

April 15, 2008

## TO THE MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EXECUTIVE COMMITTEE met in regular session on April 7, 2008 and recommends the following motions:

1. Review minutes of:
  - a) Legislative Sub Committee (3/17/08).  
Receive & place on file.
2. County Executive report.
  - a) Budget Status Financial Report for February 29, 2008.  
Receive & place on file.
3. Internal Auditor Report.
  - a) Budget Status Financial Report for February 29, 2008.  
Receive & place on file.
  - b) Update on Mental Health Center accounts receivable report.  
Receive & place on file.
  - c) Other.  
No action.
4. Communication from Supervisor Zima re: That the Executive Committee consider changing the County policy/ordinance to allow the Brown County Board the option of electing its' Chairman and Vice-Chairman by closed ballot. (Referred from March County Board.) That Brown County change the Ordinance 2.04 (d), in accordance with legal counsel, to have a secret ballot for the Chair & Vice Chair for the upcoming 2008-2010 election and for future elections. See Resolutions, Ordinances Special County Board meeting of April 10, 2008.
5. Memorandum from Sarah Diedrick-Kasdorf, Senior Legislative Associate, WCA, re: Safe Streets Treatment Option Program. (Item approved on Public Safety Committee of March 5, 2008.) Approve.
6. Resolution re: Supporting Enactment of Legislation to Provide Additional School Support for Children with Dyslexia. (Referred from Legislative Sub Committee.) Committee approved. See Resolutions, Ordinances April County Board.

7. Resolution re: Requesting the Wisconsin State Legislature to Enact Legislation Limiting Civil Damages Resulting from Property Damage for the Destruction of Domesticated Dogs and Cats to \$50.00. (Referred from Legislative Sub Committee.) Refer back to Public Safety. \*\*It was also requested that this resolution be sent to Corporation Counsel for more research.\*\*
8. Resolution re: Sheriff's Department Change in Table of Organization. (Referred from Public Safety Committee.) Committee approved. See Resolutions, Ordinances April County Board.
9. **Closed Session:** For the purpose of deliberating whenever competitive or bargaining reasons require a closed session pursuant to Wisconsin State Statute 19.85 (1) (e). In the alternative, the Executive Committee is meeting for the purpose of collective bargaining and is not subject to the Wisconsin open meetings law pursuant to 19.82 (1) of the Wisconsin State Statutes.
  - a) Enter into closed session.
  - b) Return to regular order of business.
  - c) Accept resignation of Corporation Counsel with the reported conditions.

Approved by:

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COUNTY EXECUTIVE

Date

PROCEEDINGS OF THE BROWN COUNTY  
EXECUTIVE COMMITTEE



Pursuant to Section 19.84 Wis. Stats., a regular meeting of the Brown County Executive Committee was held on Monday, April 7, 2008 at 5:30 p.m. in Room 200 of the Northern Building - 305 East Walnut Street, Green Bay, Wisconsin

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**Present:** Jack Krueger, Tom Lund, Bernie Erickson, Harold Kaye, Pat Evans, Steve Fewell, Kathy Johnson.  
**Also Present:** Supervisors Andy Nicholson, Guy Zima, Tom De Wane, and Adam Warpinski. Supervisors (Elect) Carole Andrews and Richard Langan. Jayme Sellen, Sara Perrizo, Debbie Klarkowski, Fred Mohr.

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1. CALL MEETING TO ORDER.

The meeting was called to order by Chairman Krueger at 5:30 p.m.

2. APPROVE/MODIFY AGENDA.

**A MOTION WAS MADE BY SUPERVISOR JOHNSON AND SECONDED BY SUPERVISOR KAYE TO APPROVE. Vote taken. MOTION CARRIED UNANIMOUSLY.**

3. APPROVE/MODIFY MINUTES OF:

- a) REGULAR MEETING OF MARCH 10, 2008
- b) SPECIAL MEETING OF MARCH 19, 2008.

**A MOTION WAS MADE BY SUPERVISOR FEWELL AND SECONDED BY SUPERVISOR EVANS TO RECEIVE AND PLACE ON FILE ITEMS 3A & 3B. Vote taken. MOTION CARRIED UNANIMOUSLY.**

4. REVIEW MINUTES OF:

- a) LEGISLATIVE SUB COMMITTEE (3/17/08).

**A MOTION WAS MADE BY SUPERVISOR FEWELL AND SECONDED BY SUPERVISOR EVANS TO RECEIVE AND PLACE ON FILE. Vote taken. MOTION CARRIED UNANIMOUSLY.**

COMMENTS FROM THE PUBLIC

5. None.

REPORTS

6. COUNTY EXECUTIVE REPORT.

- a) BUDGET STATUS FINANCIAL REPORT FOR FEBRUARY 29, 2008.

**A MOTION WAS MADE BY SUPERVISOR JOHNSON AND SECONDED BY SUPERVISOR ERICKSON TO RECEIVE AND PLACE ON FILE. Vote taken. MOTION CARRIED UNANIMOUSLY.**

7. INTERNAL AUDITOR REPORT.

a) BUDGET STATUS FINANCIAL REPORT FOR FEBRUARY 29, 2008.

**A MOTION WAS MADE BY SUPERVISOR LUND AND SECONDED BY SUPERVISOR ERICKSON TO RECEIVE AND PLACE ON FILE. Vote taken. MOTION CARRIED UNANIMOUSLY.**

b) UPDATE ON MENTAL HEALTH CENTER ACCOUNTS RECEIVABLE REPORT.

Internal Auditor, Sara Perrizo, stated on March 17, 2008, she had met with several members of the Mental Health Center staff and found out there were two accounts receivable reports. There was a \$1,500,000 difference in those two reports. They worked to determine why stating there were false credit balances in the system from when it was converted in 1999. Some accounts didn't come across and were kept track of in a notebook. Perrizo stated another issue came forward regarding an employee who was spending two weeks out of the month whitening out statements that come out of the current billing system and recalculating by hand the balances due for 2,500 clients. Perrizo has brought this up to the IS Director. They are spending around \$17,000 a year plus benefits to have this employee manually calculate statements. Perrizo has been analyzing three months of receipts to determine collect ability of the accounts at MHC; she has recommended a write off of a few accounts that didn't go to bad debt. She is working on why accounts did not get turned over to bad debt. They are writing off about \$270,000 of full cost medication that is now only being charged \$5 co-pay. Perrizo believes once she finishes the project it will be under control.

Chairman Krueger wondered if anyone is looking at centralized accounting through the Finance Dept and doing away with accounting done at different departments. Perrizo responded that to her knowledge no one is working on that right now but believes that it would be a wonderful idea.

Supervisors Kaye is in support of centralized accounting and questioned if anyone is going to be held accountable stating it should come out somewhere that someone is accountable and believes that at some point you have to cut your losses and move forward.

In regards to the Accounts Receivable, Supervisor Evans questioned if they have gone to a standard policy in which Perrizo replied that they have had policies, and that Budget and Project Analyst, Andrea Konrath, is working on updating them.

**A MOTION WAS MADE BY SUPERVISOR LUND AND SECONDED BY SUPERVISOR KAYE TO RECEIVE AND PLACE ON FILE. Vote taken. MOTION CARRIED UNANIMOUSLY.**

c) OTHER.

Perrizo had nothing further to report but reminded the committee that the Supervisor Mileage Reports are due April 30, 2008.

No action taken.

**COMMUNICATIONS**

8. COMMUNICATION FROM SUPERVISOR ZIMA RE: THAT THE EXECUTIVE COMMITTEE CONSIDER CHANGING THE COUNTY POLICY/ORDINANCE TO ALLOW THE BROWN COUNTY BOARD THE OPTION OF ELECTING ITS' CHAIRMAN AND VICE-CHAIRMAN BY CLOSED BALLOT. (REFERRED FROM MARCH COUNTY BOARD.)

Supervisor Lund stated that Attorney Fred Mohr was Interim Corporation Counsel and would summarize his opinion regarding the secret ballot as to electing the County Board Chair and County Board Vice Chair.

Attorney Mohr came forward and stated that County Executive Tom Hinz had asked him to research the Ordinance Chapter 2.04 (d) as to whether there could be a secret ballot for the election of the Chair and Vice Chair of the County Board at their meeting on April 15, 2008. In his research (see attached letter), Mohr summarized two State Statutes and an opinion by the 1972 Attorney General, Robert Warren. In researching Wis. Stats. 19.88, he noted (1) Unless *otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body "except the election of the officers of such body in any meeting."* Mohr related that all votes by public bodies should be public except for vote of various bodies as the statute states, and that law would allow for secret ballot. However, Mohr alluded to the present Brown County Ordinance (Chapter 2.04 {d}) stating there should be an open ballot (see attached). According to Mohr, legally, there is enough time to amend this ordinance to allow for secret ballot, if you to have a special meeting, to change/amend this ordinance. Obviously, the Ordinance would have to be signed by the County Clerk and County Executive, and then it would become effective upon publication. This could be accomplished before next Tuesday, April 15<sup>th</sup>.

Supervisor Kathy Johnson questioned the timeliness of the Ordinance as to the 10-day rule of publication. Mohr consulted with Corporation Counsel, John Jacques, regarding this, and he assured Mohr that the only requirement Brown County has is to provide the 48-hours for the meeting notice. Then it becomes

effective as soon as the County Executive, County Clerk & County Board Chair signs it, then it can be published.

Supervisor Evans wondered if the City of Green Bay elected its' President & Vice President for Common Council by open or closed ballot. Supervisor Zima responded that it was a closed ballot.

Jayme Sellen, Assistant to County Executive, stated that she researched all 72 counties in Wisconsin regarding this. Forty-two counties responded and only three had closed ballots

Mohr continued to explain his opinion. If you look at the legislative history when it was passed in 1975, there is strong feeling that when it comes to the election of the chair, the general rules should be followed for the election to be kept private. However, there was one rule that was the exception and that was for the election of the officers. Under the present ordinance, Brown County could not, without changing the ordinance, have a closed election.

Supervisor Evans alluded to the present situation in Brown County where there is an ordinance for an open ballot. He questioned Mohr if this policy was very unusual to have an open ballot as compared to other counties. In Mohr's research, the open ballot is very unusual.

Supervisor Fewell felt this was the right thing to do by having the closed ballot. When you go to elect someone in an open election, there is a curtain to hide your vote. When you elect a County Board Chair by open ballot, you allow Supervisors the opportunity to punish those who don't vote the way you want them to vote. It takes away from the freedom of being able to vote for anyone without being questioned by your peers as to how you voted. Democracy is based on the fact that you have the right to vote the way you want to without having other people know how you voted.

Supervisor Warpinski's recalled his first County Board meeting in 2006 and understood the desire for this discussion to have a closed ballot without having others know how you voted. On the other hand, everything he votes on is public, and he felt the timing of this discussion is not lending itself to public scrutiny, coming up at the eleventh hour.

Supervisor Zima researched this issue and felt it was a result of being badgered by newspaper editorials. It started with a communication on the Allouez Town Board asking the County Board to have an open ballot for their elections of County Board Chair. Then the Press-Gazette equated the closed ballot as being somehow secret government. The closed ballot eliminates needless animosity among supervisors when two or more supervisors are facing off in the race for County Board Chair. The point is that this is the foundation of democracy. The cornerstone of the County Board is having the right to vote for leadership by

secret ballot. Zima concluded that this should be moved forward and would create more civility among the County Board. He urged the committee to pass this to change the ordinance for closed ballot before the next County Board meeting on April 15<sup>th</sup>.

Supervisor Erickson commented that he would urge in favor of secret ballot. None of his constituents had ever asked him how he voted for the County Board Chair. Supervisor Zima interjected that he felt the public has a misunderstanding about this. There are not secret votes on public issues and the only secret ballot is for electing officers. Supervisors have to vote on everything else publicly. This has nothing to do with any issue that Brown County is facing.

**A MOTION WAS MADE BY SUPERVISOR EVANS AND SECONDED BY SUPERVISOR ERICKSON THAT BROWN COUNTY CHANGE THE ORDINANCE 2.04 (d), IN ACCORDANCE WITH LEGAL COUNSEL, TO HAVE A SECRET BALLOT FOR THE CHAIR & VICE CHAIR FOR THE UPCOMING 2008-2010 ELECTION AND FOR FUTURE ELECTIONS. Vote taken. MOTION CARRIED UNANIMOUSLY.**

Supervisor Evans encouraged all supervisors to sign for a special county board meeting.

**REFERRED FROM LEGISLATIVE SUB COMMITTEE**

9. MEMORANDUM FROM SARAH DIEDRICK-KASDORF, SENIOR LEGISLATIVE ASSOCIATE, WCA, RE: SAFE STREETS TREATMENT OPTION PROGRAM. (ITEM APPROVED ON PUBLIC SAFETY COMMITTEE OF MARCH 5, 2008.)

**A MOTION WAS MADE BY SUPERVISOR KAYE AND SECONDED BY SUPERVISOR JOHNSON TO APPROVE. Vote taken. MOTION CARRIED UNANIMOUSLY.**

**RESOLUTIONS, ORDINANCES**

10. RESOLUTION RE: SUPPORTING ENACTMENT OF LEGISLATION TO PROVIDE ADDITIONAL SCHOOL SUPPORT FOR CHILDREN WITH DYSLEXIA. (REFERRED FROM LEGISLATIVE SUB COMMITTEE.)

**A MOTION WAS MADE BY SUPERVISOR LUND AND SECONDED BY SUPERVISOR KRUEGER TO APPROVE. Vote taken. MOTION CARRIED UNANIMOUSLY.**

11. RESOLUTION RE: REQUESTING THE WISCONSIN STATE LEGISLATURE TO ENACT LEGISLATION LIMITING CIVIL DAMAGES RESULTING FROM PROPERTY DAMAGE FOR THE DESTRUCTION OF DOMESTICATED DOGS AND CATS TO \$50.00. (REFERRED FROM LEGISLATIVE SUB COMMITTEE.)

Supervisor Erickson explained that this was an incident that may occur once every twenty years where an officer responds to barking dogs. In this case, an officer was returning to his car and was cut off by a vicious dog and was forced to shoot it for his own safety. This was brought to Public Safety for the fact that an officer may have to shoot an animal to protect himself or the general public. Erickson spoke with numerous people from the State of Wisconsin. The Department of Natural Resources has it on the books wording that they will pay a hunter up to \$2,200 for any bear hound killed by a wolf. Erickson had a constituent on a jury trial and after three days, his constituent called him stating he was not reimbursed by his employer and he missed a medical appointment. He also stated the cost to the County for the jury, the judges, etc. was phenomenal and the award was only a couple hundred dollars after the jury's decision. Erickson spoke with the judge on the trial and the judge agreed that it would be nice to have something on the books, so Erickson came up with \$50 to avoid frivolous lawsuits.

Supervisor Fewell questioned the amount of the fee stating that the local humane society charges \$80 just to adopt a dog.

Supervisor Erickson suggested referring back to Corporation Counsel to rewrite the resolution stating "in reference to an officer protecting him or herself or the public in the line of duty".

**A MOTION WAS MADE BY SUPERVISOR ERICKSON AND SECONDED BY SUPERVISOR FEWELL TO REFER BACK TO PUBLIC SAFETY. Vote taken. MOTION CARRIED UNANIMOUSLY.**

12. RESOLUTION RE: SHERIFF'S DEPARTMENT CHANGE IN TABLE OF ORGANIZATION. (REFERRED FROM PUBLIC SAFETY COMMITTEE.)

**A MOTION WAS MADE BY SUPERVISOR KAYE AND SECONDED BY SUPERVISOR JOHNSON TO APPROVE. Vote taken. MOTION CARRIED UNANIMOUSLY.**

**A MOTION WAS MADE BY SUPERVISOR EVANS AND SECONDED BY SUPERVISOR LUND TO SUSPEND THE RULES TO TAKE SUCH OTHER MATTERS AS AUTHORIZED BY LAW BEFORE CLOSED SESSION. Vote taken. MOTION CARRIED UNANIMOUSLY.**

*Item #14 was taken at this point although shown in proper format.*

*Recording Secretary excused at 6:26 p.m.*

13. CLOSED SESSION: FOR THE PURPOSE OF DELIBERATING WHENEVER COMPETITIVE OR BARGAINING REASONS REQUIRE A CLOSED SESSION PURSUANT TO WISCONSIN STATE STATUTE 19.85



(1) (E). IN THE ALTERNATIVE, THE EXECUTIVE COMMITTEE IS MEETING FOR THE PURPOSE OF COLLECTIVE BARGAINING AND IS NOT SUBJECT TO THE WISCONSIN OPEN MEETINGS LAW PURSUANT TO 19.82 (1) OF THE WISCONSIN STATE STATUTES.

**A MOTION WAS MADE BY SUPERVISOR LUND AND SECONDED BY SUPERVISOR JOHNSON TO MOVE INTO CLOSED SESSION. ROLL CALL: KRUEGER, LUND, ERICKSON, KAYE, EVANS, FEWELL, JOHNSON. ALSO IN ATTENDANCE: CORPORATION COUNSEL FRED MOHR, SUPERVISORS ZIMA AND WARPINSKI. LEGISLATIVE ASSISTANT JAYME SELLEN, HUMAN RESOURCE MANAGER DEBBIE KLARKOWSKI, INTERNAL AUDITOR SARA PERRIZO. MOTION CARRIED UNANIMOUSLY.**

**A MOTION WAS MADE BY SUPERVISOR LUND AND SECONDED BY SUPERVISOR JOHNSON TO RETURN TO REGULAR ORDER OF BUSINESS. ROLL CALL: KRUEGER, LUND, ERICKSON, KAYE, EVANS, FEWELL, JOHNSON. ALSO IN ATTENDANCE: CORPORATION COUNSEL FRED MOHR, SUPERVISORS ZIMA AND WARPINSKI. LEGISLATIVE ASSISTANT JAYME SELLEN, HUMAN RESOURCE MANAGER DEBBIE KLARKOWSKI, INTERNAL AUDITOR SARA PERRIZO. MOTION CARRIED UNANIMOUSLY.**

**A MOTION WAS MADE BY SUPERVISOR JOHNSON AND SECONDED BY SUPERVISOR LUND TO ACCEPT THE RESIGNATION OF CORPORATION COUNSEL WITH THE REPORTED CONDITIONS. Vote taken. MOTION CARRIED UNANIMOUSLY.**

14. SUCH OTHER MATTERS AS AUTHORIZED BY LAW.

Supervisor Zima commended Supervisor Kaye for all the fantastic work he has accomplished on Public Safety Committee and Executive Committee. He has contributed so much and there is a huge debt of gratitude to him for all he has done. Supervisor Zima would like to express his admiration and greatest thanks from all the Supervisors to Mr. Kaye. Chairman Krueger added that Brown County is losing one of their hardest working Supervisors.

**Motion made by Supervisor Erickson and seconded by Supervisor Kaye to adjourn at 6:40 p.m. Vote taken. MOTION APPROVED UNANIMOUSLY**

Respectfully submitted,

Alicia Loehlein  
Recording Secretary

April 7, 2008

**HAND DELIVERED**

Mr. Tom Lund, Chair  
Brown County Board of Supervisors  
Northern Building, Room 219  
305 East Walnut Street  
Green Bay, WI 54301

RE: County Board Chairperson and Vice-Chairperson Elections

Dear Mr. Lund:

The Corporation Counsel and County Executive asked me to research the issue of open or secret ballots for the election of the Board's Chairperson and Vice-Chairperson. Based upon my legal research I report the following findings.

Wis. Stats. § 59.12 governs the election of the Chairperson and Vice-Chairperson of the County Board. This statute provides that the Board shall elect a member as Chairperson and Vice-Chairperson at its first meeting after the regular election for which members are elected for full terms. The first meeting is scheduled for April 15 and a question has arisen whether the Board may hold these elections by way of secret ballot.

In 1972, Attorney General Robert Warren issued an opinion (61 Op. Atty. Gen. 108 (1972)) discussing whether County Board elections could take place by secret ballot. Based on the then existing statutory scheme Mr. Warren opined that the election for County Board Chairperson and Vice-Chairperson could not take place by secret ballot.

In 1975, the legislature adopted Wis. Stats. §19.88(1), in part, to clarify and overturn Mr. Warren's opinion. That statute remains the law today and states: "(1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body except the election of the officers of such body in any meeting."

Today, it is clear that County Boards have the authority to elect their Chairperson and Vice-Chairperson by secret ballot. In a survey done by the Corporation Counsel's office, it was discovered that a vast majority of the counties in Wisconsin hold these elections by secret ballot. Brown County remains in a small minority which requires an open ballot. Brown County's Ordinance is found at Section 2.04(1)(d), which provides: "(d) A candidate shall be elected by a majority of the Board casting an open signed written ballot for him or her." Consequently, under existing ordinance secret ballots are prohibited.

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Mr. Tom Lund, Chair

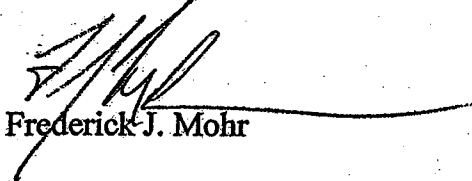
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I am of the opinion that in order to hold secret ballots for the election of County Board Chairperson and Vice-Chairperson, the above ordinance would need to be amended. Because the next regularly scheduled County Board meeting is the initial meeting after the election scheduled for April 15, an amendment to the existing ordinance could only take effect if a special meeting of the Board was called meeting the requirements of Section 2.13(1)(c) of the Brown County Code.

I am hoping the foregoing opinion clarifies the issue involving the next election for the Brown County Chairperson and Vice-Chairperson.

Very truly yours,



Frederick J. Mohr

FJM:EEK

cc: Mr. John Jacques

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(2) Reprint of Section 65.90, Wisconsin Statutes: 65.90(5)(a) Except as provided in par. (b) the amount of tax to be levied or certified, the amounts of the various appropriations and the purposes for such appropriations stated in such budget, after any alterations therein made pursuant to the hearing required by this section, shall not be changed thereafter unless authorized by a vote of two-thirds of the entire membership of the governing body of such municipality except that in the case of city boards of education transfers may be authorized by a two-thirds vote of such boards for funds under their control. Any municipality, excepting towns and one-room school districts, which makes such changes shall publish a Class I notice thereof, under Ch. 985, within 10 days thereafter. Failure to give such notice shall preclude any changes in the proposed budget and alterations thereto made pursuant to sub. (4).

65.90(5)(b) A County Board may authorize its standing finance committee to transfer funds between budgeted items of an individual county office or department, if such budgeted items have been separately appropriated, and to supplement the appropriations for a particular office, department or activity by transfers from the contingent fund. Such committee transfers shall not exceed the amount set up in the contingent fund as adopted in the annual budget, nor aggregate in the case of an individual office, department or activity in excess of 10 percent of the funds originally provided for such office, department or activity in such annual budget. The publication provisions of paragraph (2) shall apply to all committee transfers from the contingent fund.

(3) (a) The governing body of Brown County shall be known as the "Brown County Board of Supervisors" or the "Brown County Board", hereinafter referred to as the Board or its members, "Supervisors".

(b) It is declared to be the legislative policy and intent of the County Board that the County Board shall be organized to provide it with authority to exercise all county policy as conferred upon it by Wisconsin law including the provisions of Home Rule as provided in Sec. 59.025 and 59.026 and as further defined by county resolution or ordinance.

(c) The County Board of Supervisors shall serve concurrent two-year terms expiring on the third Tuesday of April of the even numbered years.

(d) All contracts, leases and agreements for the County, other than those which are administrative in nature, must be approved by the County Board unless otherwise provided by Wisconsin law or these rules.

**2.04 OFFICERS, SELECTION AND AUTHORITY.** (1)(a) At the first meeting after each supervisory election, the Board shall elect by ballot a member Chair and Vice-Chair.

(b) The election of the Chair shall be conducted by the senior member of the Board.

(c) Names of candidates shall be placed in nomination by motion made and seconded from the floor. Nomination shall be made for one office at a time.

(d) A candidate shall be elected by a majority of the Board casting an open signed written ballot for him or her.

(e) The County Board staff shall provide the County Board with ballots of uniform size and color upon which the members shall vote by writing the name of the person or persons to be voted upon.

(f) The Board Chair may appoint two members of the Board as tellers to canvass the vote.

(g) The ballots shall be retained as a permanent record of the Board.

(2) Powers and Duties of the Chair. The Chair:

(a) After the his/her election, shall appoint the standing committees for a term of two years and report the appointments to the Board no later than the next regular meeting of the Board.