

July 19, 2006

TO THE MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EXECUTIVE COMMITTEE met in regular session on July 10, 2006 and recommends the following motions:

1. Discussion re: Receiving the budget from County Executive by October 1, 2006. Have the budget in the hands of the County Board by October 1st.
2. Discussion and recommendation of an outline of duties of Diversity & Cultural Affairs Sub Committee. (Held from previous meeting to bring back a proposal for a mission statement. Outline.) Receive & place on file and request the Chairman send a letter to Diversity & Cultural Affairs at the Chamber of Commerce and let them know we welcome communication with them.
3. Discussion of the County Code regarding Table of Organization Policy & Procedures. Direct Human Resources Director to compile a list, by department, of all positions since January 1, 2006 that have been vacated for 90 days or longer and provide it to the County Board by July 14, 2006.
4. City of Green Bay Resolution re: Requesting that the Governor Review & Temporarily Suspend the Process for Approval of the Georgia Pacific Disposal Site in the City of Green Bay as to the Placement of Sediments Containing PCBs in the Context of the Fox River Clean Up dated June 20, 2006. Receive & place on file.
5. County Executive report. (No report.)
 - a) Budget Status Financial Report. Receive & place on file.
6. Internal Auditor Report.
 - a) Request by Human Services Committee of Internal Auditor to write RFP and work with consultant for Mental Health Center plans. Approve the change in the work plan to write the RFP.
 - b) Budget Status Financial Report (May 31, 2006). Approve the Budget Status Financial Report.
 - c) Other. No action.
7. Request approval of going with next lowest bid for Bid Project for HVAC Rooftop replace a/c unit at UW-Extension (chosen contractor going out of business.) (See attached bid.) Approve Mechanical Technologies at \$20,769.
8. Communication from Supervisor Bill Clancy re: Wants a response from Administration re: HIPPA inquiry. (Held from previous months with update from Mike Kwaterski, Human Resources Director.) Receive & place on file.

Executive Committee

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9. Communication from Supervisor Dan Haefs re: Request that Executive Committee chairman fill the two County Boards vacancies (to Community & Cultural Affairs Sub Committee). (Referred report #9c (10) back to Committee from June County Board.) Receive & place on file.
10. Communication from Supervisor Dan Haefs re: Request that Community & Cultural Affairs Committee have citizen vacancies filled. (Referred report #9c (11) back to Committee from June County Board.) Receive & place on file.
11. Communication from Supervisor Kathy Johnson re: Request to put on the September 12, 2006 ballot for a binding referendum for building a new or renovation of the Mental Health Center. (Referred from June County Board.) Hold for one month.
12. Communication from Supervisor Bernie Erickson re: Approximately 18-24 months ago the County Board approved the services of a firm to audit the County phone bills for errors thus generating extra revenue for the County. Supervisor Erickson requests an update on the progress of this firm. (Referred from June County Board.) Hold for one month.
13. Communication from Chair Tom Lund re: County Board investigate the legality of the veto by County Executive Carol Kelso for the timing. (Referred from June County Board.) Receive & place on file.
14. Resolution re: Facility and Park management Department Reorganization Change in Table of Organization. (Referred from Administration Committee & Education & Recreation Committee.) Committee approved. See Resolutions, Ordinances July County Board.
15. Resolution re: Authority to Execute a 2005-2006 Labor Agreement with the Brown County Mental Health Center Employees, Local 1901. (Referred from Administration Committee.) Refer back to staff to get the appropriate language and bring it back to this committee.
16. Resolution re; Authority to Execute a 2004-2005 -2006 Labor Agreement with the Brown County Electricians, Local 185. (Referred from Administration Committee.) Refer back to staff to get the appropriate language and bring it back to this committee.
17. **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. (No Closed Session held.)

Approved by:

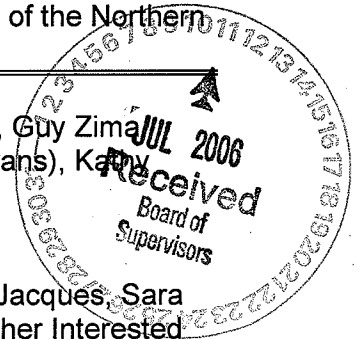
COUNTY EXECUTIVE

Date

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PROCEEDINGS OF THE BROWN COUNTY EXECUTIVE COMMITTEE

Pursuant to Section 19.94 Wis. Stats., a regular meeting of the **Brown County Executive Committee** was held on Monday, July 10, 2006 in Room 200 of the Northern Building – 305 East Walnut Street, Green Bay, WI



Present: Jack Krueger, Tom Lund, Steve Fewell, Bernie Erickson, Guy Zima (Vice-Chair, Human Services Cmte., alternate for Pat Evans), Kay Johnson, Harold Kaye.

Excused: Pat Evans

Also Present: Supervisors Adam Warpinski and Pat La Violette. John Jacques, Sara Perrizo, Mike Kwaterski, Bill Dowell, News Media and Other Interested Parties.

1. **Call Meeting to Order:**
Chair Krueger called the meeting to order at 5:36 p.m.

2. **Approve/Modify Agenda:**

Motion made by Supervisor Johnson and seconded by Supervisor Zima to approve. Vote taken. MOTION APPROVED UNANIMOUSLY.

3. **Approve/modify minutes of June 12, 2006.**

Motion made by Supervisor Erickson and seconded by Supervisor Zima to approve. Vote taken. MOTION APPROVED UNANIMOUSLY.

4. **Review minutes of: (None).**

Comments from the Public/Such Other Matters as Authorized by Law.

5. There were no comments from the public.

Discussions

6. **Discussion re: Receiving the budget from County Executive by October 1, 2006.**

Motion made by Supervisor Lund and seconded by Supervisor Kaye to have the budget in the hands of the County Board by October 1st. Vote taken. MOTION APPROVED UNANIMOUSLY.

7. **Discussion and recommendation of an outline of duties of Diversity & Cultural Affairs Subcommittee (Held from previous meeting to bring back a proposal for a mission statement outline).**

Chair Krueger stated that he has learned that the present Diversity Affairs Committee is centered at the Chamber of Commerce. It was suggested that someone from the County Board sit in on a meeting and see how they are functioning and learn if they want to come back to the County. A discussion ensued about the history of the committee and it was agreed that the Diversity Affairs Committee should be told that they are welcome to communicate with the

County Board whenever they think it is necessary.

**Motion made by Supervisor Zima and seconded by Supervisor Johnson to receive and place on file and request the Chairman to send a letter to them and let them know we welcome communication with them. Vote taken.
MOTION APPROVED UNANIMOUSLY.**

8. **Discussion of the County Code regarding Table of Organization Policy & Procedures.**

Chair Krueger said that, at times, he has learned after the fact about layoffs, etc. which change the table of organization. He said he has learned about a layoff that will occur at the Mental Health Center in mid-July and wonders how such a change in the Table of Organization can occur without bringing it to the County Board. Chair Krueger referred to a section of the County Code which states under responsibility and authority "approve the annual County budget, including requests for permanent personnel adjustments and changes in the Table of Organization". Human Resources Director Mike Kwaterski came forward for discussion and stated that it was his understanding that the Table of Organization changes that need to be approved are the ones that added money to the budget, not the ones that deleted money from the budget. Corporation Counsel John Jacques said that any permanent change in a Table of Organization comes to the County Board, but a layoff is temporary and not a permanent change. Supervisor Johnson stated that the Board needs to be informed and she needs answers so she can respond to questions from her constituents. Supervisor Fewell alluded to a portion of the County Code that says the responsibility of the Executive Committee is to review and approve all changes in the Table of Organization which are anticipated to last more than three months, including layoffs. He has asked numerous times why that does not take place. Supervisor Zima stressed to Mr Kwaterski that any and all changes will be brought before the standing committee as well as the Executive Committee. He added that the County Board has made it clear that initiatives that make changes in the Table of Organization will be brought to committee prior to the budget, if there are going to be any reductions.

A lengthy discussion ensued and committee members stated that communication is very important and discussion with the oversight committees is appropriate. Supervisor Zima said there is an elected group of 26 people that set the policy and the main policy document is the budget and the Table of Organization. He added that the County Board approves the positions and funds the positions and any changes need to be brought before the committee. John Jacques explained that in the labor contracts, there is a management's rights position and when the contract is approved, the County Board delegates to management the right to layoff for lack of work, which would supercede the provisions in Chapter 4. He said he will look at the labor contract. Supervisor Fewell stated that the code for county government provides rules in which to organize and operate government effectively and the law was not followed in this case. Responding to a comment from Supervisor Erickson, Mr Kwaterski offered to include position additions and deletions with his report to the Administration Committee.

Motion made by Supervisor Zima and seconded by Supervisor Fewell to direct the Human Resources Director to compile a list, by department, of all positions since January 1, 2006 that have been vacated for 90 days or longer and provide it to the County Board by July 14th. Vote taken. MOTION APPROVED UNANIMOUSLY.

Informational

9. **City of Green Bay Resolution re: Requesting that the Governor Review & Temporarily Suspend the Process for Approval of the Georgia Pacific Disposal Site in the City of Green Bay as to the Placement of Sediments Containing PCBs in the Context of the Fox River Clean Up dated June 20, 2006.**

Supervisor Johnson commented that this is the same resolution that was worked on in unison with the City of Green Bay and it was just passed and forwarded to the Governor's office.

Motion made by Supervisor Erickson and seconded by Supervisor Johnson to receive and place on file. Vote taken. MOTION APPROVED UNANIMOUSLY.

Reports

10. **County Executive report.**
a) **Budget Status Financial Report.**
No one from the County Executive's office was present.

Motion made by Supervisor Erickson and seconded by Supervisor Kaye to receive and place on file. Vote taken. MOTION APPROVED UNANIMOUSLY.

11. **Internal Auditor Report.**
a) **Request by Human Services Committee of Internal Auditor to write RFP and work with consultant for Mental Health Center plans.**
Internal Auditor Sara Perrizo stated that she was contacted by Supervisor Evans regarding this and it is a change to her work plan, so that is why it is before the committee.

Motion made by Supervisor Lund and seconded by Supervisor Fewell to approve the change in the work plan to write the RFP. Vote taken. MOTION APPROVED UNANIMOUSLY.

- b) **Budget Status Financial Report (May 31, 2006)**
Ms Perrizo reported that the budget through May looks good. She added that she received the December 31, 2005 audited numbers and we came in under budget in every area except fringes.

Motion made by Supervisor Lund and seconded by Supervisor Fewell to approve the Budget Status Financial Report. Vote taken. MOTION APPROVED UNANIMOUSLY.

c) Other.

In regard to the monetary policy, Ms Perrizo reported that she met with staff from the Library and the Finance Director and approved two variations. Additionally, Port and Solid Waste will be implementing some changes, however they are working on securing funding from the Solid Waste Board in order to do that. Ms Perrizo reported that she is working on an analysis of the General Fund that she will get to the Board before the budget comes out. The external auditors will be here next month. There was a brief discussion on the RFPs that Ms Perrizo has received since last month.

Request for approval

12. **Request approval of going with next lowest bid for Bid Project for HVAC Rooftop replace A/C unit at UW-Extension (chosen contractor going out of business).**

Facilities Director Bill Dowell was present to respond to any questions.

Motion made by Supervisor Lund and seconded by Supervisor Erickson to approve Mechanical Technologies at \$20,769. Vote taken. MOTION APPROVED UNANIMOUSLY.

Communications

13. **Communication from Supervisor Bill Clancy re: Wants a response from Administration re: HIPPA inquiry. (Held from previous months with update from Mike Kwaterski, Human Resources Director).**

Human Resources Director Mike Kwaterski explained that he distributed a letter on this last month and there is nothing new to report.

Motion made by Supervisor Johnson and seconded by Supervisor Kaye to receive and place on file. Vote taken. MOTION APPROVED UNANIMOUSLY.

14. **Communication from Supervisor Dan Haefs re: Request that Executive Committee Chairman fill the two County Board's vacancies (to Community & Cultural Affairs Subcommittee) (Referred report #9c (10) back to committee from June County Board).**

Motion made by Supervisor Erickson and seconded by Supervisor Lund to receive and place on file #14 and #15. Vote taken. MOTION APPROVED UNANIMOUSLY.

15. **Communication from Supervisor Dan Haefs re: Request that Community & Cultural Affairs Committee have citizen vacancies filled. (Referred report #9c (11) back to Committee from June County Board).**
16. **Communication from Supervisor Kathy Johnson re: Request to put on the September 12, 2006 ballot for a binding referendum for building a new or renovation of the Mental Health Center. (Referred from June County Board) Supervisor Johnson said that she has learned that it cannot be a binding referendum, rather an advisory referendum. She added said that she would like to hold this for one month.**

Motion made by Supervisor Johnson and seconded by Supervisor Fewell to hold for one month. Vote taken. MOTION APPROVED UNANIMOUSLY.

17. **Communication from Supervisor Bernie Erickson re: Approximately 18-24 months ago the County Board approved the services of a firm to audit the County phone bills for errors thus generating extra revenue for the County. Supervisor Erickson requests an update on the progress of this firm. (Referred from June County Board).**

John Jacques distributed a handout (see attached) and explained that there is a case pending in the court of appeals which will test the billing procedures at that time. That case is scheduled for July 27th and Mr Jacques said he would like to wait and see what happens with that case. Responding to a question from Supervisor Erickson, Ms Perrizo explained the present situation with the Wisconsin Telecommunication Coalition.

Motion made by Supervisor Erickson and seconded by Supervisor Fewell to hold for one month. Vote taken. MOTION APPROVED UNANIMOUSLY.

18. **Communication from Chair Tom Lund re: County Board investigate the legality of the veto by County Executive Carol Kelso for the timing. (Referred from June County Board).**

John Jacques said that he agrees with the opinion from the former Corporation Counsel which states that the deadline is 24 hours before the County Board meeting. He said if the County Board wishes to get outside counsel on this, he has no problem with that. In the ensuing discussion, Mr Jacques stated that the County Board cannot deal with and resolve the exact same issue twice.

Motion made by Supervisor Johnson and seconded by Supervisor Erickson to receive and place on file. Vote taken. MOTION APPROVED UNANIMOUSLY.

Resolutions, Ordinances

19. **Resolution re: Facility and Park Management Department Reorganization Change in Table of Organization. (Referred from Administration Committee).**

Supervisor Fewell expressed concern that it appears that there are two identical positions that are being paid differently. Bill Dowell explained that there are two different benefit factors for the departments and Supervisor Fewell said he would like to see it separated by salary and benefit. Sara Perrizo explained that she was told that for now, this method is the best way to get the fringe benefits to be as close as possible to what they might actually be. There was a brief discussion on the disadvantages of this method. It was stated that the salary for the two positions is same at an hourly rate of \$12.29.

Motion made by Supervisor Fewell and seconded by Supervisor Lund to approve. Vote taken. MOTION APPROVED UNANIMOUSLY.

20. **Resolution re: Authority to Execute a 2005-2006 Labor Agreement with the Brown County Mental Health Center Employees, Local 1901. (Referred from Administration Committee).**

Chair Krueger asked the committee if they want to send this back for language changes. Mr Kwaterski offered to put the language change into the 2007 contracts, but the committee did not agree and would like the language inserted into current contracts pertaining to County Board approval for any layoffs over 90 days. The committee agreed to hold a special Executive Committee meeting prior to the July 19th County Board meeting to approve the resolutions with the new language incorporated.

Motion made by Supervisor Zima and seconded by Supervisor Fewell to refer #20 and #21 back to staff to get the appropriate language and bring it back to this committee. Vote taken. MOTION APPROVED UNANIMOUSLY.

21. **Resolution re: Authority to Execute a 2004-2005-2006 Labor Agreement with the Brown County Electricians, Local 158. (Referred from Administration Committee).**
22. **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.**

There was no closed session.

Motion made by Supervisor Johnson and seconded by Supervisor Lund to adjourn at 7:35 p.m. MOTION APPROVED UNANIMOUSLY.

Respectfully submitted,

Jeanne Buzzell
Recording Secretary

AT&T Attempting To Kill Class Action Suit

Wisconsin's largest telecommunications company is making every effort to kill a class action lawsuit that asks the company to repay millions of dollars in wrongfully collected sales taxes, according to the Citizens Utility Board (CUB).

"From pushing legislation that retroactively changes state law on class action lawsuits to taking the unusual step of asking the court of appeals to throw out CUB's 'friend of the court' brief, lawyers and lobbyists for AT&T are making every effort to kill this lawsuit," said Charlie Higley, CUB executive director.

The bill, Senate Bill 518, would strip consumers who have been illegally charged sales taxes of their right to obtain a refund of the illegal charges in court. Instead, the bill would require all claims for repayment to be made to the Department of Revenue (DOR). This change makes it more difficult for consumers to recover illegally collected sales taxes because it requires each individual consumer to bring an individual claim against the DOR. Right now, consumers can file a class action lawsuit against the overcharging seller to recover illegally collected sales taxes. An identical bill, AB 968, is pending before the Assembly.

If AT&T is successful in getting the legislation passed, the bill will affect only one currently pending lawsuit - one in which AT&T is the lead defendant. *Butcher v. Ameritech* seeks a return of millions of dollars that the suit maintains Ameritech wrongfully collected from consumers as "sales taxes" (since the suit was filed, Ameritech has become AT&T). If passed, the legislation would require the courts to dismiss the case.

Butcher v. Ameritech has been pending since 2000, and is the only class action lawsuit in Wisconsin that seeks a return of wrongfully collected sales taxes. The case has progressed through various trial court stages, but a judge has yet to rule on the central legal issue in the case: whether a 1991 change in state law means Ameritech has been illegally overcharging con-

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sumers on sales taxes on 19 items, including such common bill items as charges for home wire maintenance plans, federal access, installation and reconnection.

Higley noted that AT&T's lawyers and lobbyists (including AT&T's lead trial attorney in the case) have been working behind the scenes to pass SB 518 and AB 968.

The *Butcher* case is currently on appeal to the Wisconsin Court of Appeals. In March, CUB requested and received the court's permission to file a "friend of the court" brief in support of the refund claim made by the plaintiff class. After the court granted CUB's request to file and accepted CUB's brief, AT&T took the unusual step in late March of asking the court to immediately throw out CUB's brief. The court denied AT&T/Ameritech's motion on March 27th.

Class action lawsuits serve a valuable purpose in the legal system. They allow numerous victims of the same wrongdoing to merge their claims into a single lawsuit. Class action lawsuits are often most needed when damages caused by the wrongdoing in the aggregate are large, but the size of individual claims is small. For example, where hundreds of thousands of individual shareholders of a public company are wronged by false financial reporting, typically most of those shareholders have losses too small to make viable separate lawsuits, but a class action can be brought efficiently on behalf of all harmed shareholders.

While AT&T has collected an enormous amount of "sales taxes" since 1991 on items that the lawsuit maintains the legislature has indicated are not subject to sales taxes, many consumers' individual losses are small, thus making it unlikely they would ever make the effort to calculate their losses and pur-

sue a refund from the DOR.

"While the outcome of the *Butcher* lawsuit could affect millions of consumers, certain provisions of SB 518 would benefit only AT&T. This type of 'private bill' is unfair and we believe would be held by the courts to be unconstitutional, if it passed" said Higley. CUB is encouraging its members and citizens to contact their legislators to urge them to oppose SB 518 and AB 968, before the start of the upcoming Senate floor session on April 25th.

The Citizens Utility Board of Wisconsin is a member-supported nonprofit organization that advocates for reliable and affordable utility service and that represents the interests of residential, farm, and small business customers of electric, natural gas, and telecommunication utilities before regulatory agencies and the courts.