

Minutes of the Rules Subcommittee

The Rules Committee of the McLean County Board met on Monday, March 5, 2001 at 4:00 p.m. in Room 700, Law and Justice Center, 104 West Front Street, Bloomington, Illinois.

Members Present: Chairman Sorensen, Members Arnold, Gordon, Renner, Kinzinger, Sommer

Members Absent: None

Other County Board Members Present: County Board Chairman Sweeney

Staff Present: Mr. John M. Zeunik, County Administrator; Mr. Terry Lindberg, Assistant County Administrator; Ms. Martha B. Ross, County Administrator's Assistant, County Administrator's Office

Department Heads/
Elected Officials
Present: None

Chairman Sorensen called the meeting to order at 4:00 p.m. The minutes of the February 12, 2001 meeting were approved by consent of the Committee.

Chairman Sorensen presented the chart from County Board Rules Section 5.17-9, which divides the responsibilities of various Oversight Committees for buildings and grounds maintenance at County facilities. Chairman Sorensen stated that the chart must be examined and updated to reflect the current Oversight Committees. The most obvious revision to the chart will be to change all references to the former Human Services Committee to the oversight of the Finance Committee. This is due to the elimination of the Human Services Committee, beginning in January 2001. The departments formerly reporting to the Human Services Committee now report to the Finance Committee.

Mr. Arnold asked whether the expense threshold is still \$2,500.00. Chairman Sorensen explained that if an expense on a building and grounds project exceeds the threshold, or if over 50% of the project will utilize a contractor or some type of contract agreement, the Property Committee must then approve the project.

Mr. Sommer asked what the figure would be changed to, if the threshold currently stands at \$2,500.00. He stated that his recollection of the past threshold was \$500.00. Mr. Zeunik stated that a threshold of \$2,500.00 has been in place during his tenure with McLean County, and the chart currently under consideration was also in place prior to his arrival in McLean County.

Mr. Gordon stated that the threshold of \$2,500.00 should be considered in terms of current construction costs and general inflation. Chairman Sorensen stated that the provision of utilizing a contractor if 50% or more of the project requires it, is a consideration. He noted that the Facilities Management staff would generally handle most projects. It would be a rare occurrence that the County would handle a \$3,000.00 to \$4,000.00 job without utilizing the services of a contractor.

Mr. Gordon stated that he is not proposing an amendment at this time. If the majority of the Rules Committee prefer to keep the threshold of \$2,500.00 as it currently stands, he is amenable to that choice as well.

Chairman Sorensen asked whether the current threshold has been problematic in the past.

Mr. Zeunik stated that the additions to the County Highway facility were the only project that became problematic, in that 100% of the project did not come under the auspices of the Transportation Committee. He explained that the amount of expansion to the facility required the use of an architect and an engineer, with the project ultimately bid to a general contractor to complete. Therefore, the project exceeded the threshold and, as a result, came under the oversight of the Property Committee.

Mr. Gordon asked whether the Property Committee's oversight superceded the jurisdiction of the Transportation Committee, or whether there was joint jurisdiction between the two (2) Committees.

Mr. Zeunik responded that the Transportation Committee received updates on the project. However, the work itself, as well as any change orders, resolution of problems, contract recommendations, and architect recommendations were all under the jurisdiction of the Property Committee.

Mr. Sommer stated that in such an event, costs would not be such a determining factor as that of jurisdiction. Mr. Gordon noted that cost is a trigger, but the scale of a project would be the determining factor in which Committee retained jurisdiction of a given project.

Mr. Zeunik explained that when the current chart was prepared, the County did not have a Facilities Management Department. Instead, each building had its own building manager. At the present time, the centralized Facilities Management Department oversees all County-owned facilities.

Chairman Sorensen stated that 9 letter "H" designations should be changed to the "F" designation to reflect the change in Committee jurisdiction from the Human Services Committee to the Finance Committee. He noted that the chart's legend should be updated to reflect the present Committee structure, as well.

Motion by Sommer/Kinzinger to update the chart delineating the Committee Functions and Responsibilities as to Buildings and Grounds, currently codified as Section 5.17-9 in the Rules of the McLean County Board, to reflect the current Committee structure, and to update the chart legend to also reflect the current Committee structure. Motion carried.

Mr. Zeunik presented the proposed change to Section 5.11-7 (B) and (D), which addresses the procedure for filling County Board vacancies as they occur. He explained that the change previously discussed suggested incorporating into the rules the process that was utilized during the last opportunity to fill a vacancy, which occurred in December 2000, following the death of Mr. John Stevens from District #10. The suggested change is that the Executive Committee would become the Committee to entertain applications and statements from all candidates for a vacant seat on the Board, rather than all candidates appearing before the full Board just prior to the announcement of the appointment.

Mr. Zeunik remarked that the due dates for applications would be changed. In the past, applications were due in the Administrator's Office at Noon on the Monday prior to the Executive Committee meeting. The new date would become Noon on the Thursday prior to the Executive Committee meeting. Additionally, all information regarding applicants for a vacant Board seat would be sent to all Board members with the Executive Committee packet as opposed to the Board packets. There would also be an opportunity for each of the candidates to speak before the Executive Committee.

Mr. Renner stated that he is in favor of the proposed changes in the application procedure for vacant County Board seats.

Board Chairman Sweeney remarked that the proposed changes address only candidates for vacant County Board seats. He asked how the vacated seats of elected officials would be addressed. Chairman Sorensen stated that there had been no feedback with regard to this issue from the Board.

Mr. Zeunik stated that, in consultation with Chief Civil Assistant State's Attorney Eric Ruud, the appointment process for elected offices is set forth in the Illinois Compiled Statutes. Therefore, the County Board's rule in this area would be the same as that of state statute.

Board Sweeney asked if the rule would then be different for each elected official, depending upon the office. Mr. Zeunik responded that the process would be the same, but it is a statutory provision which governs how countywide elected officials are to be appointed. He noted that the statute clearly states that the appointment power is invested in the County Board Chairman. It is not a power that is shared with the Board members, but the Board Chairman may choose to seek feedback as long as he does so in accordance with the state law.

Chairman Sorensen stated that the County Board rules specifically address how Board members are to be appointed. He noted that this issue needed to be altered. He further noted that filling other

vacancies would be handled by the County Board Chairman, as governed by statute.

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Chairman Sorensen remarked that the subject of appointments was explored at the Executive Committee meeting in February 2001. He explained that some Board members wanted to incorporate more input from the Board as a whole, or at least the Executive Committee, in the appointment process for all appointments made by the Chairman.

Mr. Arnold noted that Section 5.11-7 (D) is stated in too general terms, in that it seems to say that the Chairman must bring his/her appointment recommendations to the full Board for approval before making appointments. He remarked that this provision is worded in a somewhat non-specific way and could be interpreted to mean that the Board Chairman must receive approval from the full Board before being able to make specific appointments.

Mr. Renner asked for clarification regarding the statement that the Chairman's appointments are subject to the approval of the County Board. Mr. Arnold stated that his interpretation of the provision provides for open discussion of a proposed appointment at the full Board meeting. He stated that he disagreed with such action. Board Chairman Sweeney remarked that other counties conduct the appointment process in that manner.

Mr. Arnold asked whether a phrase could be added to the effect that a recommendation would be made by the County Board Chairman, so as to not confuse *chairman* with the Executive Committee Chairman. The recommendation would be made by the County Board Chairman and a subsequent appointment would be made by the Chairman, subject to the approval of the Board.

Mr. Gordon stated that he was uncertain as to what the two (2) step process either accomplishes or prevents that the current phrasing of the subject provision does not. Chairman Sorensen remarked that the current phrasing sounds awkward because of the way it is written. He noted that the concept could be structured to say that the Board Chairman could make an appointment subject to the approval of the County Board.

Mr. Arnold explained that he is attempting to strengthen the Board Chairman's position with regard to appointments. Mr. Sommer asked whether the confusion is founded in the notion that the designation of *chairman* does not necessarily imply the Chairman of the County Board.

Mr. Arnold responded that, in its present form, the full meaning of the word *chairman* in this instance, is somewhat vague.

Mr. Renner stated that there is a previous reference to the Chairman in Section 5.11-7 (A), which seems to imply that the reference is to the Board Chairman. Chairman Sorensen cautioned that a definition for the word *chairman* should be considered very carefully, as there are powers given to subcommittee chairmen as well, and the different designations should be clearly differentiated.

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Mr. Zeunik made a wording suggestion to Section 5.11-7(B), to follow the invitation to applicants to address the Executive Committee. He stated, "At the next regularly scheduled Board meeting, the Board Chairman will recommend an appointment to fill the vacancy, subject to the approval of the Board." The Committee's consensus was to accept this statement.

Mr. Zeunik remarked that the definition of quorum has been closely examined by First Civil Assistant State's Attorney Eric Ruud. The definition of quorum that appears in Section 5.14-1 is the definition that is used in Illinois State Statute. He remarked that Mr. Ruud suggested that the Committee may wish to avoid changing the definition of quorum, instead electing to add a definition for the word *members*.

Chairman Sorensen explained that the issue under consideration is if there is a vacancy on the Board at the time that a roll call vote becomes necessary or the establishment of a quorum is questioned, does a member's absence count as a vacancy of that seat, or does the vacancy reduce the total count of the Board or Committee by one.

Mr. Zeunik remarked that Mr. Ruud's analysis of the question depends upon what constitutes the vacancy. If the vacancy is constituted by resignation or death, the membership of the full Board becomes a total of 19 members. That fact has been confirmed with Mr. Mike Luke of the Illinois Attorney General's Office. Such fact was also the premise upon which the Board based its actions at the December 4, 2000 Reorganization Meeting.

Mr. Sommer asked what other instances besides resignation or death would create a vacancy. Chairman Sorensen responded that a member may become incapacitated, but does not resign right away. Mr. Sommer remarked that such a circumstance would more correctly be defined as an absence.

Chairman Sorensen stated that his understanding of the question is that, if a vacancy occurs as a result of death or resignation, the count of the members of the Board becomes one less.

Mr. Arnold remarked that a follow-up sentence could be stated that, "There shall be 20 members of the Board, unless death or resignation has caused that number to be less." Mr. Gordon added, "... unless a vacancy is declared due to death or resignation."

Chairman Sorensen explained that the point might be overstated. He stated that Section 5.14-1 could read, "A majority of the members of the Board shall constitute a quorum. A declared vacancy will affect the total count of members."

Mr. Arnold reminded the Committee that the definition of the word *members* should be clarified. He suggested that a further statement should be added, "There shall be 20 members unless a vacancy has been declared."

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Chairman Sorensen stated that Section 5.14-1 could be dispensed with altogether, in that it is redundant with Illinois State Statute. Mr. Gordon remarked that the Section should not be removed. Instead the minutes of the Committee meeting should reflect that Mr. Ruud has confirmed with the Attorney General's Office the determination of what constitutes a vacancy, and there is a clear understanding of what the word *members* means.

Mr. Arnold noted that the following statement clearly delineates what the word *members* means, "There shall be 20 members of the Board, unless a vacancy has been declared." Chairman Sorensen asked whether each subcommittee membership would also need to be defined.

Mr. Kinzinger asked whether it could be more simply stated that, "If a vacancy is declared, the total membership is reduced by one." Mr. Gordon stated that he agreed with this statement simply because the number 20 is not firmly mandated, nor is the number 6 for each Board Committee. With the issue of redistricting looming in the near future, perhaps it would be more expedient to make a more generic statement with regard to what constitutes membership.

Mr. Zeunik stated that the Illinois Compiled Statutes require that the County Board Chairman must formally declare a vacancy, because the 60 day time frame within which an appointment must occur, begins on the day the Chairman formally declares that a vacancy occurs, either through a resignation or a death.

Board Chairman Sweeney asked about the circumstance wherein a Board member is convicted of a felony offense and how that would affect his/her membership status on the Board. Mr. Zeunik stated that in such an event, the Board member would immediately forfeit his/her seat and the Chairman would formally declare a vacancy.

Chairman Sorensen asked Mr. Zeunik to clarify in writing the fact that a vacancy will impact the count of the members of the Board. Mr. Gordon stated that if we are trying to eliminate or at least minimize potential confusion, we should be as specific as possible.

Mr. Sommer asked whether there is any Board policy that states that the County Board will adhere to the Illinois Compiled Statutes in all respects. Chairman Sorensen responded that the Board does have such a policy, which is located in Section 5.10, titled as Applicable Federal and State Laws.

Chairman Sorensen stated that the Administrator's Office is invited to draft a statement regarding the impact of a declared vacancy upon the resulting number of members of the Board.

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Mr. Zeunik introduced the next section for examination as Section 5.15-1(A) regarding the membership of the Executive Committee. He stated that the language in the working draft before the Committee is the language that was most recently suggested by Mr. Lindberg. The present draft attempts to address the concern that the Executive Committee membership should not exceed nine (9) members. Additionally, it addresses the notion that, in the event that the Executive Committee's Vice Chairman also holds a standing Committee Chairmanship, up to three (3) At Large members could be added to the Executive Committee without exceeding the nine member limit.

Chairman Sorensen asked whether the Committee had further comment on this proposed change to Section 5.15-1(A). Hearing none, he stated that this revision would be considered in a blanket motion to approve the revised rules in total.

Mr. Zeunik presented Section 5.17-2(K) to which language has been added concerning the outside auditor's management letter. The specific language that was added was, "...to monitor corrective actions."

Chairman Sorensen presented revisions to Section 5.17-2(Q), (R), (S), (T), and (U), which address the fact that the former Human Services Committee has been consolidated into the Finance Committee.

Mr. Gordon stated that Section 5.17-9 does not exist in the present draft of the Rules currently under review. Chairman Sorensen stated that the chart delineating the Committee functions and responsibilities as to buildings and grounds would be affixed and codified as that section in the final draft of the rules.

Chairman Sorensen noted that a revision to Section 5.17-1(P) through (U) have been moved to reflect the fact that the former Legislative Committee has been consolidated into the Executive Committee.

Mr. Renner asked under what provision in the Rules governs the issue of impending redistricting. Mr. Zeunik explained that ten (10) years prior, the County Board Chairman utilized Section 5.17-1(C) as it relates to the functions of the Executive Committee as the guideline for redistricting. Mr. Gordon asked whether Section 5.17-1(E) regarding Ad Hoc Committees, task forces, and other like organizations relating to County business could apply as well.

Chairman Sorensen summarized the changes that the Committee has addressed in preparation for a general motion to approve changes in the Rules of the McLean County Board. He stated that Section 5.17-7, as amended would now refer to the graph delineating Committee Functions and Responsibilities as to Buildings and Grounds. Section 5.11-7(B) refers to the changes, as written,

to the Procedure for Filling Board Vacancies. Section 5.11-7(D) refers to the changes as written, with a request to the Administrator's Office to adjust the wording in the final sentence.

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Mr. Gordon asked what the change refers to in Section 5.11-7(D). Chairman Sorensen explained that the final sentence would be revised regarding the procedure for applicants for Board vacancies.

Chairman Sorensen stated that the Administrator's Office and Chief Civil Assistant State's Attorney Eric Ruud would construct a new statement regarding Section 5.14-1 as it relates to vacancies. Mr. Zeunik offered a first draft:

Whenever a vacancy on the Board occurs, as a result of resignation, death, plea to or conviction of a felony, and upon a formal declaration of a vacancy by the Board Chairman, for purposes of defining a quorum, the number of members shall be reduced by one.

Chairman Sorensen remarked that his only reservation with emunerating the reasons why a vacancy may occur is that it may be redundant. Mr. Zeunik suggested that the rule could merely state that, *whenever a vacancy or vacancies occur on the Board*, without listing the specific catalysts for such vacancies. Mr. Gordon stated that the provision of formally declaring a vacancy should be specifically stated as well, and just eliminate the stated reasons or occasions for a vacancy.

Chairman Sorensen asked whether the Committee was in agreement with this change regarding vacancies. The Committee voiced no opposition.

Chairman Sorensen presented Section 5.15-1 regarding the number of members on the Executive Committee and how they are determined, Section 5.17-1(P) through (U) regarding changes in the responsibilities of the Executive Committee, and Section 5.17-2(K) (P) (Q) through (U) regarding changes in the Finance Committee as being subject to revision.

Motion by Arnold/Kinzinger to Approve the Proposed Changes in the Rules of the McLean County Board as listed.

Mr. Sommer stated that item 3 of the Preamble is not worded strongly enough with regard to its use of the words, "...strive to avoid..." in reference to conflict of interest. Mr. Arnold commented that he favors the use of the phrase "strive to avoid" because it is a difficult area, for Board members. He favors the wording that "strive to avoid" implies in that all Board members do their best to avoid conflicts, but may not be 100% successful in their efforts.

Mr. Renner remarked that Board members must also deal with potential conflicts of interest that are real versus those that are perceived. He stated that Board members always do their best to avoid the appearance of a conflict of interest, even though there may be no sinister underlying issues. He stated that the more broad statement is less restrictive in this case.

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Mr. Sommer stated that Board members should guard against any appearance of favoritism to constituents when dealing with other elected officials. Chairman Sorensen noted that providing good service to one's constituents versus the perception by others of overt favoritism is a difficult area to navigate.

Chairman Sorensen asked whether such a situation is governed by State Statute under the auspices of official misconduct. Mr. Kinzinger stated that there is an inherent pitfall with regard to official misconduct in that it would be impossible to provide much specificity.

Mr. Renner asked how a provision for official misconduct would be constructed and codified. Mr. Sommer stated that such action might be outside the scope of County Board powers, but Board members should at least be aware of potential pitfalls in this area.

Mr. Gordon stated that Preamble Section One should be frequently emphasized at many available opportunities, as the overriding objective of all Board members. He noted that the very broad and general nature of this provision might benefit from more specificity.

Chairman Sorensen remarked that, in attempting to be more specific, the Board might then find itself in conflict with other statutes and regulations. Redefining the concept of official misconduct might be a huge undertaking, which would considerably complicate the rules of the Board.

Mr. Gordon asked whether Section 5.15-1(B) should end with the qualification of County Board Chairman, as opposed to the word Chairman alone. He noted that this would differentiate the Board Chairman from the Committee Chairmen in an attempt to avoid unnecessary confusion. Chairman Sorensen stated that the Committee should assume that such a change is included in his listing of changes for the motion, which is on the table.

Mr. Arnold requested a change to Section 5.15-2 that would state, "Each Board Member shall serve on two or more standing committees, *at the discretion of the Chairman of the Board*, with the Chairman of the Board being an ex-officio member of all standing committees. Chairman Sorensen asked whether the words, *at the discretion of the Chairman of the Board*, is the proposed change. Mr. Arnold confirmed that this was his intent.

Chairman Sorensen explained that there are two (2) outstanding issues with regard to the motion that is currently before the Committee. The first issue is the rewording of the sentence in Section 5.11-7(D), and the second issue is the addition of a sentence in that section which was previously recited.

Chairman Sorensen asked the Committee members whether they preferred to vote on the motion at

the present time, thus entrusting the Administrator's Office to update the text, as appropriate, subsequently sending the changes to the Executive Committee for their approval at the Committee's next regularly scheduled meeting. In the alternative, the Committee may elect to review the revised draft of the rules, in their entirety, at a meeting date in March 2001. Mr. Sommer expressed a desire

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to review the document in its entirety once the changes have been made. Mr. Arnold and Mr. Renner stated that they are in favor of sending the document to the Executive Committee for its approval.

Chairman Sorensen suggested that the Administrator's Office execute the requested changes, highlight the changes that were made and distribute the revised document by mail. Following a few days for the Committee to fully review the revised document, the Administrator's Office would then poll the Committee to determine whether there is a need to meet again. If there is no need to meet in the next monthly cycle, the revised rules can then be sent to the Executive Committee the next month, which will be April 2001.

Motion carried.

Chairman Sorensen presented the Ordinance Setting Salaries of the Members of the McLean County Board for review. He noted that this is a housekeeping matter that the Rules Committee must deal with as a result of the change in Board structure. He explained that the members of the Executive Committee who are not Subcommittee Chairmen, are compensated less than the other members of the Executive Committee.

Mr. Arnold noted that in his review of the Ordinance as it was presented, he noted that there was no proposed recommendation to increase the salary of the At Large committee members from \$4,000.00 to \$5,000.00. He noted that he had previously voted against such a recommendation.

Mr. Arnold also asked whether the word Vice, in reference to Vice Chairman, in the third line of the second paragraph of the Ordinance was an intentional strikeout or a merely a flaw in the copy. Mr. Zeunik noted that the mark was not an intentional strikeout and must instead be a flaw in the copy.

Chairman Sorensen explained that the issue at hand is whether or not the At Large members of the Executive Committee should be compensated as regular members of the Board who are without Committee Chairmanship responsibilities, or as other Subcommittee Chairman are compensated.

Mr. Kinzinger stated that he supports Mr. Arnold in opposition to the increase in compensation for the At Large members. He suggested that an in-between compensation amount, perhaps \$4,500.00, for the At Large members of the Executive Committee. He explained that the duties of the At Large members are not commensurate with those of the Committee Chairmen, but a somewhat increased compensation amount would be appropriate to allow for a distinction with regard to the

length and breadth of service that the At Large members bring to the Executive Committee.

Chairman Sorensen noted that one of the At Large members of the Executive Committee has been asked to assume additional responsibilities. To some extent, that member has some duties and responsibilities which are similar to those vested formerly in the Chairman of the Legislative Committee.

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Mr. Kinzinger asked whether a clause could be added to more clearly delineate the association between an increase in duties and the subsequent increase in compensation. He reiterated that a compromise amount, such as \$4,500.00 would be easier to support, as opposed to placing the At Large members on the same compensation level as Committee Chairmen.

Mr. Arnold asked whether Ms. Berglund, as a County Board member, is reimbursed for extensive travel.

Mr. Gordon stated that there is no current provision for compensation of the Committee Vice Chairmen, although they assume the mantle of Committee Chairmen from time to time. He further stated that the status of serving on the Executive Committee carries with it some additional responsibilities, although not precisely comparable to those of a Committee Chairman. Therefore, he would support compensating the At Large members at the same level as the other members of the Executive Committee.

Chairman Sorensen stated that there is ample time to ponder the proposed changes in the compensation for At Large members of the Executive Committee. Mr. Zeunik noted that the changes should be made prior to May 2002.

Mr. Sommer asked that the statement in the Ordinance regarding the increase in salary for both the Vice Chairman of the Board and the Chairmen of the Standing Oversight Committees be clarified. This statement places him in the unique position of potentially being paid two (2) separate amounts for the two (2) roles in which he serves. Mr. Sommer stated that he does not receive dual compensation and would like the Ordinance to reflect that fact. Chairman Sorensen stated that this same situation could be considered for all of the Committee Chairmen who also serve on the Executive Committee. He noted that the members of the Rules Committee should consider this issue for the future. He noted that the Committee might reconvene to address this issue at a future date, in the event that the Committee does not meet in April 2001.

There being nothing further to come before the Committee at this time, Chairman Sorensen adjourned the meeting at 5:02 p.m.

Respectfully submitted,

Martha B. Ross
Recording Secretary