

**MACON COUNTY BOARD
ENVIRONMENTAL, EDUCATION, HEALTH & WELFARE
COMMITTEE MEETING**

**Macon County Office Building
141 S. Main Street, County Board Room #514
Decatur, IL 62523**

March 25, 2021 5:30 P.M.

MEMBERS PRESENT

Kevin Greenfield
Jim Gresham
Jeff Entler
Jason Comer
Kristen Larner

COUNTY PERSONNEL PRESENT

Lt. Jeff Scheibly, Animal Control
Tracy Sumpter, Env Mgmt
Jennifer Gunter, P&Z
Jessie Smalley, HR
Mike Baggett, State's Attorney's Office
Jeannie Durham, County Board Office

PRESENT VIA TELECONFERENCE

Helena Buckner

MEMBERS ABSENT

Linda Little, Chair

The meeting was called to order by Vice Chair Greenfield at the Macon County Office Building.

APPROVAL OF MINUTES

Motion to approve the minutes from the prior meetings, 2/25/2021 meeting made by Mr. Gresham, seconded by Ms. Larner, and roll call vote showed the motion carried 6-0.

APPROVAL OF THE CLAIMS

Motion to approve the claims report was made by Mr. Gresham, seconded by Ms. Larner, and roll call vote showed the motion carried 6-0.

ZONING - no report

SUBDIVISIONS - none

REPORTS

Animal Control

Lt. Scheibly distributed reports on shelter statistics for February, 2021 and February, 2020 as a comparison. Everything is still pretty comparable. The numbers at the shelter are still in great shape, but starting to see an increase in cats and kittens as that busy season approaches.

Mr. Gresham asked about the numbers. Lt. Scheibly said that this afternoon, the shelter was down to 4 adoptable dogs & 5 cats with several strays that are waiting to be reclaimed or if not reclaimed, altered and moved to the adoption floor.

Chairman Greenfield commented that it should be spic-n-span out there. Lt. Scheibly agreed and invited the Chairman to come out for a visit.

The current special is, in lieu of St. Patrick's Day, St. Catrick's Day with all cat & kitten adoptions at \$25 through the rest of March. There will be another special in April, but it has not been decided what it will be yet.

Veteran's Assistance – No report

Planning & Zoning –

Ms. Gunter introduced herself as the Director of Planning and Zoning Department and said that it has been brought to her attention that a few of the Board members want to make some changes to our current nuisance ordinance. Copies of the current ordinance were emailed to members last week for review. She said she would be happy to answer any questions about the ordinance or how the office currently handles nuisance complaints as they are received.

Mr. Gresham said that he knows how difficult some of these things can be, but there are a few things that have taken place in one situation in particular. He said he felt that this needs to go to another committee the way the County Board Rules read, that committee keeps the EEHW committee informed. He asked if Ms. Gunter has had any thoughts about how her job could be made a little easier in terms of enforcing these things, such as the wording being changed or, for example, when special uses are done, it says when someone wants to operate a business in an area not zoned for business, he can only have one vehicle or whatever. Yet, we have an R-1 district that basically says you can have motor graders, bulldozers, trailers that are off their wheels, etc.... How do we get to the point where we just don't allow this? What can be done? What wording is needed?

Ms. Gunter explained that Special Use Permits, when issued, are under time frame restrictions. That is how the County keeps a hold of a Special Use Permit. When it expires, it can just not be renewed. Mr. Gresham said that basically what it does is limit what a person can do on that property, even though it does have a time constraint. Ms. Gunter agreed. Mr. Gresham continued, saying we have R-1 situations where they are parking all kinds of stuff that is not used. It is junk. Ms. Gunter agreed. Mr. Gresham said we have junk stuff, debris, all these things, but something is missing in the ordinance to control this. Ms. Gunter said the office is swamped right now and explained that she has not personally dived into this or looked at other County's ordinances or anything like that. She said she just hasn't had time but would be glad to do so if that is what the committee would like. Mr. Gresham said he would be interested to hear from the other members to see if they have had thoughts on it & if not, he would like to see it referred to the SRO (Siting, Rules & Ordinance) sub-committee, which is the committee that is supposed to be doing this sort of thing.

Mr. Baggett explained that the reason it is before EEHW tonight is at his suggestion. Mr. Gresham is right that when it comes to actually modifying or amending the County Code, the SRO is technically the committee with jurisdiction over amending the code. However, given that the concerns were expressed with respect to the nuisance ordinance, which falls under the Planning & Zoning Department, this committee, which is the oversight committee for that department, has jurisdiction over what they want to see modified. Mr. Baggett said it was his suggestion that this committee would be the better committee in terms of dictating or giving direction to Ms. Gunter or himself in terms of what changes the committee wants to see made so that they can prepare some type of draft and put something to paper. But, without some direction from this committee as to what types of changes are wanted, it was not felt to be appropriate to go to SRO and start drafting the language because as SRO, who is in charge of drafting that language and passing it on to the full board, but the policy really should be coming from EEHW because this is the committee that exercises jurisdiction over P&Z which is in charge of enforcing the ordinance. So, the hope is that this committee can provide the direction in terms of what is being looked for as far as changes so that something can be prepared for SRO to actually tweak and / or approve the language and ultimately send it on to the County Board for approval. SRO will be in charge of finalizing the language before it goes to the Board for final approval, but until we know exactly what this committee wants to see changed and how to change it, it is premature to take it to SRO.

Chairman Greenfield asked Mr. Baggett if he thought it would be beneficial to set up a study session to strictly discuss and take action on the rules of the nuisance ordinance. Mr. Baggett said yes, because what is being looked at as ultimately doing is making some changes. But, again, we have to have some opportunity for board members to give it that deep thought and come up with some ideas and direction as to how they want to see it changed. A study session is probably a good mechanism to do that where you are not taking reports from other departments. This would be the only thing on the agenda for the committee. It would also be a public hearing and would be beneficial in terms of inviting the public to come and give feedback because with this type of ordinance obviously the committee is looking at telling property owners what they can and cannot do in unincorporated Macon County. A lot of people move out to unincorporated Macon County so that they can do pretty much what they want on their property. So, historically, the nuisance ordinance has always been very much limited and conservative in its scope and intent to regulate because of the differences between the County Board and what it is doing in the unincorporated county versus what a municipality or village may be doing.

Mr. Gresham expressed appreciation for Mr. Baggett's explanation saying he always does a great job. He said the only thing is that he feels most people want to move out to the country, not to create a junkyard. They want space. They want to look around and not see things that we see in the city. They are not there to create a nuisance.

Chairman Greenfield agreed to an extent, but said that the country is not the country anymore like it maybe used to be because the country, anymore, has got subdivisions in it. There is a place for a person to park his tractor out back when it quits or there is a place for a plow that may be junk to you and me, but maybe not to him. In Subdivisions, especially, where people are living under a covenant, it may be beneficial for us to make sure that that subdivision

maintains some sort of order. Mr. Gresham agreed. Ms. Lerner said that it sounds like that the country is not necessarily what it was at one time, so there is a need to set some new boundaries for when you do have neighbors. That would be what we need to look at in a study session.

Mr. Baggett said that is the kind of direction that is being looked for in terms of what we have and what we are looking at. A study session would allow Ms. Gunter some time to pull together ordinances from other counties and options to present. Additionally, especially in terms of having different types of ordinances that control different types of properties. If you're talking about someone in A-1 zoning, and we don't want to get too much into changing zoning because that is whole different set of laws, but you can treat someone differently living on A-1 versus R-1. Those are the kinds of policy directions we need. He explained that his job as a lawyer and Ms. Gunter's job as Planning & Zoning administrator are not to make policy for the county. An idea of what the board members who are elected to make those decisions want and then we can do what is in our power to implement that vision.

Mr. Greenfield said he felt that the complaint process needs to be a little more clear as well. People that are affected should have the opportunity to object, but if someone lives 5 miles from someone, just because they may be upset with them, should not have the right to make a complaint just to make their life miserable. We have to take that into consideration as well. It should be only people that are affected and involved that are able to make a complaint. Mr. Baggett said that is a great topic for the type of study session being discussed. It would be appropriate and useful in this context. The public should be invited. They are technically invited to every meeting, but this is one of those where public input would be very beneficial as well as reaching out to members that are not on this particular committee who may have strong opinions in this area and get feedback from them too as far as board members.

Mr. Entler asked if this process has been started because of inefficiencies in the current ordinance. Did someone not fulfill the need of working through one particular issue or . . . ? Mr. Gresham explained that this is a really bad analogy, but we have a bad situation that brought attention to all of this. There have just been two mass shootings in the last short period of time so now everything is about gun control. How many times has that happened? So, this might go away, and we don't really have to do anything about it now. But, we have a situation where there are some shortcomings and we have a nuisance ordinance and how we enforce it. Let's not just put it off. Let's try to do something about it so the next time something happens, we can deal with it appropriately and possibly avoid another occurrence.

Mr. Comer agreed that the study session is a good idea, but said they have to keep in mind that sometimes people look at something not as junk. He said another bad analogy, an ugly baby. Some people don't think they are ugly. That guy that has worked his whole life for a piece of equipment that he emotionally has an attachment to and can't let go doesn't think of it as junk. We need to look at, because as a homeowner Mr. Comer said he wants to protect his views and property value since it is an investment, but we have to keep in mind that there is the other side of that coin that people are going to look at and say they are protecting their investment and result of their 45 years of labor, blood, sweat & tears. We need to have a study meeting and dissect it to see if there's a need for change. It is worth a dive into so it doesn't get forgotten.

Chairman Greenfield asked if some guidelines that would take some of the decisions a judge has to make out of his hands so that it is written in black and white and the judge does not have a large discrepancy of saying he might give another 6 months because that is what happens in a lot of cases. The guy comes in and says he's making an attempt and the judge says ok, as long as you're trying, we'll give you another 3 months. The problem just keeps going down the road.

Mr. Baggett explained that there is a certain amount of discretion that can be written into the ordinance in such a way that might limit a judge's authority or discretion, but Mr. Baggett said he is not sure that it could be written in such a way to do exactly what Chairman Greenfield just described because a judge is always going to have certain powers that simply cannot be taken away, to exercise judicial discretion in terms of continuing cases. He said that what is being described has not been done by the judges so much as it is something that has been done by him and the State's Attorney's Office. As a matter of policy, historically, the last time the nuisance ordinance was amended was in 2013. The direction, at that time, from the County Board was that our objective in enforcing the nuisance ordinance was to obtain compliance with the nuisance ordinance as opposed to punishment for violating the ordinance. So, if someone was found to be in violation and referred for prosecution because they did not abate the nuisance in the timeframes given them by the Director of Planning and Zoning, then it was referred to the State's Attorney's office for prosecution. If appropriate, charges would be filed and it would proceed through court. It has always been the practice, at the direction of the County Board, that if they were making good faith efforts, to continue to case as long as necessary in order to obtain compliance and to abate the nuisance as opposed to going to court and trying to get an actual fine. That is because, at the end of the day, if someone violates the nuisance ordinance, they are taken to court, a fine of \$100 or \$300 is given, they may or may not abate the nuisance, but there is nothing hanging over their head short of trying to get them held in contempt of civil court and at some point, the solution becomes bigger than the problem. Mr. Baggett said he has always tried to work very hard with people that have been referred for prosecution to get them to abate the nuisance. Sometimes, if they are being cited for unfit structures, the only solution is to demo the property and that can be prohibitively expensive for property owners who simply do not have the funds to demo the property. They can be ordered to do it, but you can't get blood out of a turnip. The County does not have the budget to go in and demo the properties for them. Sometimes, the solution becomes bigger than the problem.

Chairman Greenfield asked if members felt a study session would be appropriate. There was agreement. Mr. Greenfield asked for a timeframe saying he felt that the quicker this is acted upon, the better it would be. Possibly one could be scheduled in the next week or so. Mr. Baggett said that that timeframe would not work for him due to his schedule and a trial coming up the first week of April and next week being spent to prep, he would not be able to devote any time to this. If the committee would like his presence, it will have to go out a little ways.

Ms. Buckner asked Ms. Gunter how long it would take her to gather information and study it to make recommendations. Mr. Baggett agreed that the ability to research what other counties are doing and identify policies that may be in line with what is being discussed here. That will take some time to get that put together. We don't want to rush this through without having a very good set of options to present to the full board to decide on. Ms. Gunter felt it would take

a good three weeks. Mr. Baggett said that if this is done right, it is a project that could take a little while. The more time and effort that can be put into it, the better the result.

Mr. Greenfield asked about people currently in violation and if they would be grandfathered in. Mr. Baggett explained that anyone who currently has a court case pending, a complaint has already been filed which alleges the violation. They are in violation of the ordinance as it currently exists. If the County Board amends the nuisance ordinance, it would have to be effective from that date forward. You cannot make it retroactively effective. Anyone in violation of the ordinance currently, the path forward is already dictated there. Once the County Board makes any changes, from that effective day forward, people will be subject to the updated ordinance, but not anyone prior to that. Mr. Gresham asked if someone is in violation of the ordinance in place when he was in violation, on Day 1 of the new ordinance and he is still in violation, would he be covered under the new ordinance. Mr. Baggett said not necessarily. Nuisance ordinances are generally written in such a way that each day that the violator is in violation of the ordinance, is a distinct and separate offense. It is not normally proceeded that way because it is just over kill, but that option is always there. If the ordinance was amended, then they would be in violation of the old ordinance or not, based on what they are doing based on the date of the effectiveness. If they have a continuing violation and a complaint comes in or an inspection is conducted and the violation is in violation of the new ordinance, they would get a violation letter and have time to abate. If they do not, we could prosecute based on that date forward and the new ordinance.

Chairman Greenfield summarized saying nuisance ordinances from other counties of like size will be gathered and looked at with copies being sent out to committee members. In the next 30 days we will try to schedule a study session. Mr. Baggett agreed that sounded like a good plan saying he would like to work with Ms. Gunter, but would be unavailable for the next couple of weeks.

Health Department –
Macon County Board Resolution Authorizing Donation or Disposal of Surplus Property by the Macon County Health Department

Chairman Greenfield presented and motion to approve forwarding to the Finance Committee with recommendation to approve made by Mr. Gresham, seconded by Mr. Entler and roll call vote showed the motion carried 6-0.

Macon County Board Resolution Approving Contract and Increase in Appropriations in the FY21 Health Fund Budget for *Infant/Early Childhood Mental Health Consultation Services*

Mr. Baggett explained that he had reviewed the contract and other than the fact that the name of the consultant is missing, probably because that is still unknown, the purpose of the resolution is their request for the board to approved the ultimate hiring of a vendor underneath the grant, which is a requirement for the expenditure of that grant. This would be a contract between the County and whoever the consultant ends up being. They are just looking for approval of the contract language prior to entering into the contract which he said he has reviewed and has no concerns with.

Motion to approve forwarding to the Finance Committee with recommendation to approve made by Ms. Lerner seconded by Mr. Gresham and roll call vote showed the motion carried 6-0.

Chairman Greenfield said he did have a question regarding a business that had been shut down last month for the 2nd time which triggered a need for a hearing to open back up. He said he wasn't sure what the Health Department rules are but would think that at the time of closing someone down, you would give them a time for the hearing.

Mr. Baggett said he was familiar with the situation. Under the County Code with respect to the Food Sanitation Ordinance, the Health Department Administrator has the authority to revoke a license for someone who has a serious health violation or, as in this case, someone who had had multiple violations in the preceding 12 months. That revocation notice is issued and is effective 5 days after issuance. It is up to the business to request an appeal of the Health Administrator's decision. The violator can repeal the decision of the Health Department Administrator to the Board of Health, but they have to request it. Once the request is received, the Board of Health has to convene and hold a hearing, but they don't do it until they are asked to do it. There is no provision under the ordinance that requires the Board of Health to immediately set a hearing because it is not an automatic right. It is a right that has to be sought by the violator.

Mr. Greenfield said this was the 2nd offense, so he was shut down because it was the 2nd offense, but according to the gentleman, he was not told that. Mr. Baggett said that that is accurate and he has had a discussion with the Health Administrator about the notice given to the business owner indicating that in the future, if there are multiple reasons for a revocation as opposed to a suspension or some other remedial action that all of those reasons need to be listed in the notice of closure. In this case, the serious health incident is what they based their decision on. They have the authority to do that under the ordinance. Mr. Baggett said he found out, during the process of getting ready to have a hearing on this, was that, in addition to that, they had also been found in violation during the preceding 12 months which was a separate, distinct basis for the revocation. Mr. Baggett repeated that he did have a conversation with the Administrator about making sure that when those decisions are made, that all of the basis for shutting someone down are listed in the notice of closure as opposed to just one.

Mr. Greenfield said his concern when going out and closing businesses down, and if it is justified, that is fine, but it seems like when that is done, at that point in time, we would instruct them on how to get back open and 2, set up a hearing as soon as possible to try to get the business back in operation. This circumstance, the business was closed for over a week, they couldn't come together on when to have a hearing, so they told him to just go ahead and open back up. Mr. Baggett confirmed that was correct. Mr. Greenfield said that doesn't seem like a very good way to conduct business. Mr. Baggett said it is typical in Public Health ordinances to have a post deprivation hearing. So, you don't have a hearing until after the action against your business interest occurs. This is very typical way to have procedures set up because you do not want a business that is violating the Health Code in an egregious way to have a way of operating until you can have a hearing. You don't want that kind of lag time. So, you have the action of shutting them down and then the business owner has the right to seek a hearing to appeal the decision of the Health Department. In this case, the request for a hearing was made.

The Administrator reached out to the members of the Board of Health and was unable to reach a time and date within a reasonable amount of time where a quorum could meet to hear the appeal. Since they could not have a quorum of the Board of Health meet and hear the appeal, they simply rescinded the revocation which was the fairest action to be taken against the business owner as opposed to making them wait longer for the Board of Health to be available. Obviously the Board of Health is full of professionals and their schedules are difficult to work around sometimes. Mr. Greenfield commented that it may be full of professionals, but he feels it is time to get some common sense people like maybe a couple from the restaurant business to serve on it. Mr. Baggett said that may be the case, but reminded the Chairman that Statute governs who can be appointed to the Board of Health. It does require a certain number of the members to come from very particular backgrounds. There is some room for modifying the makeup of the Board and is certainly within the realm of authority of the Chairman of the County Board, but in certain respects it is kind of limited in terms of the background of some of the members. Mr. Greenfield said there are about 4 appointees whose terms are set to expire in the next month or so and he is looking at making changes. He said he has already informed the Health Department Administrator of his intentions to make the Board more diverse.

Environmental Management

Ms. Sumpter reported that the electronics & paint collections would be starting back up in April. The plan is to have one of each collection on a Saturday per month from April through September with October being reserved for rain dates. The dates will be posted to the website on April 1st and appointments which can be made online or by calling the office will be available at that time.

Ms. Sumpter said she is still training with the IEPA for her certification and would be conducting her 2nd landfill inspection next week.

Regional Office of Education – no report

Mental Health – no report

Historical Museum – no report

U of I Extension – no report

CITIZEN'S REMARKS –

There were no remarks submitted via email prior to the meeting
There were no citizens present to make comments.

Closed Session – None needed

NEXT MEETING Next regular meeting – 4/22/2021

ADJOURNMENT Motion to adjourn was made by Mr. Gresham & seconded by Mr. Greenfield & the meeting was adjourned at 6:15 p.m.

Minutes submitted by Jeannie Durham, Macon County Board Office