need to continue to foster these new relationships.

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Committee members stated that we need to be care of the requirements to accept some of these grants. Some grants require personnel to be hired and then the County becomes responsible for the costs to the grant. Committee members were reminded that there is always a cost share involved for most grants. The County needs to “qualify” for these grants. The County needs to make sure it knows the responsibility of each grant.

EXECUTIVE SESSION: None.

REPORTS TO COMMITTEE: None

ADJOURNMENT: Noting no further business, Ms. Schmidt made a motion, seconded by Mr. Merkel to adjourn at 10:45a.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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