

COUNTY OF KENDALL, ILLINOIS
COMMITTEE OF THE WHOLE
Meeting Minutes
Thursday, February 11, 2016

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order by County Board Chair John A. Shaw at 4:00p.m. who led the committee in the Pledge of Allegiance.

ROLL CALL

John Purcell – here, Scott Gryder – here, Matthew Prochaska – here, Jeff Wehrli - here, John A. Shaw - yes, Bob Davidson - yes, Judy Gilmour - here

Member Cullick arrived at 4:02p.m.

Board Members Absent: Elizabeth Flowers, Dan Koukol

Staff present: Sheriff Dwight Baird, Glenn Campos, Scott Koeppel, Leslie Johnson, Jim Smiley, John Sterrett, Dr. Amaal Tokars, Eric Weis, Jeff Wilkins

ITEMS OF BUSINESS

- *KC Law Enforcement Memorial* - Oswego Police Department Chief Jeff Burgner, and Chairman of the Kendall County Association of Chiefs of Police (KCACP) Law Enforcement Memorial Committee, provided the background, purpose and current status of the proposed project. Chief Burgner stated that in locating a memorial site, a proposal was submitted by the KCACP memorial committee members to Kendall County Presiding Judge Tim McCann, as well as other key stakeholders.

Chief Burgner reviewed the approved design and concept for the memorial with the Board, and said that at this point in time, the KCACP is seeking assistance from Kendall County in the form of a \$50,000 loan to complete the funding gap, and that they were proposing the payback to be within five to seven years, with a goal of an early payoff. With the loan from the County, Chief Burgner said that construction would begin in the Spring and the project would be completed in late Summer 2016. There was consensus by the Board that this item should be discussed by the County Finance Committee.

- *FLSA Overtime for County Department Heads* – Leslie Johnson, Assistant State’s Attorney, Said that this discussion is a result of the Human Resources Audit that was conducted last year, and that she was here to provide a brief explanation so that when decisions and revisions are made to the organizational chart and job descriptions, what needs to be done in order to maintain the exempt status of the department heads.

Ms. Johnson went on to say that it is important that organizational charts, job descriptions and employee handbooks all contain information that supports the exempt status of department heads, if indeed the County wanted them to remain in the exempt classification status.

ASA Johnson said that if department heads are misclassified as exempt when they are not truly exempt or don't meet the exemptions, then the County would be required to pay overtime for any hours over 40 hours worked per week, could incur substantial penalties and costs, and would be responsible for all attorney fees and costs if a law suit was filed. If these employees are not classified as exempt employees, there are also additional recordkeeping requirements.

Ms. Johnson also stated that under the Illinois Public Labor Relations Act, supervisors may be excluded from a bargaining unit if there is a unit petition filed for certification of the unit. Ms. Johnson said that is important that when reviewing the job descriptions, that if the department heads are to remain excluded from the bargaining units that the job descriptions accurately reflect what is a supervisor under the Illinois Public Labor Relations Act.

Ms. Johnson stated that there are two different laws that apply to the exempt status, the Federal Law, Fair Labor Standards Act or FLSA, and the State Law, Illinois Minimum Wage Law or IMWL. Ms. Johnson stated that as a general rule, an employee has to be paid at least minimum wage and overtime pay at a rate of one and a half their regular rate for all hours worked over 40 in a regular work week, unless the employee is exempt. Ms. Johnson said there are certain exemptions set forth in the Fair Labor Standards Act and the Illinois Minimum Wage Law. Ms. Johnson reviewed who are exempt employees, under the Executive and Administrative areas. Ms. Johnson suggested sitting down with each department head to determine exactly what they do on a day-to-day basis.

Ms. Johnson said there are two tests that are used to determine whether a department head is exempt or not:

- 1) Do they satisfy the salary test? Are they paid on a salary basis with no deductions because of quantity or quality of work, and is their current minimum weekly rate of pay at least a minimum rate of pay of \$455 per week or \$23,660 per year? Ms. Johnson briefly reviewed the proposed rules that will be implemented at approximately April 30, 2016.
- 2) Do they satisfy the duties test? Do they primarily perform duties that are exempt or fall under the exemptions under the wage laws? Do they spend more than 50 % of each day doing these tasks? Duties tests vary with each exemption, case-by-case analysis.

Ms. Johnson said things to consider that may impact exempt status:

- a) Job Descriptions – are primary and essential duties are clearly listed?
- b) Organizational Charts – is the accurate reporting structure is clearly listed?
- c) Employee Handbook – is day-to-day work or the duties done most of the day clearly identified?

Ms. Johnson reported the Executive Exemption Duties Test qualifications include:

- a) Primary duty is management of the department
- b) Regularly directs the work of 2 or more full-time employees
- c) Has the authority to hire or fire employees, or alternatively, the employee's recommendations are given "particular weight"

Ms. Johnson gave the following example when reviewing things for a particular weight given: if the department head is reporting to another level before the County Board, is that level giving significant input in making the final decision in hiring and firing, or are they simply a rubber stamp? If they are more or less a rubber stamp, then the decisions are given particular weight. If they provide significant input, if that higher level is involved in interviews, and making major decisions with respect to the hiring and firing, and usually goes over the department heads recommendations, then the department heads decisions are not being particular weight, and that will destroy the executive employee exemption.

Ms. Johnson said she is aware there have been discussions about organization charts, and whether department heads report directly to the County board or to the County Administrator in various meetings. To assist in helping everyone to understand, Ms. Johnson provided the following example: if a department head reports directly to the County Administrator instead of the County Board, the department head would be classified as more like a foreman, and would need to need to remain actively involved in the hiring, firing and discipline, and the County Administrator involvement in the decision making is minimal at best. If you have a lot of day to day oversight and involvement in personnel decisions for the department by the County Administrator that will destroy the executive employee exemption for the department head.

Ms. Johnson reported the Administrative Duties Test qualifications include:

- a) Primary duty is performance of office or non-manual work (white collar) directly related to the management or general business operations of the County. The County needs to make sure that the majority of the work is non-manual, and determine how much of his day is spent performing maintenance, construction? Or is most (50% as a general rule) of his day spent doing management type functions and administration related to management (paperwork, clerical)?
- b) Requires the exercise of discretion and independent judgment with respect to matters of significance. Do they have independence, or are they required to go to a higher level person for most decision making? If they are acting like a foreman, and they are reporting to the County Administrator, the County needs to make sure the role of the County Administrator is somewhat more limited, and that department heads continue to maintain the independent discretion and judgment regarding matters of significance.

Ms. Johnson said if you put a mid-level person in between the department head and the County Board, you have to be careful because if all of the important and financial decisions are run by a mid-level supervisor, you must review the County Administrators role is going to be in that process. Is the department head required to meet with the County Administrator on a regular basis and have all major financial decisions run by the County Administrator, or does that department head have the ability to make those decisions on their own without the input of the County Administrator? Ms. Johnson said that if the County Administrator is going to be actively involved she feels the County will have difficulty in meeting this element of the Administrative Exemption Test.

- *Discuss Bond Refunding Plans* – Anthony Vacelli, Speer Financial, briefly reviewed the proposed refunding plans with the County Board.

PUBLIC COMMENT – Todd Milliron, Yorkville, stated that the County organizational chart posted on the website, falsely lists the Veteran’s Administration Commission of Kendall County as reporting to the County Board and being elected by the citizens, which is not accurate. Mr. Milliron asked that the chart be updated to accurately reflect that the VAC is not elected by the citizens, and does not report directly to the County Board. Mr. Milliron also asked that the chart include some indication/clarification of where tax dollars go once they are collected by the County.

QUESTIONS FROM THE MEDIA – None

CHAIRMAN’S REPORT - None

REVIEW BOARD ACTION ITEMS – Chair Shaw asked the committee to review the February 16, 2016 Board agenda for any necessary changes or additions. There were no changes or additions.

ACTION ITEMS FOR COUNTY BOARD - None

EXECUTIVE SESSION – Not needed

ADJOURNMENT – Member Purcell moved to adjourn the meeting at 5:17p.m., Member Cullick seconded the motion. **The motion was unanimously approved by a voice vote.**

Respectfully Submitted,

Valarie McClain
Administrative Assistant/Recording Secretary