

**SITING, RULES & ORDINANCE SUB-COMMITTEE MEETING
DECEMBER 13, 2011
5:30 P.M.**

MEMBERS PRESENT

Vice Chair Don Westerman
Tim Dudley
Bill Oliver

MEMBERS ABSENT

Susanna Zimmerman

COUNTY PERSONNEL PRESENT

Randy Waks, Asst. State's Attorney
Geannette Wittendorf, Asst. State's Attorney
Jay Dunn, Board Chair
Mark Wicklund, County Board
Josh Tanner, GIS
Tony VanNatta, P/Z
Linda Koger, County Board Office

Meeting was called to order by Vice Chair Westerman at the Macon County Office Building.

MINUTES

Motion to approve the minutes of prior meeting made by Tim Dudley, seconded by Bill Oliver, and motion carried 3-0.

NEW BUSINESS

Resolution Approving Proposal For Ordinance Codification Services

Vice Chair Westerman commented he is always uncomfortable coming to look at a big pile of papers like this, ask committee to make a decision, that is the nature of the beast, and hopefully we are going to make a decision tonight. Our counsel is here to answer questions and will be giving us a recommendation, he has looked over all of them, he hopes it is apples and apples, but it didn't seem like it to him but it probably is. He asked Randy Waks to give an overview of why we want to do this, how we got here, and how we are paying for it.

Randy Waks said Jay can answer the last part on the funding but every time we want to pass an ordinance, it comes up through the committee, then comes to the county board to consider it, votes on it, and passes it so it is a free standing ordinance. We have ordinances for zoning, subdivisions, through the health department, electrical code, and they are all separate by themselves; we have got an ordinance dealing with property disposal that he found out about by accident, it existed long before he started, and there is no easy place to locate these ordinances. The city has put all their ordinances into one code, look at it as a code of ordinances, and when you call it a code of ordinances, the long word for that is codification; we are codifying or making a code out of our ordinances, and that is what we want to do.

He wanted to do this when he first started 7 years ago because he couldn't find anything, and if he wants to know right now if we have an ordinance on anything he calls Steve Bean for a search of it. He is the assistant state's attorney in charge of the civil division, and he doesn't know where it is; if John Doe on the street is expected to comply with these ordinances, he will have less of an opportunity than Randy does to locate these which means we are going to have a problem getting him to comply if he doesn't know they exist.

We want the public to know these ordinances exist, there is a place to be able to locate them, and a place for us to be able to locate them. That is the goal, to codify all our ordinances, to put them in one book in chapter form.

Second part is to make them uniform in format; right now depending upon who is drafting the ordinance, it may be in outline form or maybe section 1, 2, 3, outline form may differ if it is in outline form with maybe section 1, then 1.1, 1.2, 1.3, or maybe A, B, C so the outline format differs from ordinance to ordinance. This will make them all uniform so that each chapter which will be a separate subject, each chapter will look like the previous chapter in format.

Third, we will have some hard copies, but that is not the big advantage; advantage is it is going to be available online; almost everybody has access to computers, all of us here in the county do, and if we want to find an ordinance or a chapter or a subject, we can find it online and print it out and create our own booklet. This was the goal for a long time, it was beyond his abilities to put together with the time he has, given a whole year of doing absolutely nothing maybe he could have done it, so it was something he never tackled. Someone else came up with the idea that there are codification services that will do this for us, they did a search and found many across the country, came up with what they thought the top three, and those are the three that also submitted bids; these same companies also go as vendors to various organizational conventions, they have been around and are very experienced, and all submitted very good proposals.

He got Geannette Wittendorf involved, she helps him half time in the civil division, and she also does part of the criminal prosecutions half time. She spent a lot of time and put together a RFP, it was published in the H&R on October 26 and November 2, it contained a schedule of exactly what we wanted, schedule of the dates, request for the scope of work for exactly what we wanted, RFP was put together from other counties that have also done this type thing, November 30 was date these were due, and they received bids from three companies; American Legal Publishing, Municipal Code Corp also called Municode, and General Code LLC. Copies of all three bids were distributed totaling about 200 pages of paperwork. Regarding how to pay for it, Randy commented he will turn that over to Jay.

Board Chair Dunn said he can take this out of existing funds from Planning & Zoning, from the County Board budget. Vice Chair Westerman commented then it won't have to be budgeted, and Chair Dunn replied no.

Vice Chair Westerman asked if this contractor that we decide upon, how do we know he is not changing those, is he going to change them some, or just make it simpler, or any chance that anything is going to get changed here to substantially change the ordinance. Randy replied they are not to change our ordinances, you are the only group entity that can change an ordinance, and they will be reading it, or we all will be reading it, not just the county board; they will ask Tony to look at his chapters, the health department to look at their chapters, anybody involved he wants them to review them, and ultimately the county board will vote to adopt this code but not until there has been a thorough examination to make sure it is exactly what we want.

Randy commented that Mr. Oliver wanted them to request in these bids an option to make our language mirror the City of Decatur's, they talked to them, and they all said we can't do that; you're asking us to write your statutes, your codes, to comply with another jurisdiction's determinations, and that is the county board's job, not our job; if you want to change your ordinances, we'll put them in a codification form and make them uniform, and if you don't want to change them then don't change them. They are going to codify what we have and if later on we want to change our zoning to match the city's we can, but it will still be in the same format, codified format. If we want our setbacks to match the city's, we can do that if we want, whatever the city has; we can do that or you can do that, but you have to take that up and go through committee and county board to pass it.

Jay Dunn asked if it is better to review all the ordinances and change them first or do the codification and then take another look after they have been codified. Randy is clear on what he thinks ought to be done, if we wait to review each ordinance before we codify it, we will never get the codification done; he would like to have this codification done before he leaves which is a year, and then you will be able to see what you have got and what you don't have.

On the codification, Mark Wicklund said his understanding is when they are done with the codification process, if there were any conflicts with state or federal laws that they would point those out so we could address those issues after the codification. Geannette replied part of the bid and part of the review is whether or not they will conduct a legal analysis of our ordinances, and that goes into the pricing which she has everything summarized whenever committee is ready to go over them as to which companies do it and which charge more; they will present any conflicts perceived and any ordinances they don't believe are legal, any of that sort of thing, they will double check with state law and federal law to ensure we are in compliance, and that will be part of the review prior to our final codification.

Vice Chair Westerman knows we have dollar signs on these proposals, he is not sure how much in concrete those are, he would like clarification on that, and are we under any obligation to take the low bid. Randy replied you're required to take the lowest responsible bidder which doesn't necessarily mean the lowest dollar bid, you have to weigh everything in making the determination, this may not be exactly apples to apples, so we have to ferret out what they really mean which is what Geannette wants to present.

Geannette Wittendorf addressed the general layout of the three different companies including who in IL they have codified, what they look like since the bids aren't that different, ease of use and maneuverability, and their experience in IL. American Legal Publishing was shown on the overhead, click on the library and whichever one we choose there would be a link on our website saying Macon County Ordinances, and it would take you directly into this library of whichever one we choose. Picking IL, you can see all the different cities and counties they serviced, and they have a substantial amount. One of the things talked about was getting an option and price for also publishing our minutes, and she showed how American Legal Publishing does it using examples of Winnetka, Flora, and McKendree County; different chapters, titles, and chapters subdivided were shown along with the result for a search example done for an alcohol ordinance.

She pointed out they have parallel references to the IL Compiled Statutes, there they separate out your ordinance and show where in the IL Code it is referred to, where the authority comes from.

General Code was shown, online library, state index they have a lot less states and going to IL, these are the cities and counties they have for IL which is significantly less than American Legal Publishing; example of Stephenson County and Williamsville were shown including advanced view, and search example was done for alcohol to do the same example; eCode doesn't provide a separate option, doesn't have a separate listing of the statutory authority, and she really likes that about American Legal Publishing from her legal aspect.

Municode was shown on the overhead, library, significant coverage also, state of IL they have significant coverage like American Legal Publishing, and both seem to have significant more experience in the state of IL than does General Code. Sangamon County was selected, pick their county code or they also have a mobile version like American Legal Publishing which General Code did not have a mobile version. They all have option to actually buy a copy of the code, not at our price, they pay, whoever wants it will pay for it. Layout was shown which is similar to American Legal Publishing, so American Legal Publishing and Municode are very similar in their appearance and availability. Search example was done for alcohol.

Tim Dudley asked if Municode has the reference to the legal authority like American does. Geannette commented she doesn't see a separate tab for it, not listed in their table of contents, Kankakee County was reviewed and they have significant more ordinances, here they have the state law reference table, so it looks like Municode can provide that. What she doesn't see in Municode also, she doesn't see any that have the minutes like American Legal Publishing does, and she doesn't know if it would take a more extensive search or if they have never done it, but she doesn't see it.

In response to a question from Vice Chair Westerman, Geannette said meeting minutes are a separate option. Going back, IL to get an idea of what they do, Winnetka meeting minutes were shown, they elected to go back to 1998, you can do a search, example of when an alcohol ordinance happened you don't have to know what month, year, meeting, can just search the word alcohol, it will search all minutes for you, and this is one of the big differences in the companies is the option for minutes. Bill Oliver asked if charge is by the page for that. Geannette said yes, if you want to go back in time it could get expensive, we can guesstimate how many minutes there would be, if you want to start fresh you could do that, and you can do whatever minutes you want based on the price. Mark Wicklund asked if General Code do minutes too, and Geannette replied they gave us an option for it. Vice Chair Westerman said our decision if we are going to include minutes or not really has a bearing on who we decide on, so really we should decide that tonight. Geannette agreed it would have a bearing on the price.

In reviewing the RFPs, Geannette had follow up questions that she addressed with the companies. General Code proposal is for \$9,648 for the ordinances alone; they also charge a yearly maintenance fee to keep it on the internet of \$495 which starts the first year we get it; any supplement service, if we codify and then we need a new ordinance that we didn't know we wanted so we go through the resolution and ordinance issues and send to the company so they can put it and enter as part of the codification, \$19 per page.

Their estimation to get our ordinances done, time frame, is 9-12 months, and their price for the option for the minutes is \$360 plus scanning to set that up; there is also a separate online fee for the \$495 annual maintenance for that.

Vice Chair Westerman asked if she will be addressing the discussion about minutes as part of her general recommendation, and Geannette said yes. One different aspect about General Code is they provide you with the software that you can self upload the minutes if you wish, so that saves the cost of the supplementing, having them do it. Jay Dunn asked cost of the software, and she said they say it is included in the \$360 price. Bill Oliver asked if the information will be in their library so they have control of it, or will we have the library on site ourselves. Geannette replied you can look it up at every computer. Randy added it is on their server, it is like our Recorder's office deeds, we don't have those on our own website, but we go to Fike & Fike for that. Legal analysis, it appears they do editing, create and review it for state law references, but she is not sure how extensive their legal analysis is.

Next company she reviewed is American Legal, their ordinance price would be \$9,445, any supplementation like new ordinances would be \$19.95 per page, and their yearly maintenance fee with the first year being waived is \$375 per year; what also is significant about them is they include in this maintenance fee the minutes for free, and they will set up the minutes online for free. After the set up, any documents we want in the minutes will be \$2 per page, we would email them to them the same way we would the ordinances, and they will do it. Jay Dunn asked how far back they would go on the original setup, and Geannette said as far back as we want. Jay asked if that is all covered in the \$375, and Geannette replied yes. Jay asked about any new minutes going forward. Geannette replied no, what is covered in the \$375 is keeping it online, the web fee, and putting the link on line, setting it up, they are not going to charge us extra for that; the two other companies charge us for just setting it up, and it is a separate maintenance fee for the secondary online hosting; however, for example General Code we could upload it ourselves so there would be no page fee, but whereas there is an uploading fee with the two other companies so it would be a cost benefit analysis of the extra \$500 a year versus how many pages are we going to be uploading a year. American Legal includes in that price of \$9445 the legal analysis, it includes the separating of the statutory authorities comparing it to the IL law and giving us their analysis of whether there is any conflict, whether they adhere to the current law, some ordinances could be very old. Vice Chair Westerman asked with the price of \$9445, how did she come up with that, the base price is \$8550 so what did she add in there. She replied it is included on page 13 of their packet, and Randy added it is actually the 4th page but it says 13 of 15. Estimated time for completion is 9 months, and their first year is free which she said already.

Municode is last company, and she referred to page 32 which is a more accurate reflection of what we get than the full quote; full quote quoted us \$10,750 but they included options that we don't need. Their base quote is \$8950, but that does not include the legal review that is included in the other ones; their yearly maintenance is \$450 which is also more, and they require a secondary yearly maintenance for the minutes unlike General Code which is included in a two for one. Jay Dunn asked if the search engine works for minutes as well as ordinances, and she replied yes. In order for them to include a state law reference, Geannette said they would need this legal review which would be an additional \$2,000.

She referred to page 32 because the 8950 isn't apples and oranges and if you want to compare apples and oranges, you would add the \$1950 to it; page 33 they have their quote for adding the. Bill Oliver referenced page 32, publication project will not exceed \$10,750, and Geannette replied right for the ordinances. Bill Oliver asked if that would be for everything. She replied yes that would be for everything and any supplement services additional ordinances that might come about that would need codification would be \$18 per page, their options for minutes is complicated but they are quoting 60 cents per page to do it with an annual renewal fee of \$500+ per image hosted, so their minutes option is just ridiculous really. That is why she wanted to show online too, to show you American Legal Publishing and Municode are virtually identical, and both have significant IL experience; their prices when we start talking the nitty gritty, Municode is more and it is going to cost us more in the long run, and she likes the two for one option that American Legal gives for minutes; it would be through the term of the contract.

Vice Chair Westerman asked if we are just going to confuse ourselves trying to get these dollars since we don't even know what kind of dessert we are going to ask them for. Bill Oliver brought up law enforcement, Tim Dudley commented these are just samples, and Randy Waks commented do we even have any law enforcement ordinances since he doesn't think we do as a county since the sheriff's office follows state law. Jay Dunn asked about American Legal, page 13 of 15, it has the base price and option 7 \$19.95 page, and is that above the \$9445. Geannette replied the supplement service is for any new ordinances after the plan because they have to go through the whole codification process with them again, the legal analysis, so that is why it is more than the \$2 per page for minutes imaging since all they do with that is scan and upload it. Jay Dunn asked if they said they would do both board and committee minutes, and she said they will do as many as we want. Jay Dunn asked if the \$375 month internet charge waived the first year is then \$375 month, and she said correct.

Regarding minutes, Geannette said if we want to go retroactive, we would have to pay the \$2 a page retroactively; if we want to go forward, we would start fresh and pay \$2 per page going forward; the \$375 includes both web hostings, both ordinances and minutes, whereas the other two companies charge us separate web hosting fees. Number of pages of minutes we have was discussed, Josh Tanner commented once they put it into our system internally here, it just tracks the file size and not total pages, Geannette added he did come up with 1,794, and Josh commented that seems high to be annual. Josh said they downloaded them all, tried to get a rough estimate going back 3-4 years, that is whatever we had in the system, he doesn't remember how far back we go internally, and that is just county board minutes. Randy Waks commented we have all the committee minutes also, and Josh said those tend to be longer. Jay Dunn said we have started putting minutes on our website, but you don't have that search engine ability with that.

Vice Chair Westerman said we really don't have any demand for that, people wanting to go back, let sleeping dogs lie, so start now and go ahead. Tim Dudley said the service is free if we do go with American, service is free if we decide we want it. Jay Dunn replied it is \$2 per page, and Tim added the others charge too. Everyone read over various costs again. Geannette said General Code does offer the first year free, no they don't offer the first year maintenance free, the \$360 is to set it up. Randy Waks read ecode 360 includes set up and first year maintenance, and he asked what is the ecode 360. Mark Wicklund said that is the online, and he doesn't see an extra charge for minutes.

Geannette replied she had to do follow up with the company regarding that specific question, and none of the companies included that in there. Geannette said both the cheapest and the most, she thinks Municode and American Legal are the best two, and American Legal gives us the best bang for our buck both now and in the long run. Vice Chair Westerman gathered that from her discussion all along, he thinks she was favoring them in most areas that she talked about, and indicated that was her preference. Geannette said it is, and that would be her recommendation, American Legal; Municode is a great company too, but it is so much more money. VC Westerman feels American Legal is more clear cut on what our final dollar is going to be. Mark Wicklund thinks Muni is too when you look at page 36 giving a grand total of \$33,600, and he takes it that includes all the bells and whistles. Bill Oliver asked if she got in touch with any of their references; she said no, she just went based on her observations online. Payment schedules were discussed, American Legal terms on page 2 of 2, and she believes manuscript is the final version.

Jay Dunn asked if we can choose to put minutes in at a later date for the same price as far as back minutes go. VC Westerman commented we have six to nine months before we have to decide as far as putting those in there. Geannette supposes we can negotiate anything we want, at this point we are saying which company we want to go forward with, and the contract is still subject to negotiation. Randy said this is their bid. VC Westerman stated we want to do this right, and not be surprised later. Geannette said they all offered to come in to do their song and dance, and they are all willing to fly here if committee wants. VC Westerman commented no. Randy added they have been here already in Steve Bean's office, and Geannette thought some of them had. VC Westerman said one has been here according to their minutes. Geannette said the General Code proposal is interesting in that it allows us to upload our own documents which is different, but they also have yearly fees with start up cost, but they are not as thorough or experienced in IL as the other two companies; Municode seems to be out of the ballpark when it comes down to nickels and dimes; quality wise, Municode and American Legal are equal but General Code not so much.

Motion made by Tim Dudley to start negotiations with American Legal on codification, and seconded by Bill Oliver. VC Westerman said we are done, this is it. Randy Waks added we put a bid out, and Tim Dudley said we haven't signed a contract. Randy Waks stated if committee accepts this, you have a contract. VC Westerman said committee could address these other things besides the basic price, we could address them at a later time, but we are dropping the bomb tonight. As he understands it, Randy Waks stated you can accept their proposal for codification or accept their proposal for codification and minutes, or either of the three, or none. VC Westerman asked if Mr. Dudley's motion still stands. Tim Dudley said he probably needs to amend it then, and made a motion that we accept the proposal from American Legal Publishing with the minutes. After discussion about whether or not the first motion needed to be withdrawn first, Tim Dudley said he would withdraw his original motion and propose the second, and Bill Oliver said he would withdraw his second to that so now we should start over again. Motion made by Tim Dudley that we accept the proposal by American Legal Publishing including the minutes and seconded by Bill Oliver. Bill Oliver asked when you will enter into any kind of making this legal with them, and Randy Waks said when will we sign the document, pretty quick. VC Westerman asked if there was a thought on the time period for the minutes, and Tim Dudley stated he is okay going forward from now up but if the board decides they want to go to a year back he has no problem with that.

Bill Oliver asked how that is leaving you with any proposed things on tap right now if we go forward now, will this affect anything you have going, P&Z. Tony VanNatta said not really, there will be some changes within the next year, and it would add that as changes are made. VC Westerman commented we can decide that later with an understanding here that the minutes will be starting now going forward, and not being in arrears. Randy Waks asked if that is minutes for the board and committees, committee discussed and thought board minutes, Randy Waks asked if the motion is just for board minutes starting now forward, and yes was the response. Motion carried 3-0.

OLD BUSINESS

VC Westerman had a question as to whether the noise ordinance is dead or hopefully taking a long nap, the county noise ordinance discussion of last meeting. Randy Waks commented they drafted one, VC Westerman said it did not make him happy and they were going to work on it, and Randy recalls they drafted it and sent it to the sheriff for review. VC Westerman said the discussion was you could work out the farm exemption part so will that be entered into it, and Randy replied that was already built into it based upon what is reasonable within the zoning. He will ask the sheriff if he has had an opportunity to review it and will email it, and VC Westerman said no that is fine since he doesn't need it.

ADJOURNMENT

Motion to adjourn made by Bill Oliver, seconded by Tim Dudley, motion carried 3-0, and meeting adjourned at 6:40 p.m.

Minutes submitted by Linda Koger
Macon County Board Office