

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

Office of the County Clerk, February 28, 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: 32 present, 4 absent. Members present: C. Schmidt, Nagler, Mahan, Defferding, Iverson, Rabec, Mueller, Beckley, Stueck, Groat, Gosse, Janssen, Buechel, Pleuss, Callies, Duncan, De Groot, Trentlage, Hammen, Hirte, Schommer, McAndrews, Vander Heiden, Kramer, Austin, Schuette, Weyenberg, Hofacker, A. Schmidt, Griesbach, Thern, Anthony. Member absent: Strauch, VandenHeuvel, McDaniel, Culbertson.

Board Chairperson Nagler requested the Board's approval to excuse Supervisors Culbertson, McDaniel, Strauch, and Vanden Heuvel from the meeting. No objections; so ordered.

The Pledge of Allegiance was led by Chairperson Nagler.

MINUTES OF FEBRUARY 14, 2012

Supervisor Anthony moved, seconded by Supervisor Vander Heiden, to approve the minutes of the February 14, 2012, County Board meeting as printed.

Supervisor Defferding requested that his name be stricken under Special Order of Business on page one as he was not present at the meeting. No objection; so ordered.

ROLL CALL: 29 aye, 3 abstain, 4 absent. MINUTES OF FEBRUARY 14, 2012, ARE APPROVED AS CORRECTED.

SPECIAL ORDER OF BUSINESS – None.

ESTABLISH ORDER OF THE DAY

Supervisor Stueck requested that Resolution No. 103—2011-12 and Resolution No. 104—2011-12 be held committee. No objections; so ordered.

Supervisor Anthony requested that Ordinance G—2011-12 be taken out of committee and acted on as the first item under unfinished business on the agenda. No objections; so ordered.

COMMUNICATIONS – No Communication Referral List was distributed. A communication was received by the County Clerk, which was filed and referred to Highway Department: Wis. Dept. of Transportation notice of planning study to reconstruct and expand 6 miles of US 10/WIS 441 Tri-County freeway between Coldspring Road and Oneida Street. Project staff will inform of future public information meetings.

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

Greg Ziegler, Town of Menasha Town Supervisor, reported being against Ordinance No. G—2011-12 and he urged the Board to not approve it. While an agreement for Zone 3A was approved, Mr. Ziegler reported the ordinance was not inclusive enough for the remainder of the residents impacted in Winnebago County.

Laurel Eihusen, Town of Menasha-Stroebe Island resident, thanked the County Board in working out an acceptable compromise with the inclusion of Zone 3A in Ordinance No. G—2011-12. He reported that he supported the ordinance, but that those outside the zone may differ on their support.

Mike Pheifer, Town of Menasha resident, reported living 1.1 mile off the airport runway. Mr. Pheifer reported he distributed information to the County Board prior to the meeting. While he appreciated the change with Zone 3A, he urged the Board to vote against Ordinance No. G—2011-12 as the ordinance impacts property owners not being able to claim negligence for a variety of reasons and due to the fact that a small number of airport accidents occurred at other U.S. airports within the matrix area that the ordinance would cover.

Dale Youngquist, Town of Menasha Chairman, reported that the compromise made for Ordinance No. G—2011-12 does not fully address all issues for residents outside those in Zone 3A. He thanked Outagamie County for working toward the compromise and thanked the residents from the Town of Menasha and Town of Clayton for appearing and speaking at previous meetings.

Arden Schroeder, Winnebago County resident and former Town of Clayton Chairman, reported his property was approximately 7,000 ft. off the runway and is zoned 2A and 2B. He reported concerns with Ordinance No. G—2011-12 including the restrictiveness of aviation agreements, issues with nonconforming use, fees for changes, possible problems for the Clayton School were it to be destroyed and needed to be rebuilt, consideration of agriculture use between Winnebago County which allows five acres or more and the proposed ordinance requiring 35 acres or more; and restrictions on ponds. Further, he requested the Board consider Winnebago County representation for zoning decisions in the future. A letter was sent to the Board regarding his concerns, and he thanked the responses received from some members.

John Julius, a member of South Greenville Grange, reported he questioned concerns with the Grange's proximity to the airport overlay as established in Ordinance No. G—2011-12, and Zoning Administrator Roach had assured him that the Grange would not be impacted by the ordinance.

Fred Steenis, Winnebago County resident, thanked the Board for holding Ordinance No. G—2011-12 in committee to provide time for residents to speak on issues. He reported that he was pleased with the new agreement for the airport overlay zoning, but questioned the necessity of the airport overlay ordinance.

APPOINTMENTS

A letter was received from County Executive Thomas Nelson recommending the re-appointment of Bob Jake and Jim Schlies to the Loan Review Committee.

Supervisor Mahan moved, seconded by Supervisor Defferding, for approval of the re-appointments as listed above.

ROLL CALL: 31 aye, 1 nay, 4 absent. RE-APPOINTMENT OF BOB JAKE AND JIM SCHLEIS TO THE LOAN REVIEW COMMITTEE IS APPROVED.

A letter was received from County Executive Thomas Nelson recommending the appointment of Sarah Bassing-Sutton to the Coordinating Council.

Supervisor Pleuss moved, seconded by Supervisor Iverson, for approval of the appointment.

ROLL CALL: 32 aye, 4 absent. APPOINTMENT OF SARAH BASSING-SUTTON TO THE COORDINATING COUNCIL IS APPROVED.

REPORT BY THE COUNTY EXECUTIVE

County Executive Thomas Nelson congratulated Supervisor Mahan on his birthday February 28. A round of applause was given. Executive Nelson reported:

- Brewster Village - Dave Rothmann reports that the influenza threshold that is set by the Centers for Disease Control (CDC) has been met. Brewster Village staff, who did not receive a flu shot, are now required to wear a mask during their shifts due to current CDC standards.
- Finance - Brian Massey reports that staff is working diligently on closing out the 2011 books. The revolving funds requests will go to the Finance Committee next week for their review. Purchasing is working closely with Sheriff Gehring on land acquisition for the purpose of locating two additional towers for the 700 Mhz radio transition.
- Clerk of Courts - Lonnie Wolf shared statistics on the newly implemented reminder call program. During the first six months of 2011 before the reminder call program was implemented, there were 9,000 hearings held and 300 bench warrants issued. During the last six months of 2011 when reminder calls were placed to remind clients of their court date, 8,400 hearings were held and 371 bench warrants were issued. Staff will continue to track this data through June and revisit the issue at that time.
- Solid Waste - Phil Stecker reports that they have received approval from the DNR to delay the final capping of the East landfill cell until 2014 or 2015. That cell is not yet full, so once it reaches capacity the capping project will be scheduled.
- Highway - Work continues to progress on the replacement of the bridge over the Wolf River on County S and is roughly one month ahead of schedule. Staff is taking advantage of the weather to complete a number of vehicle maintenance projects and general upgrades in the garage.
- MIS - Tom Pynaker reports that MIS will soon begin the process of updating the MIS three – year technology upgrade plan.
- Human Resources - Rob Sunstrom reports that the new Acceptable Use of Information Systems policy has been distributed to employees.

Supervisor Hofacker questioned the \$4 million additional revenue at Solid Waste and the necessity of an increase in tipping fees. County Executive Nelson reported that in 2008 and 2009 there were losses and 2010 had a slight increase, but was balanced out. 2011 was exceptional. There will be \$500,000 applied to payback part of the construction bond issuance; \$500,000 will be applied to new equipment purchases in the future; and \$1 million will be applied to a price stabilization fund

that will assist with the volatility of the market to offset large tipping fee increases.

Supervisor Mahan congratulated Thomas Nelson on his birthday March 3. A round of applause was given him.

REPORT AND PRESENTATION OF COUNTY LOBBYIST

County Lobbyist Mark Wadium reported the following:

- Wisconsin Biogas Symposium – Lobbyist Wadium reported he attended the symposium. The County Board has a position in support of dual fuel legislation. One presenter discussed alternative use of methane from landfills for fueling vehicles. Two projects are being implemented in Dane County and Milwaukee. Two representatives will be working on alternative energy policy for the state. Lobbyist Wadium will update as information is available.
- AB505/SB304 – Creation of veteran courts. Veteran courts are in operation in the state, but the bill language would make counties pick up costs currently covered by the V.A. A fiscal analysis would be posted in Legislative Services.
- AB477/SB380– Family Care bills – Assembly Aging and Long Term Care Committee voted the bills out of committee with amendments. The Senate had already passed them, but they will return for committee action due to the amendments. The amendment took a system of a 14-day passive review process to an active review. Previously when the state contracted for services, Joint Finance had the option of approving, but the amended language would require Joint Finance’s approval. The amendment will not harm Outagamie, but Brown County is interested in getting into the program, which would require Joint Finance approval.
- SB394/AB388 – Assistant D.A. Pay Progression – Because of the State’s fiscal health, Lobbyist Wadium did not think action would be taken, but they have both been voted out of committee. Both bills are in committees the last step before going to the floor. Lobbyist Wadium communicated with both leadership offices that the County is in favor of those bills.
- AB152 - Airport improvement program changes – The Senate voted the bill through the Senate and the bill is awaiting signature by the Governor.
- AB586/SB444 – High Water Mark – The bills deal with ordinary high water mark. The Board has a standing position that counties are best able to make determinations on high water mark versus having the DNR make that determination.

UNFINISHED 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.

At the January 24, 2012, meeting, Supervisor Anthony moved, seconded by Supervisor Defferding, for adoption. After debate, Supervisor Duncan moved, seconded by Supervisor C. Schmidt, to refer the ordinance back to committee. Motion carried. 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 and the ordinance would be taken up on February 28, 2012. Supervisor Mahan questioned the timing of taking up the resolution. A voice vote subsequently approved suspending the rules to take up the resolution at the February 28, 2012, meeting. A copy of an amended map and amended ordinance wording was distributed to the

County Board in their packet for the February 28, 2012 meeting.

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

Supervisor Anthony moved, seconded by Supervisor McAndrews, to amend Ordinance No. G—2011-12 to substitute the language in the ordinance that was distributed in the packet, which adds Zone 3A to the ordinance.

Supervisor Anthony reported that Zone 3A was created to consider current use in Town of Menasha and Town of Grand Chute.

Discussion took place on various issues regarding the ordinance including concerns regarding Greenville Grange's ability to use the facility for meetings, nonconforming use, and participation by Winnebago County in future zoning in the overlay area. Corporation Counsel Joe Guidote reported that participation by Winnebago County in future zoning would depend on development and approval by the County Board of an ad hoc committee for future zoning and whether representation was included from Winnebago County that would be advisory or would be voting representation.

ROLL CALL on amendment: 27 aye, 5 nay, 4 absent. AMENDMENT CARRIED.

Corporation Counsel Guidote reported Clayton School is a legal nonconforming use. If the property were damaged, the school would have allowance for rebuilding. They would have to apply for a special exception permit and prove that the school legally existed prior to April 2, 2012. Additions would be allowed, but they would need to conform to lot size requirements. In conferring with Zoning Administrator Roach, Corporation Counsel Guidote learned that the school's facilities manager was okay with the lot size requirement.

Other information reported by Corporation Counsel Guidote included a recommendation that the ordinance not include language setting fees, but that the fee schedule is handled at budget. If language were included in the ordinance, changes would require reopening the ordinance and a public hearing.

Supervisor Griesbach reported at the last meeting a report was given that a retiring farmer would be allowed to lot off his property with minimum one acre parcels. However, portions of the ordinance require the minimum lot size to be two acres.

Supervisor C. Schmidt moved, seconded by Supervisor Kramer, to amend Ordinance No. G-2011-12 to add, "Section 10-499 – Applicability of the restrictions of this Ordinance upon current lots of record. The restrictions and requirements of this ordinance shall not apply to any lots of record that lie within the proposed overlay zone as of April 2, 2012. Lots that are already in existence shall be subject to their respective Town and County zoning and building ordinances except that there will be imposed on these properties certain reasonable height restrictions as determined by this ordinance. Lots of record will have no non-conforming labels or deed restrictions placed upon their property as long as it is used according to its' current zoning and use. Smaller sized lots that were intended to be used as residential may build according to the Towns' process of approval. All future owners of lots of record shall also be free of any restrictions or requirements. Current owners who apply for rezoning would be allowed an exemption from the restrictions of this ordinance if their

property meets the criteria of height and density. The rezoned property would thereby be established as a lot of record and no other overlay restrictions would apply. At the time that any subsequent owner (other than the owner as of 4-2-12) applies for rezoning is when the restrictions of this ordinance will apply.”

ROLL CALL on amendment: 5 aye, 26 nay, 5 absent. AMENDMENT IS DEFEATED.

Corporation Counsel Guidote reported on the requirements for an aviation agreement. Additionally, he reported that regulations for ponds or retention ponds were part of the ordinance to deter waterfowl, which is problematic for planes ascending or descending. Stormwater ponds could still be built, but the FAA requires deterrent systems be installed. Those systems do not impact aesthetics. The airport has complied with retention requirements by creating biofiltration systems. Additional information reported included that ditches are not deemed detention ponds, and the definition of “trees” under 10-498 was applicable to later language in the ordinance.

Supervisor Griesbach moved, seconded by Supervisor C. Schmidt, to amend Ordinance No. G—2011-12 to change, wherever applicable, the two-acre provision in regards to parceling off lots to one-acre lot size in all applicable sections of the ordinance.

ROLL CALL: 6 aye, 26 nay, 4 absent. AMENDMENT IS DEFEATED.

Supervisor Groat moved, seconded by Supervisor Schuette, to cut off debate.

ROLL CALL to cut off debate: 26 aye, 6 nay, 4 absent. MOTION CARRIED-DEBATE IS CUT OFF.

ROLL CALL for adoption of Ordinance No. G—2011-12 as amended: 27 aye 5 nay, 4 absent. ORDINANCE NO. G—2011-12 IS ADOPTED AS AMENDED.

Supervisor A. Schmidt reported that this ordinance does not become effective until after the next County Board meeting. Board Chairperson Nagler reported that the County Clerk typically publishes the ordinance one week after the subsequent board meeting.

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. *At the February 14, 2012, meeting, Supervisor Mahan requested the ordinance be held in committee. No objection; so ordered.*

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

ROLL CALL: 30 aye, 2 nay, 4 absent. ORDINANCE NO. I—201112 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). *At both the January 24, 2012, and February 14, 2012 meetings, Supervisor Culbertson requested to hold Resolution No. 103—2011-12 and Resolution No. 104—2011-12 in committee. No objection; so ordered.* The

resolution was 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 both the January 24, 2012, and February 14, 2012 meetings, Supervisor Culbertson requested to hold Resolution No. 103—2011-12 and Resolution No. 104—2011-12 in committee. No objection; so ordered.* The resolution was held in committee at this meeting (see Establish Order of the Day).

NEW BUSINESS

Resolution No. 110—2011-12 – Agriculture, Extension Education, Zoning & Land Conservation Committee. Approve the Land Conservation Department request to adjust the Intergovernmental Revenues line item and the Purchased Services Expense line item in the 2012 Land Conservation Grants budget to reflect an increase of \$450,500.

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

ROLL CALL: 30 aye, 2 nay, 4 absent. RESOLUTION NO. 110—2011-12 IS ADOPTED.

Resolution No. 111—2011-12 – Agriculture, Extension Education, Zoning & Land Conservation Committee. Approve the Land Conservation Department request to adjust the Intergovernmental Revenues Line Item in the 2012 Land Conservation Grants budget to reflect an increase of \$8,667.

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

ROLL CALL: 30 aye, 2 nay, 4 absent. RESOLUTION NO. 111—2011-12 IS ADOPTED.

Resolution No. 112—2011-12 – Finance Committee. Approve Bond Counsel initial resolution authorizing General Obligation Bonds or Promissory Notes in an amount not to exceed \$13,450,000 for the public purpose of refunding outstanding obligations of the County, including interest on them, as noted on the fiscal note attached to the resolution.

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

ROLL CALL: 30 aye, 1 nay, 1 abstain, 4 absent. RESOLUTION NO. 112—2011-12 IS ADOPTED.

Supervisor Beckley moved, seconded by Supervisor Gosse, to reconsider Resolution No. 112-2011-12 for the purpose of lock-in.

ROLL CALL for reconsideration: 29 aye, 2 nay, 1 abstain, 4 absent. MOTION CARRIED – RESOLUTION NO. 112—2011-12 IS RECONSIDERED.

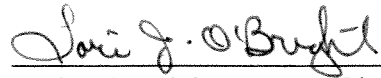
ROLL CALL for adoption and to lock in: 29 aye, 1 nay, 2 abstain, 4 absent. RESOLUTION NO. 112—2011-12 IS ADOPTED AND LOCKED IN.

REPORTS

No reports were given.

Supervisor Callies moved, seconded by Supervisor A. Schmidt, to adjourn until March 13, 2012, at 6:30 p.m. VOICE VOTE CARRIED.

The meeting adjourned at 7:55 p.m.



Lori J. O'Bright, County Clerk