

* * *MINUTES* * *
* * *OUTAGAMIE COUNTY BOARD* * *

Office of the County Clerk, January 24, 2012.

The Board met pursuant to adjournment and was called to order by Chairperson Nagler at 6:30 p.m. in the County Board Room, located in the Administrative Building, 410 S. Walnut Street, Appleton, WI.

ROLL CALL of the Board of Supervisors: 34 present, 2 absent. Members present: C. Schmidt, Nagler, Mahan, Defferding, Iverson, Rabec, Mueller, Beckley, Stueck, Groat, Gosse, Janssen, Pleuss, Callies, Duncan, De Groot, VandenHeuvel, Trentlage, Hammen, Hirte, Schommer, McDaniel, McAndrews, Vander Heiden, Kramer, Austin, Schuette, Weyenberg, Hofacker, A. Schmidt, Culbertson, Griesbach, Thern, Anthony. Member absent: Buechel, Strauch.

Chairperson Nagler requested the Board's confirmation to excuse Supervisor Buechel for the meeting and Supervisor Strauch for the first part of the meeting. No objection; so ordered.

The Pledge of Allegiance was led by Chairperson Nagler.

MINUTES OF JANUARY 10, 2012

Supervisor McDaniel moved, seconded by Supervisor Schommer, to approve the minutes of the January 10, 2012, County Board meeting as printed.

ROLL CALL: 33 ayes, 1 abstain, 2 absent. MINUTES OF JANUARY 10, 2012, ARE APPROVED AS PRINTED.

SPECIAL ORDER OF BUSINESS - None

ESTABLISH ORDER OF THE DAY

Supervisor Weyenberg requested that Ordinance No. G—2011-12 be placed under the first order of New Business. No objection; so ordered.

Supervisor Culbertson requested to hold Resolution No. 103—2011-12 and Resolution No. 104—2011-12 in committee. No objection; so ordered.

COMMUNICATIONS

Communication Referral List – Received 12/20/2011 from the Calumet County Board of Supervisors, Resolution 2011-23 Niagara Escarpment legislation, referred to the Agriculture Committee.

Chairperson Nagler reported that a letter from the Wisconsin Department of Transportation to Marty Lenss in support of the proposed Airport Overlay Ordinance was placed on the desks.

PUBLIC PARTICIPATION FOR A PERIOD OF FIFTEEN MINUTES (PERTINENT TO THE RESOLUTIONS OF THE DAY)

Steve Bunnaw, Winnebago County resident, spoke against passage of Ordinance No. G—2011-12 reporting concerns that he did not feel Outagamie County represents his interests with the airport overlay.

Mark Harris, Winnebago County Executive, requested modifications to Ordinance No. G—2011-12 to lessen those impacted by the airport overlay by trimming the overlay 3/10 of one mile.

John Chastau, Winnebago County-Stroebe Island resident, spoke against passage of Ordinance No. G—2011-12 reporting concerns of not having representation, issues with controlled development versus nonconforming use, and concerns of decreased property values.

Laurel Eihusen, Winnebago County-Stroebe Island resident, spoke against passage of Ordinance No. G—2011-12 reporting concerns regarding the labeling of properties in the airport overlay as nonconforming use. He reported that lenders and brokers have reported that there would be reduced property values and that he felt the ordinance was a form of eminent domain.

Greg Ziegler, Town of Menasha Supervisor 3, spoke against passage of Ordinance No. G—2011-12 reporting concerns that the purpose of the airport ordinance was for funding and not necessary for the safety of the airport.

Morris Cox, Town of Menasha resident, spoke against passage of Ordinance No. G—2011-12 reporting concerns over the use of the airport overlay ordinance as an avenue to obtain aviation easements to negate noise issues and that once those aviation easements are signed, the owner no longer has a voice regarding future development. Additionally, he reported concerns over the labeling of property as nonconforming use to future property values. He requested that the ordinance be amended to take off the nonconforming use designation and not require owners sign aviation easements.

Chairperson Nagler reported that 15 minutes had transpired for public participation.

Supervisor Duncan moved, seconded by Supervisor C. Schmidt, to suspend the rules to allow the remaining speakers participate in public participation beyond the 15 minutes allowed. VOICE VOTE CARRIED UNANIMOUSLY-RULES SUSPENDED TO ALLOW FURTHER PUBLIC PARTICIPATION.

Paul Eisen, Town of Menasha resident and Winnebago County Supervisor District 4, spoke against passage of Ordinance No. G—2011-12 reporting concerns testimony given at the Airport Overlay Master Plan Update and Open House on February 2, 2012, meeting should be considered in the decision process.

Dick Jones, Appleton resident representing Stroebe Island residents, spoke against passage of Ordinance No. G—2011-12 reporting concerns with the nonconforming designation to property owners. He further reported that density should not be a concern with Stroebe Island as the property owners have low density use currently.

Fred Steenis, Town of Menasha resident, thanked the County Board for listening to residents and he spoke against passage of Ordinance No. G—2011-12 reporting concerns of the impact to property owners.

Kris Koeppel, Town of Menasha resident, spoke against passage of Ordinance No. G—2011-12 reporting concerns with representation and expansion limits to his property in the future. He requested the Board delay a decision to consider further concerns raised by citizens.

APPOINTMENTS

A letter was received from County Executive Thomas Nelson recommending the re-appointments of Jerry Iverson, Marcia Trentlage, Diana Janssen, and John Mueller on the Health & Human Services Board, said terms expiring December 31, 2014.

Supervisor Pleuss moved, seconded by Supervisor Callies, for approval of the re-appointments. Chairperson Nagler called for a voice vote. VOICE VOTE CARRIED-RE-APPOINTMENTS AS LISTED ABOVE TO THE HEALTH & HUMAN SERVICES BOARD ARE APPROVED.

A letter was received from County Executive Thomas Nelson recommending the re-appointment of William Lecker on the Greenway Implementation Committee, said term expiring October 2014.

Supervisor Pleuss moved, seconded by Supervisor Groat, for approval of the above listed re-appointment.

ROLL CALL 33 aye, 1 abstain, 2 absent. RE-APPOINTMENT OF WILLIAM LECKER TO THE GREENWAY IMPLEMENTATION COMMITTEE IS APPROVED.

A letter was received from Board Chairperson Helen Nagler nominating for appointment Don De Groot as Highway & Solid Waste Committee Representative to the Outagamie County Highway Addition Project Oversight Committee as replacement for Supervisor Judy Schuette.

Supervisor Pleuss moved, seconded by Supervisor Trentlage, for approval of the above listed appointment. Chairperson Nagler called for a voice vote. VOICE VOTE CARRIED-APPOINTMENT OF DON DE GROOT TO THE OUTAGAMIE COUNTY HIGHWAY ADDITION PROJECT OVERSIGHT COMMITTEE IS APPROVED.

REPORT BY THE COUNTY EXECUTIVE

County Executive Thomas Nelson congratulated the following supervisors on their birthdays: Van Callies, January 5, Dean Culbertson, January 19, and Peter Beckley, February 7. A round of applause was given.

County Executive Nelson reported on the following:

- Finance – The department is working on 2011 close out issues and reporting and Wisconsin Retirement Fund Reporting. Employee W-2s were distributed January 20.
- Brewster Village – Executive Nelson will be joining John Rathmann at the Wisconsin Association of County Homes Annual Conference in Madison on January 25. The conference will provide an opportunity to discuss with State legislators on County nursing home programs. Wisconsin has the second lowest Medicaid reimbursement system for nursing homes in the nation.
- Solid Waste – Staff is working with Brown and Winnebago Counties to examine the process of hauling efficiencies for recycling materials. Research is currently ongoing for a potential new customer for the recycled glass material.
- Highway - Work is progressing on the replacement of the bridge over the Wolf River on County

S. Bridge demolition is nearing completion and work within the river channel is scheduled for completion prior to March 1. The winning bid for the County A project (between STH 96 and CTH OO) came in approximately \$600,000 below anticipated bids. Highway will again be implementing four-day/ten-hour shifts this summer, which is projected to save roughly \$40,000 this year. Through a federal grant, snowplows are being equipped with GPS technology, which will be a useful tool to monitor salt application and route efficiency. Kudos were given to snowplow drivers for their work on the County's roadways, which were in better shape than other areas during recent snow/ice events.

- Sheriff – Work continues on the transition to the 700 MHz radios. Also, an intergovernmental agreement for a joint Public Safety Access Point (PSAP) is being drafted. Executive Nelson thanked Winnebago County Executive Mark Harris on his cooperation with the effort.
- MIS – The County will launch a new website February 1. Gratitude was given to the MIS staff and Shane Polakowski for their time/effort on the project, which came in under budget. MIS is working on a Lean manufacturing process for procurement of new equipment.
- Maintenance – Jerry Wittmann reports that activities are moving forward for both the County Administration Building retrofitting and the Highway addition projects. A number of meetings are scheduled in the next two weeks.
- Planning – Thanks was given to Planning Director Mike Hendrick for leading a team of employees to coordinate the off-site relocation needs of impacted staffing during the Administration Building renovation project. He will also be attending the Wisconsin Economic Development Corporation meeting later in the week regarding their proposal to regionalize Revolving Loan Funds for economic development.
- Airport – Airport Director Marty Lenss testified in Madison for support of AB152, legislation to raise the cap on grant funding for airport building projects from \$500,000 to \$1.25 million. At federal level, Congress was scheduled January 24 to act on a short-term FAA bill that would extend aviation programs and excise taxes through February 17 with a multi-year reauthorization to be acted on next month.
- Human Resources – The first three weeks under the new High Deductible Health Savings Plan has gone well. Several transition issues have been resolved, and the department will continue to communicate with employees during the transition process.
- Awards – Outagamie County employees were congratulated and recognized for their generosity to the United Way by being honored with the Fox Cities 2011 Employee Campaign of the Year award in the Large Company category. Participation increased by over 180% with more than \$15,000 being raised. Fox Cities Greenway, Inc. will be honoring Outagamie County with their Community Leadership Award on January 26. Gratitude was given to Parks Director Chris Brandt, Recreation Director Brian Feest, Planning Director Mike Hendrick and everyone who has worked or volunteered on the trail system.

Supervisor Callies congratulated Executive Nelson on his recent marriage. A round of applause was given.

REPORT AND PRESENTATION OF COUNTY LOBBYIST

County Lobbyist Mark Wadium reported the following:

- SB125 and AB180 – Pothole liability bill – A hearing is scheduled in the Assembly January 26. This is the fourth session Lobbyist Wadium has worked on the bill.
- AB-426 - Mining Bill – The Assembly is scheduled to hear the bill on January 26. Some changes include the State taking 40% of the fees vs. previous versions of 50%.
- ADA pay progression bills have been introduced in the Legislature. The County Board adopted Resolution No. 1--2011-12. AB-488 has been sent to Assembly Criminal Justice and SB-396 to Senate Judiciary, Utilities, Commerce and Government Operations.
- AB-477 – Lift of the Family Care Cap – The bill has been referred to Assembly Committee on Aging and Long-Term Care. SB-380 has been introduced to the Senate Committee on Public

Health, Human Services, and Revenue.

- List of Legislation Tracking – Lobbyist Wadium was posting the list on the board in Legislative Services.
- Supreme Court Petition 10-08 Civil Gideon – The Court denied the petition, but made reference to a pilot program. The action would have resulted in a projected \$56 million annual unfunded mandate upon County property taxpayers. The impact on Outagamie County had been calculated at \$1.7 million annually.

UNFINISHED BUSINESS – None.

NEW BUSINESS

Ordinance No. G—2011-12 – Agriculture, Extension Education, Zoning & Land Conservation Committee. Approval of an Amendment of the Outagamie County Airport Overlay Ordinance recommending that Chapter 10, AVIATION, of the Outagamie County Code of Ordinances, beginning with Sec. 10-497 –Introduction, be changed, as listed in the ordinance.

Supervisor Anthony moved, seconded by Supervisor Defferding, for adoption.

Corporation Counsel Guidote, at the request of Supervisor Groat and Chairperson Nagler, spoke to the issue of the properties impacted with the passage of the ordinance that would be deemed nonconforming use. Corporation Counsel Guidote reported that he had worked with the zoning administrator previously on similar issues with the adoption of the Outagamie County Airport Overlay Ordinance. With crafting this ordinance, care was given to allow property owners options for continued use of their property consistent with current zoning. The first option is to obtain a special exception permit. The zoning committee is mandated to grant special exception permits which would then allow the property owner to continue use consistent with current zoning (ex.: property owner of a parcel less than one acre prior to enactment of the ordinance could apply to the zoning committee for a special exception permit that would allow construction of an outbuilding such as a gazebo). The second option would be an administrative airport permit granted by the zoning administrator. In the previous case, no aviation easement for a special exception permit is granted. In the second option, an aviation agreement is required. If the property owner agrees to the agreement, the zoning administrator may grant the permit. A property owner may appeal to the board of adjustment to reverse the zoning administrator's ruling on a permit. Thirdly, the property owner may go the board of adjustment for a variance. The three options allow for property owners to continue use of their property in accord to the current zoning. A fee is required for special exception permits, but fees are not necessary for the administrative airport permit.

Supervisor Duncan moved, seconded by Supervisor C. Schmidt, to refer the ordinance back to committee.

Supervisor Pleuss moved, seconded by Supervisor Mahan, to cut off debate.

ROLL CALL to cut debate: 22 aye, 12 nay, 2 absent: MOTION IS DEFEATED - 2/3 (OR 24 VOTES) REQUIRED.

Discussion continued regarding referring the ordinance back to committee. Chairperson Nagler stepped down from the chair and Vice Chairperson A. Schmidt took the chair. After discussion, Vice Chairperson A. Schmidt retook his seat and Chairperson Nagler retook the chair.

Corporation Counsel reported that he analyzed the possibility of cutting out the section of property containing Stroebe Island and additionally cutting off portions of the other runways to mitigate future potential lawsuits. The rationale for cutting that section off is that the property is already developed

and would not impact future development. However, this opens the potential for other property owners to question their placement in zone 2 or zone 1. The underlying argument for changing portions could be argued in future lawsuits. The ordinance was crafted for a three-mile jurisdiction limit, which is the full extent of the area allowed and guided by statute.

Supervisor A. Schmidt disclosed that he owns property within the airport overlay ordinance in Winnebago County and that he supports the ordinance. He questioned Corporation Counsel whether pre-existing property owners to the ordinance could be exempt from payment of permit fees. Corporation Counsel Guidote reported the Board sets the fees and could negate that fee. Supervisor A. Schmidt questioned if language could be added to the avigation permit. Corporation Counsel Guidote reported that there are no fees for avigation, but fees are required for special exception. The Board would have the ability to amend the ordinance regarding fees.

Corporation Counsel Guidote reported that traditional thought of nonconforming use was that eventually the nonconforming use would go away. In crafting the ordinance, the idea of nonconforming use was relaxed. The ordinance then mandates that if the property use is legal prior to the enactment of the ordinance, the property owner will be able to continue the use. However, if the use changes from residential to something different, then the use would be inconsistent with the airport overlay and the Board would have jurisdiction over that change.

Supervisor Hofacker questioned what impact the ordinance would have on property values. Corporation Counsel Guidote reported that he could not speak to the value of specific properties, but he could address the property owner's ability of use.

Supervisor Mahan moved, seconded by Supervisor A. Schmidt, to cut off debate.

ROLL CALL to cut debate: 31 aye, 3 nay, 2 absent. MOTION CARRIED – DEBATE IS CUT OFF.

Chairperson Nagler clarified that the motion to refer back to committee was to refer back the ordinance to the Agriculture, Extension Education, Zoning & Land Conservation Committee. No objections.

ROLL CALL to refer back to committee: 21 aye, 13 nay, 2 absent. ORDINANCE NO. G—2011-12 IS REFERRED BACK TO THE AGRICULTURE, EXTENSION EDUCATION, ZONING & LAND CONSERVATION COMMITTEE.

The County Board recessed for a break at 8:45 p.m. The Board reconvened at 8:55 p.m.

Chairperson Nagler reported that a special order of business would be presented on the proposed Airport Overlay Zoning Ordinance at the February 14, 2012, County Board Meeting. In accord to rules, the ordinance must be brought back to the County Board within 30 days. Therefore, Chairperson Nagler reported the ordinance would be on the agenda at the February 28, 2012, County Board Meeting.

Supervisor Mahan questioned if the ordinance should be brought up at the second meeting in February as it was past the 30-day requirement. Chairperson Nagler requested unanimous consent to suspend the rules to have the ordinance placed on the February 28, 2012, County Board Meeting agenda. VOICE VOTE CARRIED-ORDINANCE NO. G—2011-12 WILL BE PLACED ON THE AGENDA FOR THE FEBRUARY 28, 2012, COUNTY BOARD MEETING.

Resolution No. Z-31—2011-12 – Agriculture, Extension Education, Zoning & Land Conservation Committee. Recommend approval of a proposed rezoning change in the Town of Greenville for Business Bank from Commercial District to Residential Multi-Family District. The approximate

1.33 acre parcel is located at the north corner of the intersection of Lilly of the Valley Drive and Parkview Court.

Supervisor Anthony moved, seconded by Supervisor Weyenberg, for adoption.

ROLL CALL: 34 ayes, 2 absent. RESOLUTION NO. Z-31—2011-12 IS ADOPTED.

Resolution No. Z-32—2011-12 – Agriculture, Extension Education, Zoning & Land Conservation Committee. Recommend approval of a requested rezoning change for Wagner Enterprises LLC is from Single Family Residential District to Local Commercial District. The property is two parcels totaling approximately .77 of an acre located on the NW Corner of CTH KK/CTH N; SEC 33, T21N, R18E in the Town of Buchanan.

Supervisor Anthony moved, seconded by Supervisor Callies, for adoption.

ROLL CALL: 34 ayes, 2 absent. RESOLUTION NO. Z-32—2011-12 IS ADOPTED.

Resolution No. Z-33—2011-12 – Agriculture, Extension Education, Zoning & Land Conservation Committee. Recommend approval of a rezoning change in the Town of Grand Chute for SKB Management, Inc. from Planned Commercial District to Residential Multi-Family District. The approximate 2.5 acre parcel is located on the east side of Tri-Park Way approximately 600 feet north of Brewster Street.

Supervisor Anthony moved, seconded by Supervisor Schommer, for adoption.

ROLL CALL: 34 ayes, 2 absent. RESOLUTION NO. Z-33—2011-12 IS ADOPTED.

Resolution No. Z-34—2011-12 – Agriculture, Extension Education, Zoning & Land Conservation Committee. Recommend approval of a text amendment for the Town of Buchanan to section 525-34(F)(1) of its Zoning Ordinance which addresses where parking or storage is allowed on the property during different times of the year. It also states that vehicles and trailers shall also be owned by the resident of the property and parking shall remain five feet from property lines.

Supervisor Anthony moved, seconded by Supervisor Mueller, for adoption.

ROLL CALL: 33 ayes, 1 nay, 2 absent. RESOLUTION NO. Z-34—2011-12 IS ADOPTED.

Resolution No. 102—2011-12 – Legislative/Audit & Human Resources Committee. Approve Administrative Rule AR12-01 regarding Acceptable Use of Information Systems, and renumber and file in accord to the resolution.

Supervisor Pleuss moved, seconded by Supervisor Mahan, for adoption.

ROLL CALL: 34 ayes, 2 absent. RESOLUTION NO. 102—2011-12 IS ADOPTED.

Resolution No. 103—2011-12 – Property, Airport, Recreation and Economic Development Committee. Approve a Consortium Agreement for the Local Elected Officials of the Fox Valley Workforce Development Area pursuant to Wis. State Stat. 66.0301(2).

See Establish Order of the Day - RESOLUTION NO. 103—2011-12 IS HELD IN COMMITTEE.

Resolution No. 104 – 2011-12 – Property, Airport, Recreation and Economic Development

Committee. Approve the Joint Fox Valley Development Board of Directors/Local Elected Officials agreement, referenced and attached to the resolution, and Outagamie County as a member of the Local Elected Officials Consortium.

See Establish Order of the Day - RESOLUTION NO. 104—2011-12 IS HELD IN COMMITTEE.

Resolution No. 105—2011-12 – Public Safety Committee. Adopt the Outagamie County All Hazards Mitigation Plan as an official plan, and that the Outagamie County Emergency Management Department, submit on behalf of participating municipalities, the adopted All Hazards Mitigation Plan to Wisconsin Emergency Management (WEM) and Federal Emergency Management Agency (FEMA) officials for final review and approval. Minor changes made upon advice from WEM or FEMA will not require re-adopting the resolution.

Supervisor Hirte moved, seconded by Supervisor Hammen, for adoption.

ROLL CALL: 33 ayes, 1 nay, 2 absent. RESOLUTION NO. 105—2011-12 IS ADOPTED.

Ordinance No. H—2011-12 – Agriculture, Extension Education, Zoning & Land Conservation Committee. Recommend that Chapter 48, STORMWATER MANAGEMENT, of the Outagamie County Code of Ordinances, beginning with Sec. 48-107, Methods used in designing stormwater practices, be changed, as listed in the ordinance.

Supervisor Schommer moved, seconded by Supervisor Vander Heiden, for adoption.

ROLL CALL: 32 ayes, 2 nays, 2 absent. ORDINANCE NO. H—2011-12 IS ADOPTED.

REPORTS

Supervisor Beckley questioned with the passage of Resolution No. 102—2011-12 if County Board Supervisors would need to sign the acceptable use policy. Corporation Counsel reported that they would need to sign the policy and return it to Human Resources.

Chairperson Nagler reported a memo was distributed to the County Board in their mailboxes regarding reconsideration at the same meeting. She further requested that questions supervisors needed answered regarding the proposed Airport overlay ordinance be directed to Legislative Services Manager Jolene Janssen for sufficient time to address at the special order of business on February 14, 2012.

Supervisor Rabec moved, seconded by Supervisor Mueller, to adjourn until February 14, 2012, at 6:30 p.m. VOICE VOTE CARRIED.

The meeting adjourned at 9:18 p.m.

\s\ Lori J. O'Bright
Lori J. O'Bright, County Clerk