

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

Office of the County Clerk, February 14, 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: 30 present, 6 absent. Members present: C. Schmidt, Nagler, Mahan, Iverson, Rabec, Mueller, Beckley, Stueck, Strauch, Groat, Gosse, Janssen, Buechel, Callies, Duncan, Trentlage, Hammen, Hirte, Schommer, Vander Heiden, Kramer, Austin, Schuette, Weyenberg, Hofacker, A. Schmidt, Culbertson, Griesbach, Thern, Anthony. Member absent: Defferding, Pleuss, De Groot, VandenHeuvel, McDaniel, and McAndrews.

Board Chairperson Nagler requested the Board's approval to excuse: Supervisors Defferding, Pleuss, De Groot, VandenHeuvel, McDaniel, and McAndrews. No objections; so ordered.

The Pledge of Allegiance was led by Chairperson Nagler.

MINUTES OF JANUARY 24, 2012

Supervisor Schommer moved, seconded by Supervisor Vander Heiden, to approve the minutes of the January 24, 2012, County Board meeting as printed.

ROLL CALL: 28 ayes, 2 abstain, 6 absent. MINUTES OF JANUARY 24, 2012, ARE APPROVED AS PRINTED.

SPECIAL ORDER OF BUSINESS

Airport Overlay Ordinance – Joe Guidote, Wayne Defferding, Tim Roach, Marty Lenss

Zoning Administrator Tim Roach reported that Ordinance G—2011-12 was referred back to committee at the last meeting. Since the last Board meeting, the Agriculture, Extension Education, Zoning & Land Conservation Committee met and agreed to revise the proposed ordinance, copies which were placed on the desks along with a proposed map for the airport overlay district. In 1981, the airport overlay district was developed, which looked similar to the proposed district. The County Board decided in 1981 not to adopt the overlay ordinance into Winnebago County. Since that time, commercial, industrial, and residential development has occurred in the area including in Winnebago County, specifically in the Town of Menasha. Outagamie County commented on those developments, but control of land use allowed by statutes was not implemented. In 1999, the ordinance was considered again for updating due to high-density development. Stroebe Island residents opposed the ordinance. Zone 3 zoning in the overlay requires a single family residence to have a one-acre minimum lot size. The ordinance would deem properties with smaller lot size as non-conforming. Any non-conforming use previously would not be allowed to re-build if the property was destroyed. The restrictiveness of the ordinance was changed to allow residents to re-build. Residential owners could re-build, add on, or build in a vacant lot if it was a lot of record. Something could not be created to meet the minimum lot size. Most residents were okay with the change, but Stroebe Island residents still had issues with the proposal. In the last two years, the County Board has wanted to update the ordinance. The towns also wanted consideration for a

matrix with what is and is not compatible with the airport. The matrix allows local townships to be guided with future developments and administration of zoning. The ad hoc committee was formed and authorized by the County Board to review the ordinance. The ad hoc committee recommended to the standing committee and County Board equal zoning coverage all around the airport. Stroebe Island residents were then faced with non-conforming language and the residents prefer the non-conforming language dropped from the ordinance. Zone 3 is still in place as proposed, but a Zone 3A is being proposed, which includes Stroebe Island that considers current use. With Zone 3A, a single-family home could be rebuilt, added on, but residents cannot increase the density. Additional area off runway 2-1 in the Town of Grand Chute will also be changed to Zone 3A. There is no grandfathering language in the new proposed ordinance. There are other properties throughout the zone that will continue to be considered non-conforming language. Those owners have different avenues to consider for permitting including: 1) pursue a request for variance from the Board of Adjustment, 2) obtain an airport permit with an aviation easement being signed (aviation easements are on the deed), or 3) a special exception permit, which requires a public hearing. The rationale for developing Zone 3A is due to high-density use. If a new lot is created in Zone 3A, new lot sizes must be conforming to the one-acre size.

Statutes allow the owner of an airport to zone or control land use in a three-mile radius. Outagamie County considers 16,000 ft. from the end of a runway, so it is a little less than the three-mile authority allowed. In addition, Outagamie County is not considering land between the spokes of the runways for the overlay ordinance.

The title non-conforming means that the land goes away. The goal of the various ordinances is to eventually eliminate non-conforming uses. However, for the airport overlay district, the language is not listed. The definition of non-conforming is listed in the definition of the ordinance. The revised ordinance maintains a fee for special exception permits. If the Board chooses not to charge a fee, the Zoning Department would be impacted in lost revenue of a typical year of approximately six permits. The Zoning Administrator recommended that the ordinance not be changed regarding fees, but that the Zoning Department's fee schedule would be amended at budget time if appropriate.

Corporation Counsel Guidote reported that a key aspect to zoning is to maintain consistency. Outagamie County wanted to maintain jurisdiction, but the County recognized that the Stroebe Island residential area and the small portion on the NE extension required a change due to existing lots conforming to the language. This is consistent with the overall scheme as the use currently exists, but the ordinance will control density in the future. It is not inconsistent with the other two runway spokes as those areas are largely undeveloped or developed, but conforming. Therefore, equal protection will not apply.

Tim reported that in Zone 3A, existing use would not need a permit to rebuild. An airport zoning permit is needed to rebuild, but there are no charges.

Airport Director Marty Lenss reported that the primary importance for the ordinance is to have proper airspace protection for grants. The other concern is for protection of people and residents on the ground and to protect people in the air. There are also height and noise issues. Airport Director Lenss reported on the economic benefits to the airport. Both safety and grant assurance issues are priorities.

Corporation Counsel Guidote reported that besides safety, the County needs to protect the asset that

they have invested in throughout the years. Without proper encroachment protection, development close to the airport would be just as high risk as height. In the past, the Ballard Road facility had to be moved from that location to Greenville. Denver International had to be moved miles out of the city due to residential encroachment. The overlay ordinance allows for good, orderly development consistent with airport use. Several districts are part of the airport overlay ordinance with the further zones from the airport having lessor restrictions. Grant assurances are made to ensure that airports protect their encroachments. The FAA wants public safety and the investment in airports ensured for the future. Cluster developments are not allowed in order to attempt to zone against high density areas in the event of a crash to try to minimize loss of life.

Zoning Administrator Roach reported that industrial and commercial developments are more desirable and compatible with airport use. If an owner has general agriculture, they may be able to rezone residential with the required lot size of one acre per residence. The comprehensive plans at the township levels do recognize the airport overlay zoning and those municipalities try to guide that development. The density is one acre per family unit.

ESTABLISH ORDER OF THE DAY

Supervisor Culbertson requested that Resolutions No. 103 and 104—2011-12 be held in committee. No objection; so ordered.

Supervisor Mahan requested that Ordinance No. I—2011-12 be held in committee. No objection; so ordered.

COMMUNICATIONS

Communication Referral List distributed in the packet. Chairperson Nagler reported that a map and additional information regarding Ordinance G—2011-12 was placed on the desk. That information should be left on the desks for use at the subsequent meeting.

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

APPOINTMENTS

None.

REPORT BY THE COUNTY EXECUTIVE

County Executive Thomas Nelson reported birthday celebrations for Supervisor McAndrews (February 15) and Pleuss (February 25). A round of applause was given. He further reported:

- Brewster Village – Dave Rothmann will monitor the federal budget proposal released this week for potential impacts to both Medicare and Medicaid funding. In the proposed budget are \$248 billion cuts in Medicare and \$72 billion cuts in Medicaid.
- Finance – American Transmission made a payment of \$42,000 for their Environmental Impact Fee payment. This brings the total payments to date to \$700,000. This is set aside by the Board for future parks projects and improvements. The County will be refinancing the balance of Brewster Village's debt of \$13 million. By refinancing the County is projected to save \$2.5 million in interest over nine years.

- Treasurer - The office has completed 2011 taxes and reports that while delinquent taxes are up \$1 million, it is \$500,000 less than what was anticipated in the budget.
- Solid Waste - Phil Stecker reports commodity prices for 2011 were up, which resulted in a surplus of almost \$4 million over expenses. Of that amount, \$500,000 will be placed into an account for future capital and equipment upgrades. The balance will return to the counties' respective solid waste departments. The new Northeast Landfill accepted the first delivery of waste last week. An event to commemorate the recent transition to Outagamie County as the host landfill would be held February 15. While we are accepting solid waste from Outagamie communities, Brown is expected to begin delivery within two months and Winnebago by mid-year.
- Highway – Work is progressing on the replacement of the bridge over the Wolf River on County Road S and is one month ahead of schedule
- MIS – The department is working closely with Emergency Management on another Continuity of Operation Plan exercise which will allow staff to practice setting up at a remote site in the event of an emergency situation at the downtown complex. Positive comments are continuing on the launch of the new county website, www.outagamie.org.
- Maintenance - Jerry Wittmann reports that the County Administration Building Project Oversight Committee met on January 26 and approved the recommendation that McMahon Engineering's bid be selected for the design work on the project. American Air and Environmental will be handling the asbestos removal. On the Highway Building Addition project, the mandatory walk-through was held February 13 with 37 contractors attending, including nine general contractors attending. Competitive bidding is expected on the project with the interest. The Plamann Center will be vacated at the end of March, and staff is in process of examining both the short- and long-term options for that facility.
- Airport - Marty Lenss reports that a 3.5 year FAA Reauthorization Bill has passed through Congress and is awaiting the President's signature. The legislation reduces funding for the Airport Improvement Program and doubles the required local match for federal grants. The final Airport Master Plan open house was held. A meeting with the FAA will be scheduled soon to finalize this process.
- Human Resources - The turnover in 2011 was up sharply, with 32 retirements roughly double the norm. The department continues to provide employees with wellness information and education with the new Live Lean series launched this year.

REPORT AND PRESENTATION OF COUNTY LOBBYIST

County Lobbyist Mark Wadium reported on the following:

- AB152 – Airport Improvement Program Projects Bill - Was voted out of the Senate Transportation Committee and is now headed to the Senate Organization Committee before the last step to the Senate floor.
- SB125 – Pothole Liability Bill - Passed the Assembly and is now waiting action by the Governor
- SB368 – Wetlands Permits for Discharges into Wetlands Bill- An objection was entered to the third reading.
- SB380 – Family Care Bill - Passed 33-0.
- AB269 - No Contact Provision Bill - Passed on voice vote.
- The Senate Committee on Energy, Biotechnology and Consumer Protection will have a symposium on the subject of biogas on February 15. The Joint Committee on Finance will hold

a hearing on lapses from State Agencies. Senate Scholar Program students - Lobbyist Wadium will address February 15. W2 Coalition Meeting – A meeting will be held February 16.

- NACo Webinar on 2013 federal budget proposed by the President – A webinar regarding the budget will be held February 17 and Lobbyist Wadium will be attending.
- Posted Information - Two bills on wetlands scheduled in the assembly. Also being posted, an airport bill, an updated copy of bill tracking, and the Lobbyist's January 2012 report.
- DA compensation – The DA pay progression will probably not move forward due to constrained budgets.

UNFINISHED BUSINESS

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). *At the January 24, 2012, meeting, Supervisor Culbertson requested the resolution be held in committee. No objection; so ordered. The resolution continued to be held in committee at this meeting; see Establish Order of the Day.*

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. *At the January 24, 2012, meeting, Supervisor Culbertson requested the resolution be held in committee. No objection; so ordered. The resolution continued to be held in committee at this meeting; see Establish Order of the Day.*

NEW BUSINESS

Resolution No. Z-35—2011-12 – Agriculture, Extension Education, Zoning & Land Conservation Committee. Recommend approval of a proposed rezoning change for Trico Excavating, Inc. from General Agriculture District to Light Industrial of 11.14 acres of land located on the east side of State Trunk Highway JJ in the Town of Grand Chute.

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

ROLL CALL: 30 ayes, 6 absent. RESOLUTION NO. Z-35—2011-12 IS ADOPTED.

Resolution No. 106—2011-12 – Public Safety Committee. Authorize Outagamie County Emergency Management Department to apply for, accept and expend the Incident Command System training grant funds in the amount of \$2,383.94, with no county match required, to provide additional training to emergency responders.

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

ROLL CALL: 30 ayes, 6 absent. RESOLUTION NO. 106—2011-12 IS ADOPTED.

Resolution No. 107—2011-12 – Public Safety Committee. Authorize Outagamie County Emergency Management Department to apply for, accept and expend the Homeland Security Training Grant in the amount of \$4,152, with no County match required, to provide additional

Homeland Security training.

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

ROLL CALL: 29 ayes, 1 nay, 6 absent. RESOLUTION NO. 107—2011-12 IS ADOPTED.

Resolution No. 108—2011-12 – Property, Airport, Recreation and Economic Development Committee. Approve the August 2011 Outagamie County Government Sustainability Action Plan: An Energy Efficiency and Conservation Strategy.

Supervisor Culbertson moved, seconded by Supervisor Rabec, for adoption.

ROLL CALL: 29 ayes, 1 nay, 6 absent. RESOLUTION NO. 108—2011-12 IS ADOPTED.

Resolution No. 109 – 2011-12 – Finance Committee. Approve the continuation of a self-insured worker's compensation program that is currently in effect and in compliance with Wisconsin Administrative Code DWD 80.60(3).

Supervisor Groat moved, seconded by Supervisor Beckley, for adoption.

ROLL CALL: 29 ayes, 1 nay, 6 absent. RESOLUTION NO. 109—2011-12 IS ADOPTED.

Ordinance No. I—2011-12 – Legislative/Audit & Human Resources Committee. Adopt Chapter 2 of the Outagamie County Code of Ordinances, which amends the County Board Rules; be changed, as listed in the ordinance. *Held in committee; see Establish the Order of the Day.*

REPORTS

No reports were given.

Supervisor Callies moved, seconded by Supervisor Anthony, to adjourn until February 28, 2012, at 6:30 p.m. VOICE VOTE CARRIED.

The meeting adjourned at 7:40 p.m.

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