

PROCEEDINGS OF THE BROWN COUNTY EXECUTIVE COMMITTEE

Pursuant to Section 18.94 Wis. Stats., a special meeting of the **Brown County Executive Committee** was held on Monday, September 19, 2011 in Room 200 of the Northern Building – 305 East Walnut Street, Green Bay, Wisconsin

Present: Mary Scray, Chair; Jesse Brunette, Bernie Erickson, Pat Evans, Tom Lund, Guy Zima
Excused: Tom DeWane
Also Present: Troy Streckenbach, John Luetscher, Fred Mohr, Debbie Klarkowski, Paula Kazik, Bill Dowell, Brian Shoup, Cathy Williquette, Darlene Marcelle, Supervisors LaViolette, Andrews, Schuller, Buckley, Tumpach, Kaster
Other Interested Parties, Media

I. **Call Meeting to Order:**

The meeting was called to order by Chair Mary Scray at 5:35 p.m.

II. **Approve/Modify Agenda:**

Motion by Supervisor Lund, seconded by Supervisor Erickson to approve. MOTION UNANIMOUSLY APPROVED

Resolutions and Ordinances

13. Ordinance to Amend Chapter 4 of the Brown County Code Entitled “Personnel Rules and Regulations”.

Evans asked for an explanation with regard to prohibited activities particularly the “be a candidate for public office in a partisan election”. Mohr explained that the prior ordinance contains the same reference as the Hatch Act. The Hatch Act is a federal law that states certain municipal and state employees cannot run for partisan position if their primary position involves an agency which uses federal or state loans or grants. It’s broken down a number of ways. First, it only applies to partisan political offices. Secondly, it had to be their primary occupation. It’s evaluated based on the amount of time spent in that occupation. The Hatch Act states that state and local governments cannot alter the Hatch Act. It was put in ordinance so employees were aware and before they run for a partisan political office they should acquaint themselves with the requirements of the Hatch Act and make sure they are not in violation of federal law.

Lund stated that if an employee wished to run for partisan office could he or she ask Corporation Counsel for advice. Luetscher responded, yes. Mohr stated it was provided in the ordinance. Luetscher felt that the place where this was an issue was in the Sheriff’s office. It’s a partisan office and deputies or supervisors run and receive federal money. It’s a federal law and had to be complied with, it’s a very serious matter. The questions that keep coming up, it may be helpful to quote Mr. Mohr by stating this applied to a small number of employees in the county. There isn’t that much federal money and most departments do not have federal funding and this would not be an issue.

With regard to an email sent to Supervisor Evans from a union representative, Mohr responded to the three concerns. First, Mohr informed that longevity would be eliminated in the new code. Longevity existed in the county for quite some time and it had been 30 years since the amount paid for longevity had been altered. Currently those union contracts that receive longevity receive \$.6 cents per hour after eight years, \$.12 per hour after 12 years, \$.16 per hour after 16 years. Mohr informed that it had been an administrative headache and they thought it was an appropriate time to phase it out. Its one thing the new law allows them to do on antiquated benefits such as that one is to eliminate it. Evans interjected that by stating “we” Mohr meant Mohr, Luetscher and Streckenbach. Mohr responded that he was sure that the County Executive was in agreement with

this. Evans asked Streckenbach if he was in agreement, he stated he was.

Mohr stated the second question dealt with the fact that the county adopted in the ordinance a uniform vacation schedule. There were 19 union contracts with various vacation schedules. An administrative schedule will be applied to all bargaining units. The net effect will be that there will be people who gained vacation days in the steps, under their contract they may get to the 15 day level in year seven, under the administrative schedule they may get there in year five. There are people that will lose a few days on the top of the scale but primarily there will be a few days gained in the middle of the scale. It will be a uniformed schedule that applied to everyone. It would serve no purpose to try and monitor 19 different vacation schedules as they had under the union contracts. They tried to get uniformity and it is really insignificant.

Thirdly, with regard to applying for a different job in the county and filling out an application like someone outside the county, the concept when setting up Chapter 4 was to set up an override policy. There was a second set of policies that are more administrative, this would an administrative issue and was not addressed in Chapter 4. Evans questioned if it would be addressed in an employee handbook, Mohr responded, yes.

Evans informed that he had spoken with Mohr and Luetscher and they both stated they had worked together and came up with an agreement and were on the same page and questioned if Streckenbach was as well. Streckenbach responded that he was as far as issues that were raised by Attorney Luetscher and the things that Mohr and Luetscher worked on, absolutely.

Lund asked that they pass this and have a fiscal impact to the policy. He felt there were parts to this policy that were very much fiscal. He added that losing a day of vacation could be considered significant to an employee and felt a lot of other organizations have grandfathered such things when they changed their policies. He felt there couldn't be a ton of people who this would affect and felt the county should look for something that is equitable. He would like some sort of revisions to some of these inequities, things that wouldn't cost the county significant amounts of money. Mohr suggested that these issues be addressed at subsequent meetings since they won't go into effect until next year. He informed that they do have data on how many people would be affected.

Erickson thanked the attorneys for coordinating this together and bringing it back. With regard to the longevity wages he questioned if they could bring back dollars on what it would cost to grandfather those wages. Human Resources Manager Debbie Klarkowski responded that it would cost about \$175,000 to keep it in. All but two bargaining unit's contracts had longevity. Erickson would like to see this information along with the requests from Supervisor Lund.

Andrews questioned if there was a reason there wasn't a definition section. Mohr stated they attempted to streamline and the definitions took up several pages. He added that definitions could be useful but could tie hands. They felt it was in the county's best interest not to include. Andrews felt it could be looked at both ways.

Secondly, in the old ordinance, when talking about political activity, it specified what was permitted and Andrews informed that that was taken out. She would like to see that language restored for employee benefit. Mohr stated there was a specific reason it was taken out and it was because it was an interpretation of federal law. He believed that there was enough gray area in the permitted activities that were there that it might be misleading to an employee. And consequently he felt it served a disservice to an employee. Andrews stated that she was referring to the info listed under political activities. She felt those items helpful to have for employees so they know what they can do without having to ask someone. When information is not accessible, you put a barrier in front of employees and discourage them from participating. Mohr responded that you have to look at the policy from the first paragraph if 4.103 Political Activity. It states political activity on the part of local

government employees are codified at the Hatch Act. County Employees shall abide by the provisions of the Hatch Act in regard to their political activities. It was Mohr's belief that there was enough gray area and the county is doing a disservice to employees of providing permissible activities when those permissible activities might be considered a violation of the Hatch Act. He would like to say that the Hatch Act was crystal clear but it's not. Responding to Andrews, Mohr stated if employees were not running for office they could do whatever they wanted, contributions, etc. Andrews informed that she would like to make that more clear in the ordinance. Luetscher responded that Andrews would like to have the County Board set as a policy what would be prohibited while an employee is on the job. He felt it was a general rule that the county as an employer wants employees engaging in political activity while on the clock. When they are off the clock, it's none of the county's business with the exception of the Hatch Act. He felt this could be addressed in an employee handbook. She agreed and would like more specificity on who this applied to.

Zima stated everything written in Chapter 4 was subject to change at the will of the County Board and the Executive. They collectively decide and put in place what their rights and responsibilities are and what the new law is allowing. This is the framework. Mohr informed that he and Luetscher discussed that there will be a trailer build to the budget bill that will address the grievance procedure. Under the present law it is interpreted that the full board had to be a step in the procedure, the trailer build would allow the full board to delegate that to a committee. They drafted it up and applied to the existing law. They will see how it works and if the trailer build goes through they may come back to the board and see changes in that policy depending on what the law change would be and also on how our procedure operated. After reiterating his previous comments, Zima felt they should pass as agreed.

Buckley questioned if there was a list of changes and stated he had asked for a redline copy. One word in a paragraph could change something. Simple common practice is to redline and requested a redline copy before their next meeting or he stated he would vote no. With regard to the grievance procedure it stated they want to use an arbitrator, he questioned if it had to be an arbitrator. Luetscher responded no, he felt this was not an arbitration but a hearing. Wisconsin Employment Relations Commission (WERC) had arbitrators that would qualify as impartial hearing officers. The way its set up now is sort of a default option, the first and preferred option is for HR and the employee to agree to have someone serve as the impartial hearing officer. If that doesn't work and they can't reach an agreement then you default to option two, WERC arbitrators/impartial hearing officers and picking on of them. Buckley questioned who paid. Mohr explained that if you can't agree to an impartial hearing officer you have to hire someone. WERC charges \$800 which is split and usually there will be a union that will represent the employee and the county. If you were to hire a private arbitrator your cost would be several times that amount. Further discussions ensued with regard to costs; Luetscher felt that it may be an administrator issue that could be worked out between HR, a labor advisor and himself. Mohr and Luetscher agree that the whole point of the grievance procedure is to give employees a process for resolving disputes. It's not intended to confer rights. You don't want to create a financial barrier that will make it impossible for an employee with a legitimate grievance. The other side to cost is if the county gets scores of grievances and every time you have to pay it will be a terrible burden. It's not the history and very few grievances have been job disciplined or termination. Buckley felt there may be more now that the county is going from managing contracts to managing people. Buckley would like something written up about cost.

Lund agreed with Buckley and felt they should have a step on the grievance procedure of who to go to first that might not be a cost to the employer or employee and then they decide whether management should back down or go to the WERC. It can't be an employee in the county, maybe someone outside the county. Look at another county to work with on each other's grievances. Mohr interjected that this procedure does have that informal step and historically a vast majority of these grievances get settled. Mohr and HR evaluate grievances if they have merit and it's usually a bigger

issue, termination, etc. When you terminate someone it almost always works its way up the steps and can see that in the future. Day to day get resolved before arbitration. Zima stated the most expensive is using the WERC, if admin finds something more cost effective and a better way to do this they could amend this. This is the best document to date and there isn't anything that can't be changed.

LaViolette appreciates that the two attorneys are working together and they are very forthright and helpful in their comments. LaViolette referred to the sexual harassment portion and questioned who the affirmative action officer was and stated she was concerned with the fact that it was the HR Manager. Luetscher responded that currently that it was the HR manager and he had a conversation with the Executive and administratively they could change that. Mohr explained that historically where the HR manager had made a decision that person would not be unbiased Mohr had been substituted in that situation and noted Luetscher could step in. LaViolette stated she would like some additional clarification with regard to this.

Streckenbach informed that he viewed this document in three parts 4.01-4.14, 4.15-4.89;4.95+, 4.90-4.94. He stated that they did submit at the last Executive Committee another option at least to consider that did preclude the WERC as an option to the grievance procedure. They could take a look at it for an option as other considerations. He appreciated the short amount of time Corporation Counsel and the Board Attorney found common ground on language that fixed some of the areas that affected the County Executive's office, constitutional elected officers, department heads in how to manage, administer, oversee the county. 4.15-4.89 currently there are meetings that are ongoing with department to discuss fiscal impacts, changes for employees. They are moving forward and there are good results coming forward. Most importantly clarifying some of the questions about shift differentials with no monetary values place on it. There are a lot of questions out there yet that need to be answered. He felt the only section the county needs to be baring mind on is what Act 10 is requiring the county to take care of by October 1st, 4.90-4.94.

Scray informed that rather than put both resolutions on this agenda she had reached out to Mohr and Luetscher and asked that there be one resolution by combined efforts. They did work together and compromised. She felt it was easier for everyone to understand. As for the administration aspect such as longevity pay, etc. she felt could be addressed in an employee handbook, it's an ongoing effort.

LaViolette informed that there wasn't anything in the code about climate weather. Felt there would be questions about that. Mohr stated it would be best as an administrative policy. Lund interjected that the County Executive decided, the County Board chair was next in line to make those decisions. LaViolette felt the employees wanted to know if they get paid or if they have to take vacation. The county needed to have a policy on if they will be paid or not. Lund felt they could come up with something to resolve this.

Motion by Supervisor Evans, seconded by Supervisor Zima to approve. MOTION UNANIMOUSLY APPROVED

Lund excused at 6:30pm

Closed Session

14. A Closed Session pursuant to Wis. Stats. § 19.85(1)(e) for the purpose of deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session (Labor Negotiations).

15. A Closed Session pursuant to Wis. Stats. § 19.85(1)(e) for the purpose of deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session (VEBA).

Motion by Supervisor Zima, seconded by Supervisor Erickson to enter into closed session at 6:31pm. Roll call: Erickson, Scray, Zima, Evans, Brunette. MOTION UNANIMOUSLY APPROVED

Motion by Supervisor Evans, seconded by Supervisor Brunette to return to regular order of business. MOTION UNANIMOUSLY APPROVED

Other

16. Such other matters as authorized by law.

Motion made by Supervisor Evans and seconded by Supervisor Brunette to adjourn at 6:47 p.m. MOTION APPROVED UNANIMOUSLY

Respectfully submitted,

Alicia A. Loehlein
Recording Secretary